

MILWAUKIE
CITY COUNCIL MEETING
April 5, 1983
7 p.m.

THE MILWAUKIE CENTER

1429th Meeting

The one thousand four hundred and twenty ninth meeting of the Milwaukie City Council was held on April 5, 1983 with the following Councilors present:

Joy Burgess, Mayor	Don Graf
Ron Kinsella	Roger Hall
Mike Richmond	

Also present:

Hugh Brown, City Manager	Dick Bailey, Fire Chief
Greg Eades, City Attorney	Ron Schanaker, Police Chief
Topaz Faulkner, Comm. Serv. Dr.	Steve Hall, P.W. Director
Gordon Erickson, Finance Dr.	Laurie Perkin, Secretary

AUDIENCE PARTICIPATION

John Coursey, Chairman of the Ways and Means Committee of the Friends of the Milwaukie Center submitted a letter from the Friends of the Center pledging \$10,000 to the Center. He asked for Council support of the Friends fund raising committee. There was discussion on whether these fund raising efforts would in any way interfere with Loaves and Fishes fund raising activities. Pat Kennedy, member of the Ways and Means Committee, explained that the Friends planned to look at the long range needs of the Center, that their efforts would be directed only to the Center.

John Maguire and Doug McClure, Co-Chairmen of the Task Force for the Needy and Unemployed requested Council endorsement of the group's final report and approval of a draft letter to be sent to organizations in North Clackamas County publicizing the need for donations, volunteers, etc. To be included with the letter is a list of service organizations which can be used for reference. It was MOVED by Kinsella, SECONDED by Graf, to accept the final report as submitted by the Task Force for the Needy and Unemployed. MOTION CARRIED unanimously. It was MOVED by Kinsella, SECONDED by Hall, that the draft letter be approved and mailed by the city to the organizations as requested. MOTION CARRIED unanimously.

PUBLIC HEARING

Adult Business Ordinance

The public hearing was opened at 7:25 p.m. Topaz Faulkner, Community Services Director, made the staff presentation. She said the Planning Commission has held six public hearings on this issue and has recommended adoption of the adult business ordinance which is before Council tonight. Faulkner said the Planning Commission is now working on amendments to the zoning ordinance which will further restrict adult businesses in the city. There was extended discussion on where such businesses would be allowed under this ordinance and the possible legal problems which could result if the city is too restrictive. City Attorney said that under the ordinance, adult businesses would only be allowed at three locations in the city - two strips along McLoughlin and an area in Omark Industrial Park. Even then,

he said, each business would have to go through a conditional use application. The following persons spoke in opposition to the ordinance:

Al Liane, member of the Planning Commission presented a minority report of the Planning Commission dated April 5, 1983 listing his concerns with sections of the ordinance.

Rebecca Sweetland, member of the Planning Commission said that the ordinance infringes upon constitutional rights and would present legal problems for the city.

John Foster, member of the Planning Commission, presented a municipal code prepared by the City of Portland entitled Title 14 Public Peace safety and Morals. He recommended a new ordinance be drafted with more stringent requirements after the amendments to the zoning ordinance were made.

Bill Hupp, 2626 SE Washington, supported Foster's comments. Jean Baker, 2607 SE Monroe, said that an ordinance which would allow any kind of adult business along McLoughlin would drive other businesses out of town.

Jim Backenstos, 3626 SE Harrison and Phil Lisac, 4027 SE Filbert spoke in opposition to the ordinance and recommended that it be rewritten with more restrictions.

Speaking in favor of the ordinance:

Don Trotter, former member of the Planning Commission, said the ordinance was very restrictive. He explained what was meant by the "buffer zone" and pointed out on the map where businesses would be allowed. He said that this ordinance was only a small part of the total zoning ordinance which the Planning Commission is now in the process of amending and which will place even more requirements on adult businesses. He said also that this ordinance is more restrictive than the ordinances passed by Portland and Multnomah County.

No correspondence has been received and there was no further testimony. The Public Hearing was closed at 9:20.

It was MOVED by Burgess that Sections 1, 2, and Section 3 though C of the original ordinance be included in this ordinance as well as sections dealing with definitions and Planning Commission findings. and a Section 5 which would state clear and concise criteria having to do with conditional use requirements, specifying type of proprietors, reputation, compliance with obscenity standards, a method for monitoring such businesses with an emergency clause for immediate adoption.

Under discussion: Graf asked why the Planning Commission changed the original ordinance. Faulkner said that it could have been loosely interpreted, that by leaving out the definitions the ordinance was more rather than less restrictive. There was

extended discussion on zoning ordinance amendments, regulations etc. Burgess suggested declaring a moratorium prohibiting adult businesses for 30 days until the issue was settled. City Attorney, at the Mayor's suggestion, has prepared an ordinance prohibiting adult businesses. Burgess WITHDREW her previous motion. It was MOVED by Burgess, SECONDED by Kinsella that the ordinance prohibiting adult businesses be read in full the first time. (AN ORDINANCE OF THE CITY OF MILWAUKIE PROHIBITING ISSUANCE OF PERMITS FOR ADULT BUSINESSES FOR 60 DAYS) MOTION CARRIED with the following vote: AYES: Burgess, Graf, Kinsella, Richmond. NO: Hall. Hall said he did not think a moratorium was justified since there was no threat to the health and safety of the citizens. It was MOVED by Burgess, SECONDED by Richmond, to have a special meeting on April 7, 1983 at 4:45 in the Council Chambers to have the second reading of the ordinance. MOTION CARRIED with the following vote: AYES: Burgess, Graf, Kinsella, Richmond. NO: Hall.

Public Hearing - Planning Commission Appeal C-83-2 - Murphy/Davis
Public Hearing was opened at 9:50 p.m.

William R. Davis, 4301 SE Hill Rd. Milwaukie and Paul Murphy owner of the volkwagan rental business located on the west side of McLoughlin Blvd, north of Milwaukie Ski and Sports have filed an appeal regarding Planning Commission decision on February 22, 1983 placing restrictions on number of volkswagons allowed on lot and requiring brick planters on lot. Community Services Director presented staff report. She referred to the staff report dated February 8, 1983 which included policy statements providing for highway service uses along McLoughlin Blvd. while improving the visual and pedestrian-oriented linkages between downtown and the Willamette River. John Littlehales, member of the Planning Commission said the Commission's decision was based on policies adopted for the beautification of the city. Paul Murphy, owner of the car rental business, said the restriction of a maximum of 10 cars allowed on the lot at one time was unrealistic. Most of the time, he said, there would be less than 10 but it was conceivable that there would be 3 or 4 times a year when more than 10 renters would bring the cars back at the same time. He objected to the requirement for brick planters, he said, because the owner of the property does not want his asphalt dug up and because the brick planters could result in damage to his vehicles and would create a problem in moving cars. The following persons spoke in favor of Mr. Murphy's appeal:

Bill Hupp, James Backenstos, Kathleen Hulme
There was no correspondence and no further testimony. The Public Hearing was closed at 10:28 p.m. There was extended discussion on types of planters which would be acceptable.

It was MOVED by Hall, SECONDED by Richmond, to amend the conditions imposed by the Planning Commission as follows: Number 8 to state that planters on the proposed site be some sort of cedar tubs rather than brick and that planters in front of the site be some sort of extruded curbing in the ground which can be bermed for planting. Number 9 shall state the maximum number of volkswagons stored on the site will be 12. MOTION CARRIED unanimously.

Don Graf left the meeting at 10:30 p.m.

Public Hearing- Budget

The public hearing opened at 10:35 p.m. The City Manager and Finance Director summarized the proposed budget as approved by the Budget Committee and made note of the federal revenue sharing proposed expenditures to comply with the public hearing requirements of those funds. The Council was requested to approve a resolution calling for an election and setting the amount of the requested tax levy. Final approval, the City Manager said, could wait until June. At that time changes can be made based on public hearing testimony. There was discussion on payment on fire engine, need for additional police officer, part time planning person due to annexation study, and further cuts in library. Bill Hupp has submitted memo dated April 2, 1983 listing recommendations which included: the city apply for the Bonneville Power Administration's program of changing street lights to sodium vapor, the city refrain from reducing street lights, reduce employee development costs, reappraise library services, and postpone implementation of the 911 system.

Vivian Healy, 8831 SE 41st, spoke in support of the library and asked that no further cuts be made in the Library budget. The public hearing was closed at 11:10 p.m.

Georgia Brakeman said she had questions about Loaves and Fishes financial report. City Manager said he would provide this information to her.

There was extended discussion on the reduction of street lights. It was MOVED by Burgess, SECONDED by Hall, that the city do nothing to initiate the street light reduction program at this time. There was further discussion of alternatives. A trial program of reduction was suggested. It was agreed that a reduction program would not be implemented at this time. Burgess WITHDREW her motion. The City Manager said he would provide Council with a staff report regarding the BPA project of changing types of street lights.

It was MOVED by Hall, SECONDED by Burgess to adopt Resolution 2-1983 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE CALLING AN ELECTION ON THE 1983-84 OPERATING TAX LEVY). MOTION CARRIED unanimously by those present.

LEGISLATION

Payment of bills

It was MOVED by Hall, SECONDED by Richmond that the bills listed for April 5, 1983 be approved for payment. MOTION CARRIED unanimously by those present.

CONSENT AGENDA

Approval of minutes - March 15, 1983

It was MOVED by Kinsella, SECONDED by Hall, to approve the consent agenda. MOTION CARRIED unanimously by those present.

OTHER BUSINESS

It was decided to postpone the appointment of a UN Day Chairman until the next meeting.

It was MOVED by Richmond, SECONDED by Kinsella that the Council revoke its endorsement of the League of Oregon City resolution calling for tax reform. Hall said he would prefer to wait until more information was provided. It was decided to wait until the next meeting to discuss this issue. Richmond WITHDREW his MOTION.

It was MOVED by Kinsella, SECONDED by Richmond to excuse Kinsella from the Council work session on March 23, 1983. MOTION CARRIED unanimously by those present.

City Manager said he would have an update on the post office location and on negotiations with Loaves and Fishes at the next meeting.

A Budget Committee meeting was scheduled for Wednesday, April 20, 1983 at the Milwaukie Center at 7 p.m.

City Manager said he would provide Council with criteria for his evaluation within the next week.

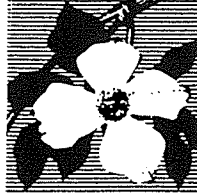
Interviews for City Advisory Bodies will be held prior to the regular meeting on the 19th of April.

The meeting was adjourned at 11:38 p.m.

Joy Burgess, Mayor

Laurie Perkin, Secretary

CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

CITY COUNCIL AGENDA April 5, 1983 7 p.m.

THE MILWAUKIE CENTER

REGULAR MEETING (1429th)

- I CALL TO ORDER
 - a) Call to order
 - b) Invocation
 - c) Pledge of allegiance

- II AUDIENCE PARTICIPATION
 - b) Letter from Friends of Milwaukie Center
 - c) Draft Letter presented by Task Force on Unemployed and Needy - Doug McClure, John Maguire

- III PUBLIC HEARINGS
 - a) Budget - 1983-84
 - b) Adult Business Ordinance
ORDINANCE _____
 - c) Planning Commission Appeal - C-83-2 Murphy/Davis

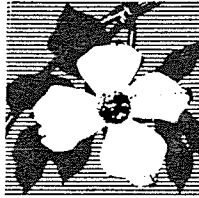
- IV LEGISLATION
 - a) Payment of bills
 - c) Resolution adopting ballot title
RESOLUTION _____

- V CONSENT AGENDA
 - a) Approval of minutes - March 15, 1983

- VI OTHER BUSINESS
 - a) Appointment of UN Day Chairman

- VII INFORMATION
 - a) Minutes - Solid Waste Task Force, 3/10/83
 - b) Minutes - Task Force on Unemployed and Needy, 3/10/83
 - c) Minutes - Senior Citizen Advisory Commission, 1/14/83
 - d) Letter to Housing Authority re Hillside Park
 - e) Letter to Judge Morgan re salary
 - f) Letter to 1000 Friends re 1000 Friends v. City of Milwaukie & LCDC
 - g) Report on Social Security Withdrawal
 - h) Letter to/from Gingerich re Tacoma Overpass
 - i) Article in Oregonian re Transportation Depot
 - j) Letter from Metro re revenue proposals
 - k) Summary of Representative Throop comments - March 10

CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

MEMORANDUM

April 1, 1983

TO: MAYOR AND CITY COUNCIL

FROM: HUGH BROWN, CITY MANAGER

SUBJECT: CITY COUNCIL MEETING - April 5, 1983 - 7 p.m.

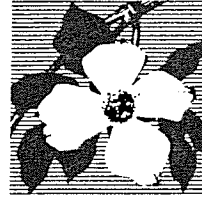
Tuesday's meeting will be held at the Milwaukie Center as part of the quarterly schedule. Nothing is scheduled prior to the regular starting time.

The information you received earlier in the week on the Adult Business Ordinance and the Planning Commission appeal appear to be the primary items of discussion along with the budget public hearing. Visitors speaking under audience participation will include representatives of Friends of the Center who are pledging to raise \$10,000 for the city and members of the Task Force on the Needy and Unemployed who have submitted a draft letter for your consideration.

As the time is approaching for my annual evaluation, I will be preparing possible criteria and a procedure for your consideration. With adoption at the April 19 meeting of the criteria to be used, I suggest scheduling the evaluation during the remainder of April. Mayor Burgess suggested Greg also submit criteria, so you will be receiving information from him also.

On April 13, 14, and 15 the City Managers of Oregon and Washington will be holding their annual joint conference. I will be appointing a City Manager pro-tem and notifying you prior to my absence.

Have a good weekend. See you Tuesday evening.



P R O C L A M A T I O N

WHEREAS, Children and Youth is a cornerstone program of the American Legion and American Legion Auxiliary helping to assure that every American child gets a "square deal", and

WHEREAS, the American Legion and American Legion Auxiliary work for the physical, educational, emotional and spiritual needs of children of veterans as well as the welfare of all children throughout our nation.

NOW THEREFORE BE IT RESOLVED, that I, Joy Burgess, Mayor of the City of Milwaukie, Oregon, do hereby proclaim the month of April as "Children and Youth Month" in our community.

Joy Burgess, Mayor

Date



II B

**FRIENDS OF
THE MILWAUKIE CENTER**

5440 SE KELLOG CREEK DRIVE, MILWAUKIE, OR 97222
(503) 653-8100

March 25, 1983

To: City Council

From: The Friends of The Milwaukie Center


Prompted by concerns regarding the City's ability to continue all of the financial support of The Milwaukie Center through property tax funding in the present political climate, the Friends of the Milwaukie Center met to consider ways and means that our organization could assume the task of providing more financial support to the Center. As a result of this meeting, the Friends of the Center are now prepared to assist the City in maintaining present services to allow the Center to remain the focal point for all senior services for the Milwaukie area. We feel the position of Center Director is of great importance for the continuance of present programs and services.

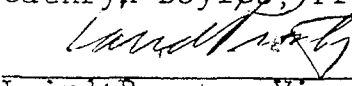
It will be necessary to expand our Ways and Means Committee to include a broader fund raising activity through direct mailing and establishment of an endowment fund for future support. We have already laid the groundwork for this expansion. Of course, we will continue our present fund raising activities. We feel that since the Friends of The Milwaukie Center represent all senior services, programs and Center users, we are the logical organization to approach this community for support of these activities.

In addition to special projects, the Friends at present pay for the monthly newsletter mailing and the yearly volunteer recognition luncheon. These two on-going costs will be approximately \$1,300.00 for 1983-84. We are also pledging an additional amount of \$8,700.00 to ensure the continuing City sponsorship and control of the Center and recommending that leadership remain in a City department. The total contribution will be \$10,000.00 for the 1983-84 budget period.

We are eager to confer with you and proceed with this vital commitment.

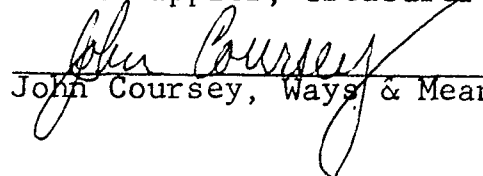
Thank you,


Cathryn Boyles, President

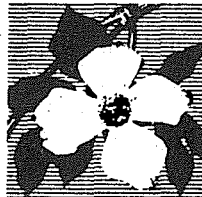

Laird Prouty, Vice President


Jim Tomlin, Secretary


Helen Kappler, Treasurer


John Coursey, Ways & Means Chairman

CITY OF MILWAUKIE



CITY COUNCIL
in the City Hall • phone 659-5171

II
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Dear Friends:

April 1, 1983

As members of the Milwaukie City Council we want to call your attention to the following situations which have saddened us and cry out for help.

- A young boy trying to hide his broken wrist because he knows his parents cannot afford the doctor's bill.
- Individuals and families unable to pay rent and living in their cars.
- Chronic dental neglect leading to loss of teeth by age twenty.
- Requests for food and clothing more than doubling in the past year at Kendall Community Center.
- Child abuse and domestic violence cases are rising in North Clackamas County.

These and many additional situations were recently identified in a final report of the Task Force on the Needy and Unemployed which was appointed by the Milwaukie City Council in January. Their work is greatly appreciated and with this letter we are publicizing their recommendations and urging all individuals and organizations to assist wherever possible.

The people in the above examples and others like them are lost between high unemployment and cutbacks in social services in our county. We look not for "villains" to blame for the darkness, but for Samaritans, individuals and groups to "light candles" and help those whose basic needs are partially or totally unmet. YOUR HELP IS NEEDED. We ask you to:

1. Puruse the following list of Service Agencies, noting the needs and services of each.
2. Decide how you or your group will respond.

FINANCIALLY - All of these agencies need your financial support.

MATERIALLY - Many of these agencies need donations of various kinds. Please note what is needed by each agency and give as you are able.

YOUR TIME - Some agencies cannot exist without volunteers. Your help in this area is urgently needed and deeply appreciated. Check "volunteers" listing under each agency to see if volunteers are needed and what, if any, skills are required.

We know Oregonians are a generous people; we thank you for your response.

Sincerely yours,

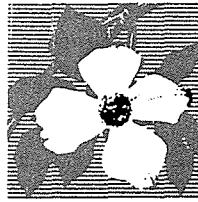
Joy Burgess, Mayor

Don Graf

Roger Hall

Ron Kinsella

Mike Richmond, Councilors



MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: HUGH BROWN, CITY MANAGER

SUBJECT: PUBLIC HEARING ON 1983-84 PROPOSED BUDGET

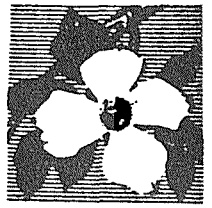
DATE: APRIL 1, 1983

At Tuesday's public hearing on the budget, Gordon Erickson and I will summarize the proposed budget and be available to respond to questions. While the General Fund will receive most of the attention during the hearing, we will also particularly note the Federal Revenue Sharing proposed expenditures to comply with the public hearing requirements of those funds.

The only City Council action recommended is approval of the resolution calling for an election and setting the amount of the requested tax levy. This meets the required schedule for the May 17 election. Final approval of the budget can and should wait until late June. At that time changes can be made based on public hearing testimony, further discussions or proposed expenditures and additional revenue data.

Attached is relevant budget summary material plus a copy of the public hearing notice.

CITY OF MILWAUKIE



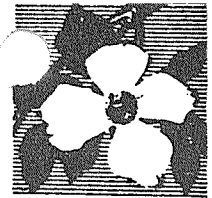
FUND GENERAL

RESOURCES	1980-81 ACTUAL	1981-82 ACTUAL	1982-83 BUDGET	1983-84 REQUESTED	1093-84 RECOM'D	1983-84 ADOPTED
Fund Balance Available	231,212	251,979	208,550	50,000	60,000	
Previously Levied Taxes	146,301	83,204	150,000	150,000	150,000	
OTHER RESOURCES:						
Transfer in Water/ Sewer/ Street	728,000	287,635	324,850	339,162	348,162	
Transfer in Federal Revenue Sharing	225,000	341,479	190,600	221,000	221,000	
Transfer in Bonded Debt	0	0	18,000	0	0	
Transfer in Equipment Repair	0	0	0	450	450	
State Revenue Sharing	108,682	102,248	95,000	94,000	94,000	
Cigarette Tax	42,208	45,594	43,000	41,000	41,000	
Liquor Allotment	155,462	153,132	163,000	162,000	162,000	
County Payment to Library	226,257	219,008	226,000	212,000	212,000	
In Lieu of Taxes	15,721	15,056	10,000	15,000	15,000	
Franchise Fees	362,579	404,350	461,000	464,000	464,000	
Fines and Fees	113,465	92,437	116,434	84,000	84,000	
Parking Tickets	15,657	11,081	7,600	7,000	7,000	
Occupational Licenses	38,516	37,078	35,000	35,000	35,000	
Dog Licenses	13,466	11,522	13,000	11,000	11,000	
Building Permits	55,633	32,839	35,000	30,000	36,000	
Other Construction Permits	289	3,734	1,000	1,000	1,000	
Library Fines and Fees	10,768	7,410	10,000	7,000	7,000	

III
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FUND GENERAL

CITY OF MILWAUKIE



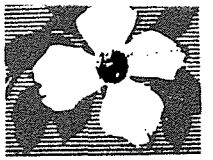
RESOURCES	1980-81 ACTUAL	1981-82 ACTUAL	1982-83 BUDGET	1983-84 REQUESTED	1993-84 RECOM'D	1983-84 ADOPTED
Special Permits and Licenses	4,268	4,611	2,000	2,000	2,000	
Grants: CETA	50,048	0	0	0	0	
LCDC	8,550	8,550	0	8,550	8,550	
OTHER	19,778	36,844	0	65,541	65,541	
Interest on Investments	66,995	38,472	40,000	30,000	30,000	
Interest on Delinquent Taxes	13,695	14,675	14,000	14,000	14,000	
Parks and Recreation Fees	16,217	11,527	18,000	19,000	19,000	
Milwaukie Center Rentals *	0	0	4,000	14,000	4,001	
Gifts and Donations	0	0	6,000	6,000	6,000	
Miscellaneous	165,457	46,736	29,150	26,550	26,549	
Real Estate Transfer Tax *	0	0	0	21,000	14,700	
Fire Inspections and Permits *	0	0	0	17,000	17,000	
Public Safety Systems Development *	0	0	0	12,000	12,000	
TOTAL EXCEPT PROPERTY TAXES	2,834,224	2,261,201	2,221,184	2,159,253	2,167,953	
TAXES NECESSARY	0	0	2,278,911	2,431,674	2,331,674	
TAXES COLLECTED IN YEAR LEVIED	1,692,819	1,851,193	0	0	0	
TOTAL RESOURCES	4,527,043	4,112,394	4,500,095	4,590,927	4,499,627	
* Enacting Ordinances to be adopted						

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CITY OF MILWAUKIE

RECOMMENDED BUDGET 1983-84
SUMMARY OF DEPARTMENT BUDGETS

III
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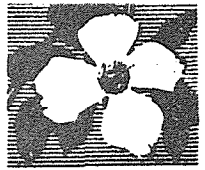
	Actual 1980-81	Actual 1981-82	Adopted 1982-83	Recommended 1983-84
CITY COUNCIL	<u>9,194</u>	<u>5,746</u>	<u>6,150</u>	<u>6,650</u>
ADMINISTRATIVE SERVICES DEPARTMENT				
Administrative	131,732	166,498	212,610	145,230
City Attorney	82,313	105,230	77,496	67,751
Finance	146,855	195,186	219,157	223,689
Purchasing	40,766	53,173	62,137	36,378
Municipal Court	61,938	73,265	60,536	60,085
Cable Franchise	-	-	-	14,300
Personnel	-	-	-	53,705
DEPARTMENT TOTAL	<u>463,604</u>	<u>593,352</u>	<u>631,936</u>	<u>601,138</u>
COMMUNITY SERVICES DEPARTMENT				
Administration	-	-	46,338	23,378
The Milwaukie Center	100,856	106,965	122,382	124,080
Library	279,034	329,904	346,642	349,885
Planning	65,675	98,272	66,009	95,889
Parks and Recreation	124,254	135,411	137,802	191,567
City Hall	27,329	15,383	26,838	31,912
DEPARTMENT TOTAL	<u>597,148</u>	<u>685,935</u>	<u>746,011</u>	<u>816,711</u>
GENERAL GOVERNMENT	<u>683,807</u>	<u>256,934</u>	<u>491,234</u>	<u>373,400</u>
POLICE DEPARTMENT:				
Administration	37,128	45,125	52,475	49,863
Field Services	686,173	855,165	927,545	927,573
Support Services	158,999	184,478	168,454	176,455
DEPARTMENT TOTAL	<u>882,300</u>	<u>1,084,768</u>	<u>1,148,474</u>	<u>1,153,891</u>
FIRE DEPARTMENT:				
Administration	58,274	78,003	82,573	85,171
Suppression	885,311	1,032,854	1,092,484	1,156,657
Prevention	64,869	65,286	52,943	54,611
DEPARTMENT TOTAL	<u>1,008,454</u>	<u>1,176,143</u>	<u>1,228,000</u>	<u>1,296,439</u>
PUBLIC WORKS DEPARTMENT				
Administration	90,804	107,832	119,339	117,728
Engineering	108,491	82,540	89,447	91,538
Building	68,763	50,261	39,504	42,132
DEPARTMENT TOTAL	<u>268,058</u>	<u>240,633</u>	<u>248,290</u>	<u>251,398</u>
TOTAL GENERAL FUND	<u>3,912,565</u>	<u>4,043,511</u>	<u>4,500,095</u>	<u>4,499,627</u>

ANNUAL BUDGET

CITY OF MILWAUKIE

RECOMMENDED 198-1984
SUMMARY OF
GENERAL FUND REQUIREMENTS

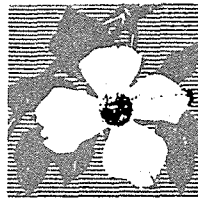
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	<u>PERSONAL SERVICE</u>	<u>MATERIALS & SERVICE</u>	<u>CAPITAL OUTLAY</u>	<u>TOTAL</u>
CITY COUNCIL	<u>0</u>	<u>6,650</u>	<u>0</u>	<u>6,650</u>
ADMINISTRATIVE SERVICES DEPARTMENT				
Administration	132,350	12,880	0	145,230
City Attorney	61,251	6,500	0	67,751
Finance	157,664	65,800	225	223,689
Purchasing	30,278	6,100	0	36,378
Municipal Court	50,615	9,470	0	60,085
Cable Franchise	0	14,300	0	14,300
Personnel	46,655	6,800	250	53,705
DEPARTMENT TOTAL	<u>478,813</u>	<u>121,850</u>	<u>475</u>	<u>601,138</u>
COMMUNITY SERVICES DEPARTMENT				
Administration	21,878	1,500	0	23,378
The Milwaukie Center	82,020	42,060	0	124,080
Library	256,425	91,460	2,000	349,885
Planning	72,689	23,200	0	95,889
Parks and Recreation	102,657	36,410	52,500	191,567
City Hall	6,362	25,550	0	31,912
DEPARTMENT TOTAL	<u>542,031</u>	<u>220,180</u>	<u>54,500</u>	<u>816,711</u>
GENERAL GOVERNMENT	<u>0</u>	<u>278,400</u>	<u>95,000</u>	<u>373,400</u>
POLICE DEPARTMENT:				
Administration	46,163	3,700	0	49,863
Field Services	852,212	72,360	3,001	927,573
Support Services	145,675	30,780	0	176,455
DEPARTMENT TOTAL	<u>1,044,050</u>	<u>106,840</u>	<u>3,001</u>	<u>1,153,891</u>
FIRE DEPARTMENT:				
Administration	67,941	17,230	0	85,171
Suppression	1,030,967	108,190	17,500	1,156,657
Prevention	46,961	7,650	0	54,611
DEPARTMENT TOTAL	<u>1,145,869</u>	<u>133,070</u>	<u>17,500</u>	<u>1,296,439</u>
PUBLIC WORKS DEPARTMENT				
Administration	112,628	5,100	0	117,728
Engineering	86,838	4,500	200	91,538
Building	36,737	5,395	0	42,132
DEPARTMENT TOTAL	<u>236,203</u>	<u>14,995</u>	<u>200</u>	<u>251,398</u>
TOTAL GENERAL FUND	<u>3,446,966</u>	<u>881,985</u>	<u>170,676</u>	<u>4,499,627</u>

ANNUAL BUDGET

CITY OF MILWAUKIE



FINANCE DEPARTMENT
in the City Hall • phone 659-5171

IIIa (6)

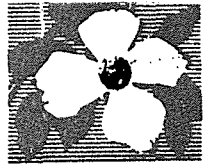
March 7, 1983

TO: Holders of Proposed Budget 1983-84
FROM: *Gordon Erickson*
Gordon Erickson, Finance Director
SUBJECT: RECOMMENDED BUDGET

To avoid the costs of printing a recommended budget the attached schedules have been prepared for your use. If there are any questions or problems please contact me.

<u>DEPARTMENT CHANGES:</u>	<u>Increase (Decrease)</u>
1. Separate Personnel Function	No Impact
2. Reduce Cable Franchise	(8,000)
3. Planning 1/2 Position	15,000
4. Planning Consultant	6,000
5. Library Reduction	(25,000)
6. Salary Adjustments - General Government	(75,000)
7. Street Lighting - General Government	(39,000)
8. Police Officer - effective 1-1-84	15,500
9. Police Canine Program	2,200
10. Fire Department Equipment	17,000
	<hr/>
TOTAL DECREASE	(91,300)

CITY OF MILWAUKIE



IV
a (8)

REVENUE SHARING FUND SCHEDULE OF 1983-84 REQUESTS

	<u>CATAGORY</u>	<u>AMOUNT</u>
Microfilm Records	M & S	\$10,000
Police Patrol Cars (2)	C.O.	15,600
Police Portable Alarms (2)	C.O.	3,500
Lease Payment Fire Engine 55	C.O.	24,000
Refurbish Fire Truck 53	C.O.	21,000
Computer Hardware & Software	C.O.	20,000
Transfer to General Fund	Transfer	221,000
		<hr/>
TOTAL		<u>\$315,100</u>

ANNUAL BUDGET

SECOND NOTICE

BUDGET HEARING

III
a (9)

At 7 p.m. on April 5, 1983 at the Milwaukie Center, 5440 S.E.Kellogg Cr. Dr., Milwaukie, Oregon, the Milwaukie City Council will hold a public hearing for the purpose of discussing the budget for the City of Milwaukie for the fiscal year 1983-84 beginning July 1, 1983.

Operations changes from prior years affecting both revenue and expenditure items will be discussed including potential reductions in street lighting.

The use of State Revenue Sharing Funds will be discussed separately on the agenda.

The use of Federal Revenue Sharing Funds will be discussed separately on the agenda.

All interested citizens are invited and will have the opportunity to give oral and written comment on the budget or any part of it, including revenue sharing funds.

The first notice of hearing and financial summary was published in the New Review on March 17, 1983.

Mayor Joy Burgess
City of Milwaukie
Clackamas County

Published March 24, 1983

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: GREG EADES, CITY ATTORNEY *GE*
DATE: MARCH 29, 1983
SUBJECT: ADULT ENTERTAINMENT ORDINANCE

II B

Attached are selected items from the Planning Commission record on this issue for your review prior to the hearing on April 5. I've included only those documents I thought would be the most help. I didn't include other sample ordinances, OLCC rules, state statutes, legal case summaries, and memos addressed to the Council prior to November 16, (except one, requested by the Mayor) when you referred this to the Planning Commission. If you want any of this additional information, please let me know.

As you may know, the Planning Commission discussed adult business regulation at six meetings, from November 23, 1982 to March 8, 1983. Two of the meetings were well attended, and 50-100 people were in the audience for the January 11 meeting.

The Commission started with two assumptions: 1) Adult entertainment uses can't be prohibited or unreasonably restricted, and 2) Any regulations must be related to the protection of surrounding uses and based on demonstrable, factual evidence. The Commission did not initially offer a draft ordinance for public comment. Instead, they requested testimony on whether adult businesses should be regulated by the zoning ordinance and what sort of regulations were necessary. A draft ordinance was prepared after the February 8 meeting and then revised for the meeting on March 8, when it was approved by a 5-2 vote. The Commission should be congratulated for the many hours of thought, hard work and patience on behalf of this issue.

The recommended ordinance is based on the draft reviewed by the Council last fall. The original draft has been changed to include an extensive list of findings, revised definitions, new locational standards, a prohibition of adult uses in the Central Commercial zone and elimination of the requirement for conditional use approval. In addition to the amendments included in this ordinance, the Commission will also propose additional zoning ordinance amendments which will further restrict adult entertainment businesses as well as other commercial uses. These are described in my memo to the Commission dated March 4.

The recommendation of the Planning Commission goes well beyond what I consider to be reasonable regulation of adult uses under

MEMORANDUM
MARCH 29, 1983
ADULT ENTERTAINMENT ORDINANCE
Page 2

the law established by the United States Supreme Court and other federal court cases. We have deviated from the "accepted" practice in several areas:

1. Protected uses normally include only schools and residential property. The draft ordinance also lists churches and parks.
2. Adult businesses are prohibited in the Central Commercial zone, which totally eliminates the obvious location for any type of new business.
3. Most ordinances define adult uses very restrictively. Our definition is very broad and, as yet, untested.
4. Although the ordinance would allow adult uses in three small areas in the city, the conditional use and other regulations proposed by the Commission may severely restrict the location of such business even in these areas.

These factors may make the ordinance unenforceable if it is challenged. Certainly any additional restrictive provisions should be discouraged.

The maps done for the Planning Commission will be available at the meeting, and Commission members will be in attendance to answer your questions. Please let me know if you need any further information.

GE/vk

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - MARCH 8, 1983

~~3.3 CONTINUED PUBLIC HEARING OF PROPOSED AMENDMENT TO THE
MILWAUKIE ZONING ORDINANCE CONCERNING ADULT ENTERTAINMENT.~~

Mr. Eades explained his memorandum dated March 4, 1983 and the revised Draft Ordinance which regulates adult businesses by separating them 500' from other adult businesses; 250' from any residential zone, church, public park or school; and prohibiting adult businesses in the downtown commercial area. The definition has also been revised, but has not been tested or adopted in any jurisdiction. It is unknown, at this point, whether this ordinance would pass a constitutional test. The definition is much broader and may apply to more uses than are listed. Efforts have been made to preserve the Central-Commercial area. The Comprehensive Plan addresses preservation of the C-C Zone from blight and deterioration. There would be at least three areas in the City limits that could be considered as possible locations for this kind of use. In most cases these uses would be considered conditional uses and must be handled as other conditional uses, taking into account parking, availability, and other problems especially in the downtown area.

There were comments and comparisons with the Portland City Ordinance. After adoption of Portland's Ordinance none of the adult theaters were forced to relocate, and only four bookstores were affected. Portland spent two years responding to complaints about existing businesses. Milwaukie differs by only having conjecture about the impacts to work with.

Mr. Foster suggested that an amendment be adopted to protect the City from urgent requests for these types of businesses. Mr. Eades explained that an emergency clause could be attached to the Ordinance, because of the amount of public interest, when the Council adopts the Ordinance.

AUDIENCE PARTICIPATION:

SPEAKING: DON TROTTER, 12101 S.E. 36th, Milwaukie

Mr. Trotter commended Staff for efforts to establish a workable Ordinance. He mentioned that the Commission has the authority to begin public hearings to establish amendments whenever necessary. Mr. Trotter suggested additional Findings, reflecting concerns of the industrial areas within the City Limits, should be mentioned in the Draft Ordinance. The Comprehensive Plan, Pages 34 & 36, address limited commercial uses within the Industrial Zone; OBJECTIVE #9 - Downtown Office Center, Policy #1, Page 39 states: the Downtown Central Commercial District will serve the primary needs of the nearby neighborhood residents. He said the majority of the surrounding neighborhood is residential and the public has shown a definite opposition to adult businesses downtown.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - MARCH 8, 1983

AUDIENCE PARTICIPATION:

SPEAKING: DON TROTTER CONTINUED

2. He mentioned that Section 3. Standards, of the Draft Ordinance states that distances shall be measured in a straight line, without regard to intervening structures. Much of the property indicated on the map, as available for adult businesses, would not be eligible for Conditional Use Permits because parts of the structures on those properties are within the restricted zones. Even though there is a border around the protected uses it may not be completely accurate.

At a previous public hearing there was mention of a North Carolina Statute addressing adult entertainment businesses. Mr. Eades expressed his concerns regarding that Statute, which is much less restrictive than the proposed Ordinance. It would only prohibit the location of two types of adult business activity in the same location.

Mr. Liane stated some of his concerns about the destruction of Milwaukie's Central and General Commercial Zones, as well as nearby public facilities, because of possible infringement of First Amendment Rights. He was opposed to the 250' buffer limitation based on Section 1., Findings: B, C. and D of the Draft Ordinance. The Ordinance is silent on prohibiting these uses in General Commercial Zones. The present Zoning Ordinance allows commercial recreation and theaters in Limited and General Manufacturing Zones as Conditional Uses. Mr. Liane Made a Motion to Amend Section 4. Prohibited Uses to read: In Central and General Commercial Zones, the following uses and their assessorly uses are Prohibited: A. Adult Entertainment Businesses; Delete 250' as a buffered in both Findings and Standards, also to Delete 500' in both the Findings and Standards and insert instead 750' from the critical areas and 750' from existing establishments of like kind. Mr. Liane stated his objective for the Motion. He said the 750' buffer would restrict these businesses outside of the commercial area, and permit them in the industrial areas where there is less a concentration of young people who patronize them.

Mr. Brown said the Motion was out of order because amendments were being proposed before the Commission had deliberated on the Draft Ordinance. Mr. Cathey explained that there must be a Second to the Motion otherwise it would die for lack of Second. The Motion failed, due to lack of Second.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - MARCH 8, 1983

Ms. Sweetland Made a Motion to Amend the Zoning Ordinance #1438 with the proposed Draft Ordinance as submitted with additional Findings #7, #8, and #9 to Section G, of the Draft Ordinance. Finding #7 to read: Economic Base and Industrial/Commercial Land Use Element: Goal, Page 34. To continue support and encourage the development of a broad industrial base in the City, and to encourage the expansion of service facilities in the community. Finding #8: OBJECTIVE #4 - Industrial Land Use, Policy 1, Page 36. New Industrial uses will be confined to the three major industrial areas in the City: Milwaukie Industrial Park, Omark Industrial area, and the Johnson Creek Industrial area, as shown on Figure 6. Finding #9: OBJECTIVE #9 - Downtown Office Center, Policy 1, Page 39. Downtown Milwaukie will be considered a district commercial center, serving primarily the needs of nearby neighborhood residents. Ms. Roholt Seconded the Motion.

Mr. Liane made a Motion to amend the Main Motion on the floor, as stated, Section 4. Prohibited Uses: The following uses and their assessorly uses are prohibited: A. Adult Entertainment Businesses; Delete 250' from Section 1. F and Section 3., and insert 750' in both instances; Delete 500' from Section 1.F and Section 3., and insert 750' in both instances. Mr. Foster Seconded the Motion. Ms. Sweetland commented that this motion would effectively eliminate any place in the city to have adult entertainment which would be unconstitutional. Some place must be provided within the City for these uses without pinpointing just one spot. Mr. Liane said that the 750' buffer would move these businesses out of the commercial area where they are allowed as conditional uses. He said it is not his objective to eliminate them from the city, but to move them out of the commercial areas to the industrial areas. Mr. Littlehales mentioned the Southgate Theater is located in an Industrial Zone, and has a tremendous congregation of people there. After discussion among the Commissioners and reference to Portland City Ordinance, Mr. Liane changed his Motion to amend the Main Motion on the floor, to state, 500' wherever 750' had been mentioned in the amendment. Mr. Foster Seconded the Motion for change.

Mr. Eades mentioned that there have been several cases where restrictions which effectively restricted these businesses to Industrial Zones had been considered by the Federal Courts and overturned. In the City of Atlanta, even though there were a total of 81 sites that could be considered for adult uses, the court determined that the primary issue was restricted access to these uses. These businesses would have had to contend with parking, noise and other problems not associated with other commercial activities. The City of Galveston banned adult uses in residential zones and adopted dispersal requirements that excluded adult theaters from 80% to 90% of the city, which included the entire central business district. The only permitted locations were areas containing swamps, warehouses, and railroad tracks.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - MARCH 8, 1983

Mr. Eades further explained that bars and taverns are also considered adult uses, and may be necessary to restrict them to industrial areas also. The distance is only important as long as some areas of the city are preserved where adult businesses are available. Any distance which would not do that will not be justifiable.

Mr. Cathey called for a vote on the amendment to the main Motion. The Motion Failed, 5 - 2, Mr. Liane and Mr. Foster voted for the Motion.

Mr. Brown stated corrections to the Draft Ordinance:
Section 3.: Adult Entertainment Business:
between the closest structural wall of the adult entertain-
ment business and either the closest property line of the
impacted property or the closest structural wall of any
pre-existing or previously approved adult entertainment
business.

Mr. Cathey called for vote on the Main Motion to Approve the Draft Ordinance with additional Findings as stated. It Carried 5 - 2, Mr. Liane and Mr. Foster voted in opposition.

Mr. Eades suggested that a representative of the Commission, for both sides, attend the Public Hearing before the City Council. Ms. Sweetland was appointed to represent the majority side, and Mr. Liane to represent the minority.

Mr. Cathey will preside over the meetings until the first meeting in April, when there will be election of officers.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - MARCH 8, 1983

6.2 PLANNING COMMISSION MEETING MINUTES: FEB. 8, and 22, 1983

Mr. Brown stated he was absent at the Feb. 8, Meeting.

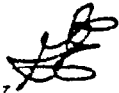
8.2 INTERPRETATION: Clarification of difference between two-story flats and townhouses.

Topaz asked the Commission what their decision was for exact wording of the definition. Mr. Trotter suggested that the definition stated in the new Zoning Ordinance be used for current clarification purposes.

Topaz said she would present the Commission with a calendar of public hearing dates for Zoning Ordinance Revisions and other Amendments at the March 22, Planning Commission Meeting.

The Meeting Adjourned at 11:55 P.M.

MEMORANDUM

TO: PLANNING COMMISSION
FROM: GREG EADES, CITY ATTORNEY 
DATE: MARCH 4, 1983
SUBJECT: ADULT BUSINESS ORDINANCE.

At the last meeting, you asked me to make several changes in the earlier draft ordinance. The ordinance attached includes additional material in Section 1, an expanded definition of "adult entertainment business", a new definition for "church" (from the proposed zoning ordinance you've been considering) and a more complete description of "school". The amendment to Section 6 of the Zoning Ordinance has been removed. Instead, the locational restrictions have been added to Sections 3.10 and 3.12, which provide standards for commercial uses. Finally, adult businesses are prohibited in the center commercial (C-C) zone.

In addition to the changes made to this ordinance, it is my understanding that you will consider the following additional amendments separately, if authorized by the City Council.

1. Section 6 of Ordinance 1438 would be completely rewritten to provide a better procedure and clearer standards for considering conditional uses. A new procedure for reconsideration of conditional use approvals would also be provided.
2. Sections 3.13 and 3.14 would be changed to eliminate (or severely restrict) commercial uses in industrial zones.
3. Some uses now permitted outright in commercial zones would be permitted only as conditional uses due to the inherent traffic, parking, noise and other problems they create. These "high impact" uses could include theaters, commercial recreation and motels, among others.

To conclude this matter at the meeting on Tuesday, you need to adopt the draft ordinance and findings (together with any changes you want to make) as your recommendation to the Council. We will also need to provide a summary of the hearings and transmittal memorandum for the Council, which I can prepare if you desire. If you want to emphasize specific points, please let me know at the meeting.

Call me if you have any questions.

GE/vk

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

FINDINGS: C-83-5 CONTINUED

7. Proposal will have minimal impacts on adjacent buildings. There will be one employee and the office will be open from 10:00 a.m. to 3:00 p.m., Monday through Friday; and 11:00 a.m. to 3:00 p.m. on Sundays. Client traffic will be light, because the applicant spends most of his time out in the field.
8. No adverse testimony recieved at the public hearing.
9. Consensus of Commission, petition submitted, and attendance of neighbors indicated proper notification of public hearing.
10. Due to the small amount of on-site business, only one on-site parking space is required.

CONDITIONS: C-83-5

1. Provide sign details, showing size, location, and materials to be approved by Staff.
2. The driveway shall not be used for customer parking.

3.5 CONTINUED PUBLIC HEARING OF PROPOSED AMENDMENT TO THE
MILWAUKIE ZONING ORDINANCE CONCERNING ADULT ENTERTAINMENT

SPEAKING: GREG EADES, CITY ATTORNEY

Mr. Eades had prepared a revised draft ordinance and Memorandum dated February 18, 1983, which includes several concerns the Commission and other interested parties have stated. Mr. Eades does not consider the Conditional Use Procedure the most efficient approach for regulation of adult entertainment businesses. The draft ordinance lists several Findings that directly apply to Milwaukie, these Findings will then be recommended to the Council for adoption in the final ordinance.

Mr. Trotter suggested specific wording in the definition limits interpretation of certain types of adult businesses and should state "Adult entertainment business" includes, but is not limited to," The other Commissioners concurred with proposed definition.

Mr. Eades had not included the definition of "church" in the draft ordinance, based on the problems Portland had in defining what uses actually constituted activities of a church. Adding that definition would go beyond the limits of Portland's Ordinance.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

Staff mentioned there is only one church located in the downtown C-C Zone, which is St. John's Episcopal Church. Mr. Eades agreed with the Commission that the term "church" should be included in the ordinance for distance restriction purposes. The term "school" should be accepted as stated in the Zoning Ordinance, providing for the interest and protection of children.

Mr. Eades explained the Conditional Use Procedure involved in implementing the Amendment for adult entertainment businesses. Adult businesses would be allowed through the Conditional Use Procedure, as any other business, with additional specific criteria such as distance limitations, zoning limitations, and hours of operation.

AUDIENCE PARTICIPATION:

SPEAKING: CHIEF RON SCHANKER, MILWAUKIE POLICE DEPARTMENT

Mr. Schanaker mentioned Portland's ordinance has a limitation of 500' in certain areas based upon the amount of complaints received, however Milwaukie would be adversely effected even with a 250' distance limitation. In his opinion a tighter restriction on adult entertainment businesses than other cities does not necessarily mean that it will be struck down by the courts. Circumstances often require regulation that may be considered "in the gray area", and the community has stated valid concerns that warrant the risk of anti-trust suit.

SPEAKING: JERRY THELANDER, PLANNING DEPARTMENT INTERN

Jerry showed several locations on a map that could accommodate an adult entertainment facility, if granted a Conditional Use Permit, within the 250' distance limitation.

SPEAKING: MICHAEL SMITH, 5905 S.E. Hazel Place, Milwaukie
Assistant Pastor LIBERTY BAPTIST CHURCH, Milwaukie

Mr. Smith is concerned about the exact wording of the proposed ordinance. He submitted accounts of a North Carolina law which regulates adult business by restricting sale of more than one product in any one location. It has been proven that these businesses need a multiplicity of products in order to remain in business.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

Mr. Liane had several comments regarding Mr. Eades draft ordinance, supporting the option of 1,000 feet distance limitation. Mr. Liane made a Motion to revise the draft ordinance to provide a 1,000 feet distance limitation for regulation of adult entertainment facilities, which would actually keep these businesses out of the city. Mr. Trotter Seconded the motion for purposes of discussion. Discussion among the Commissioners did not support the revision for regulation by 1,000 feet limitation. The Motion FAILED, 5 - 1, Mr. Liane voting for the Motion.

Mr. Eades stated the important issue is not whether adult businesses should be allowed but where they should be allowed. Mr. Trotter concurred that provision should be made for the revitalization of the downtown area, any use that would be detrimental or contribute to the deterioration of the downtown Central Commercial Zone should not be allowed to operate. The Commission, by consensus, requested the City Attorney to develop a draft ordinance stating the issues mentioned and present it at the March 8, 1983 Planning Commission Meeting.

Mr. Trotter made a Motion to CONTINUE THE PUBLIC HEARING in order to allow Staff time to provide a revised draft ordinance addressing issues discussed at the meeting. Ms. Roholt Seconded the Motion, it CARRIED UNANIMOUSLY.

3.6 CONTINUED PUBLIC HEARING OF PROPOSED AMENDMENT TO THE
MILWAUKIE ZONING ORDINANCE CONCERNING MANUFACTURED HOUSING
MANUFACTURED HOUSING SUBDIVISIONS.

Mr. Trotter made a Motion to CONTINUE THE PUBLIC HEARING until March 22, 1983 to allow Staff time for continued research on the issue and provide recommendations regarding manufactured units as temporary and/or permanent structures for offices or other uses. Mr. Littlehales Seconded the Motion, it CARRIED UNANIMOUSLY.

5.1 C-82-14 P.S. BUSINESS PARK, 4160 S.E. International Way
Request for extension of Conditional Use Permit to allow
a restraunt within the business park.

The Commission had received a letter requesting extension of the Conditional Use for six months. Mr. Trotter made a Motion to CONTINUE THE CONDITIONAL USE, C-82-14, for six months, Mr. Littlehales Seconded the Motion, the MOTION CARRIED UNANIMOUSLY.

MEMORANDUM

TO: PLANNING COMMISSION

FROM: GREG EADES, CITY ATTORNEY *ME*

DATE: FEBRUARY 18, 1983

SUBJECT: ADULT ENTERTAINMENT ORDINANCE.

Attached is a draft ordinance for your consideration. After discussions with Topaz we decided we weren't prepared to offer extensive amendments to provide for design review and improved standards for considering conditional uses at this time, so these are not included. While we agree that these other amendments would be useful as part of this recommendation, we just didn't have the time or sufficient information to draft the necessary changes.

The draft ordinance includes the following features suggested by the Commission:

1. Locational restrictions
2. Conditional use procedure
3. New definitions of adult business
4. Prohibition of adult business in transition zones (ROC, C-N)
5. Proposed findings

After reviewing the testimony and other material I'm not convinced that any other special conditions can be imposed. For this reason, I would prefer to permit these uses outright, subject only to the locational restrictions, contrary to your instructions. We can discuss this further at the meeting.

Please let me know if you have any questions.

GE/vk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1438 BY ADDING ADULT ENTERTAINMENT BUSINESSES PROVISIONS.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

A. Currently, Ordinance No. 1438 does not distinguish between adult entertainment businesses and other commercial uses. Adult entertainment businesses are permitted outright in commercial zones and as conditional uses in certain industrial zones.

B. The city has received testimony from city residents that adult entertainment businesses are not compatible with residential, church, public park and school uses.

C. The City of Portland has documented complaints concerning existing adult entertainment businesses showing that these uses adversely affect the quality and stability of nearby residential and commercial areas and it is likely that the same effects would be experienced in Milwaukie if such businesses located here.

D. It is in the best interest of the city to mitigate the adverse impacts of adult entertainment businesses by separating them from each other and from surrounding residential, church, public park and school uses.

E. These uses can be adequately separated by prohibiting adult entertainment businesses within 250 feet of a residential zone, church, public park or school and within 500 feet of another adult entertainment business.

F. The proposed regulation supports the following elements of the city's Comprehensive Plan, Ordinance No. 1437:

1. Community Conservation and Development Division, Objective #4, Neighborhood Conservation, page 30.
To maximize the opportunities to preserve, enhance and reinforce the identity, pride of existing well defined neighborhoods in order to encourage the long-term maintenance of the city's housing stock.
2. Economic Base and Industrial/Commercial Land Use Element, Objective #8, Commercial Land Use: Convenience Centers, page 38(a).
To limit intrusion of commercial uses into neighborhood areas, while providing easy accessibility for residents.
3. Recreational Needs Element, Objective #4, Neighborhood and District Parks, page 45.
To develop a city-wide park and recreation system which meets the needs of neighborhoods and the city as a whole.

4. Neighborhood Area 1, Objective #1 - Single Family Character, page 54.
To maintain the single family character of designated single family areas by encouraging maintenance and rehabilitation of older structures, and by improving the quality of new residential development.
5. Transportation Element, Objective #8 - Pedestrian/Bikeway, page 72.
To develop a pedestrian/bikeway system which connects local activity centers such as parks, schools and activity centers.

G. The Planning Commission considered these proposed regulations on February 22, 1983 and recommended that the Council adopt them.

Section 2. Definitions. Section 1.03 of Ordinance No. 1438 is amended by adding the following definitions in appropriate alphabetical order:

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities".

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation or management of the Community Services Department.

"Specified anatomical areas" means and includes any of the following:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in a through c of this definition.

Section 3 Standards. Section 6 or Ordinance No. 1438 is amended by adding new subsection 17 as follows:

17. Adult Entertainment Business: The proposed location of an adult entertainment facility shall not be within 500 feet of an existing or previously approved adult entertainment business or within 250 feet of either a public park, a church, a day care center, a school or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business to either the closest property line of the impacted property or to the closest structural wall of any pre-existing or previously approved adult entertainment business. Adult entertainment businesses are permitted only according to the provisions of this ordinance.

Section 4. Conditional Uses Permitted. Sections 3.11.2, 3.12.2, 3.13.2 and 3.14.2 of Ordinance No. 1438 are amended to add at the end of each:

Adult entertainment business.

Read the first time on _____, 1983, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 1983.

Signed by the Mayor on _____, 1983.

Joy Burgess, Mayor

ATTEST:

Laurie Perkin, Recorder

Approved as to form:

Greg Eades, City Attorney

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

Mr. Trotter Made a Motion to continue the public hearing of C-83-2 until February 22, 1983 to enable staff to work with the State Highway Department to determine the exact location of the State right-of-way, and give applicant opportunity to provide an accurate site plan showing the location of the office, proposed arrangement of rental vehicles and permanent landscape plan. Ms. Roholt Seconded the Motion. The Motion Carried Unanimously.

Mr. Murphy stated he may have to find another location because he could not afford to wait until February 22 for a decision from the Commission.

Mr. Cathey joined the Commission at 7:00 p.m.

3.2 PROPOSED AMENDMENT TO THE MILWAUKIE ZONING ORDINANCE
CONCERNING ADULT ENTERTAINMENT BUSINESSES

Mr. Trotter mentioned the purpose of the meeting was to clarify and explain the proposed draft ordinance, review testimony received at the last hearing, and gather any new information on potential impact of adult entertainment business if located within the City of Milwaukie. Mr. Trotter stressed the intention of the Council is to adopt an Ordinance that will regulate, not prohibit, adult entertainment businesses.

Jerry Thelander, Planning Department Intern, presented several updated maps indicating various boundaries of 200', 500' and 1,000' buffer zones from residential areas, schools, churches, public park lands, day care centers, and hospitals. A site survey of vacant lands show several possible sites where adult businesses could be located depending upon the determined buffer zone.

GUEST SPEAKERS:

SPEAKING: MARY BETH HUGHES, 134 ½ NW. 21st., Portland
President of 82nd Avenue Business Association

Ms. Hughes suggested the Commission advise the Council to set clear and rigid guidelines that would allow the proprietors to continue to do business under strict regulations, such as: confinement to segregated business districts, and controlled hours of business. Experience has shown that there is an inconvenience to the neighboring businesses when they are allowed to operate within the general business areas. Since some of the consumers of these businesses are not proud of their patronage as use the parking spaces of the neighboring businesses, some times walking considerable distances out of their way. This prevents potential customers of the lot they are using from finding parking.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

GUEST SPEAKERS:

SPEAKING: MARY BETH HUGHES

Continued

Ms. Hughes stated it is her preference that these stores be allowed to operate and all pornography materials be sold through them and not allow to be displayed in the grocery and drug stores where the public must be subjected to them. Research has shown that the victims both the violent sex portrayed in the pornography and the most of the violent crimes incited at the victims assistance, as a result of viewing the violent pornography, were nearly always women and children. In her opinion, she stated, it is adding insult to injury, to placidly display these materials in public places. It will be a sign to our youth that this is a part of our world, but not a normal, healthy, respected part of our world.

SPEAKING: CHRIS COSSARD, 4452 S.E. Gladstone St., Portland
Representing the 82nd Avenue Business Association
and Rockhill Properties Inc.

Mr. Cossard expressed that adult businesses, wherever they are located, do represent a very definable barrier to business investment in their area. A number of factors are considered when a person is interested in office space, such as: size of unit, decoration, layout of the unit, convenience to themselves, safety to their employees and customers, and the image that the location will convey to their customers. Rockhill Properties has an office complex adjacent to an adult bookstore in Portland. Mr. Cossard said he has observed suspicious loiterers in the area during late hours, when tenant's assets are relatively unguarded. He has also received complaints of loiterers in the area during late hours and during the day. Requests for rent concession, based on the quality of the neighborhood due to adult businesses, have also raised concern. When dealing with business property lower rents produce lower income, and therefore reduces the value of the property creating an absolute definable barrier to business investment. Milwaukie as a whole desperately needs more business investment.

SPEAKING: LOUIS CASALE, MILWAUKIE REAL ESTATE, 11242 S.E. 21st Ave.

Mr. Casale mentioned the Real Estate Board had recently discussed this issue at their meeting. None of the Real Estate Brokers at the meeting has had any experience with tenants adjacent to adult businesses. Mr. Casale referred to experiences in California where rentals have been devalued because of the detrimental effects adult businesses have on the neighborhood.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

GUEST SPEAKERS:

SPEAKING: MIKE GRAPPER, PRESIDENT, CLACKAMAS COUNTY BOARD OF REALTORS

Mr. Grapper said it is difficult to separate the value of commercial property from a moral issue. He had spoke to a realtor in the City of St. Helens who commented about commercial property in that city. Some property owners feel it is better to have the location occupied by some business than to have it unoccupied altogether, which would clearly be more detrimental to the area with an increase of crime and vandalism. Commercial values would definitely be adversely affected by the location of an adult entertainment center in Milwaukie. Potential tenants would hesitate to locate near or adjacent to an operating adult business.

SPEAKING: DOUGH NAEF, FARMERS INSURANCE GROUP, 11085 S.E. 21st Ave.

Mr. Naef mentioned that about a year ago he appealed an application for a video game room in the downtown area. Mr. Naef presented several letters from various businesses in opposition to amusement centers. He suggested the Commission consider regulations the City of Portland has imposed and implement the same type of Ordinance.

SPEAKING: PAUL GRAHAM, GRAHAM'S BOOK AND STATIONERY, 11049 S.E. Main

Mr. Graham has been in business in the downtown area of Milwaukie for over 16 years. In order to create a successful, viable, growing downtown area the high vacancy rate must be dealt with appropriately. Repairing several of the buildings, and improving the downtown image are other concerns the merchants have for the downtown area. Mr. Graham said if there were an influx of adult business in the area he would definitely consider another location for his own business.

SPEAKING: FATHER O'HARA, ST. JOHN'S CATHOLIC CHURCH AND SCHOOL

Father O'Hara expressed his concerns for the youth of the community, the image of Milwaukie, and what entertainment facilities will be offered in the community in the future.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

AUDIENCE PARTICIPATION:

SPEAKING: JOHN FOSTER, 1516 S.E. Easton Ln, Milwaukie

Mr. Foster mentioned he has served on the Milwaukie Planning Commission in the past. Regulation of adult businesses will be almost impossible because most of the criminal and sexual activity takes place behind closed doors. He also stated the health of the community will be jeopardized by the operation of adult businesses, which have nothing to peddle but sex. He suggests the Commission adopt an Ordinance excluding adult businesses and allow the Courts to decide if it is constitutional if it is contested.

SPEAKING: DOUG NAEF, FARMERS INSURANCE GROUP, 11085 S.E. 21st AVE

Mr. Naef mentioned it has been his experience that insurance rates are increased or policies cancelled do to higher risk factors for businesses near or adjacent to adult entertainment facilities.

SPEAKING: DON BROWN, 8645 S.E. Clatsop

Mr. Brown suggested that an application for adult entertainment businesses be handled in much the same fashion that liquor licenses applications are approved with proper public notification and time for public input. Hours of operation should be regulated, and legal liability to property owners imposed as part of the new Ordinance.

SPEAKING: DANA ROWLEY, 320 S.E. 29th Ave.

Mr. Rowley urged the Commission to view the long-term aspects of this Ordinance. He mentioned the moral view of the public has certainly decreased at an accelerated pace especially in the last 20 years.

SPEAKING: RUSS ISOM, 11201 S.E. 27th Ave.

Mr. Isom suggested the Commission consider a 1,000 foot buffer zone, that includes churches, to be adopted.

SPEAKING: WANDA BEETON,

Ms. Beeton stated that all the testimony has been supporting the proposed amendment, and no one has told how it would be a good thing for the community. She is glad the people have a voice in this issue and supports the efforts of the City to keep these businesses out of the community.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

AUDIENCE PARTICIPATION: Continued

SPEAKING: PHIL LISAC, 4027 S.E. Filbert St., Milwaukie
Representing St. John's Catholic Church

Mr. Lisac stated the community definitely does not need any adult businesses to degrade the honor and values of the city.

SPEAKING: ROBERT HANSON, 2605 S.E. Wilber, Portland
Vice President Libertarian Party

Mr. Hanson briefly stated his opinion of regulation of adult businesses through the Zoning Ordinance is simply another governmental action imposing judgment and moral values.

SPEAKING: JOE LUTZ, 5631 S.E. 83rd Ave., Milwaukie

Mr. Lutz he believes in a government for the people and by the people, therefore the citizens of Milwaukie do have a voice in keeping adult businesses out of the city.

SPEAKING: JOHN BOWMAN, 403 S.E. 53rd, Portland

Mr. Bowman fears that what has happened in other cities may happen to Milwaukie if adult business are allowed to operate. Prostitution and drug abuse certainly are not positive elements for any community. McLoughlin Blvd. could very well become another sleazy area.

SPEAKING: CONNIE BETTINSMELT, 16125 S.E. Dixon, Milwaukie

Ms. Bettinsmelt read statistics from an article in READERS DIGEST regarding increase in sex crimes and the heavy market of pornography materials. She said pornography is not only about women and sex it involves children, many of which are actual rape, incest, and other acts of violence.

The Public Hearing Closed at 8:55 p.m.

Mr. Trotter suggested a draft ordinance be submitted by Staff indicating regulation of adult businesses within a 250' buffer distance limitation and criteria for a Conditional Use Permit in all Commercial Zones.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

Mr. Trotter explained the advantages of implementing regulation through the Conditional Use Process with specific additional criteria addressing hours of operation, site location, and specific type and manner of adult entertainment business. Several suggestions for criteria were: closing hour to be approximately 2:00 a.m.; proprietor's reputation and criminal record should be clear of criminal prosecution; compliance with obscenity standards; option to review within six months if there are complaints regarding operations of business or neighborhood disturbance. Consideration must be given to the rights of the neighborhood, as well as the land user, by adopting clear and concise criteria for all Conditional Uses.

The Commission requested Staff to draft an ordinance addressing the Conditional Use Process in all commercial zones, and construct a map showing vacant property within commercial zones with a 250' and 300' buffer area.

Mr. Trotter made a Motion to continue the public hearing until February 22, 1983, Ms. Roholt Seconded the Motion, it carried 5 - 0, Mr. Laine abstaining.

Mr. Liane left the meeting.

7.1 C-82-11 EXTENSION OF CONDITIONAL USE
GEORGE EIVERS, MILWAUKIE CONVALESCENT HOSPITAL
for 64-bed residential care facility and 18-space
parking lot at 12045 S.E. Stanley Ave., Milwaukie

Mr. Trotter made a Motion to approve the requested extension for Milwaukie Convalescent Hospital, Mr. Littlehales Seconded the Motion. Mr. Cathey declared a conflict of interest. The Motion carried 4 - 0, Mr. Cathey abstaining.

7.2 JAR TRAN - TRUCK RENTAL BUSINESS, EXHAUST SPECIALTIES
10799 S.E. McLoughlin Blvd., Milwaukie

Jon mentioned Exhaust Specialties had not presented the Staff with any further information or application for extension of a Conditional Use. Currently the truck leasing business is operating at nonconforming site without proper landscaping or adequate parking. The Commission requested Staff to correspond with Mr. Jack Allan and explain that a Conditional Use Application, landscape and parking plan be submitted for review.

THE MEETING ADJOURNED AT 10:55 p.m.

2311 S. E. Wren St.
Milwaukie, OR 97222
February 8, 1983

TO: MILWAUKIE CITY COUNCIL

As citizens of Milwaukie, we would like to voice our opinion on the projected adult bookstores.

We feel that it would hinder the well-being of Milwaukie and cause more crime in several different ways.

Other older establishments may be forced to move out, which would be unfair to them, and then not good for the economy of Milwaukie.

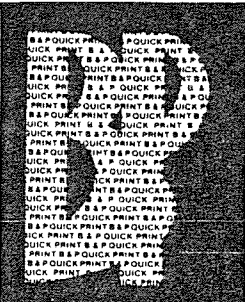
The youth should be thought of, too, and this would not be good for them.

THIS IS A CLEAN CITY. LET US KEEP IT THAT WAY.

Very truly yours,

Alfred L. Haij
Alfred L. Haij

Marian L. Haij
Marian L. Haij



B & P QUICK PRINT
1928 S.E. Scott
Milwaukie, Oregon 97222
653-0997

"Not Just Another Print Shop"

**QUICK PRINTING
COMMERCIAL
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- LAYOUT
- ARTWORK
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- PADDING
- NUMBERING
- DIE-CUTTING
- EMBOSSING
- FOIL STAMPING
- BUSINESS CARDS
- LETTERHEADS
- ENVELOPES
- FLYERS
- R FORMS
- CARBON FORMS
- BOOKS
- MAILERS
- BROCHURES
- TICKETS
- FOUR COLOR
- TYPING
- COPIES
- NOTARY PUBLIC
- RUBBER STAMPS
- ADVERTISING**
- PRODUCTS**
- (IMPRINTED)**
- PLASTIC BAGS
- BALLOONS
- MUGS
- GLASSES
- CALENDARS
- POSTERS
- PLAYING CARDS
- PENS
- TS
- TEE SHIRTS
- TRANSFERS
- JEWELRY
- GOLF BALLS
- LITTER BAGS

February 7, 1983

Topaz Falkner
City Planning Commission
City Hall
10722 S.E. Main
Milwaukie, Oregon 97222

Dear Ms. Falkner,

I am writing this letter in response to information we have received about certain businesses wanting to offer adult entertainment in the Milwaukie area.

We are very much against this type of entertainment for the city of Milwaukie.

In conversations with other business owners and residents, (Northeast and Northwest Portland) who have had this type of business locate in their area, to them it typifies "the beginning of the end" for the credibility of the community.

I really don't want to think that the city is so desparate for business locating here, that they would allow this type of operation.

Very truly yours,

Pat Milligan
Pat Milligan
Owner
B & P Quick Print

PM:nc1

JAN 13 REC'D

JOHN W. FOSTER . . . A.I.A. . . .

ARCHITECT

410 POSTAL BLDG. - PORTLAND, OREGON 97201

1516 SE Eton Lane,
Milwaukie, OR 97222

1983/Jan/13

To the Planning Commission:
City of Milwaukie,
Milwaukie, OR 97222

To the Chairman:

The enclosed letters to The New Review and The Oregonian are sent for your information as to my feelings. Since so many were present who I knew were opposed to granting permits for X-rated uses, my wife and I left the halls.

I was particularly displeased with the attitude of the City Attorney who, according to report, "lacked enough convincing evidence that the adult bookstores would be detrimental to Milwaukie." How ignorant can he be?

My data, and I am no researcher, and the testimony of those concerned Portland officers from the Drug and Vice Division provided enough for any open minded person.

Is it necessary to have moral blight before action can be taken to ban dens of iniquity? The topless tavern was denied on its application.

It appears that anti-pollution can be applied to this matter as well. Milwaukie "has maintained an exemplary reputation." My best wishes to you all for continued protection of our community.

Sincerely,

John W. Foster

June 8, 1983

We, the undersigned interested parties, would prefer to have all specialty-oriented businesses from Milwaukie entirely. We understand that this is not possible due to the present interpretation of the strict Amendment of the U.S. Constitution. We would strongly urge the City Council and the Planning Commission to take whatever action necessary to assure the maximum possible distance for such businesses: adult book stores, massage parlors, nude modeling studios, adult movie theaters, etc. from all residentially zoned property, public parks, schools, churches, hospitals, and day care centers within the city.

Name	Address
Roy Leatham	5217 SE ALDERCREST RD - MILWAUKIE, ORE
W. Elcar	2056 SE Grandview - Milw - Ore.
Walter Durr	11924 SE 20 Ave " "
Annabelle Brown	11920 SE 20 Ave " "
Walter Sanderman	12133 SE 35th Milw., Or
Carol K...	12122 SE 35th 127.60, Or.
Barbara Hoell	12932 SE Vernie mile, OR 97222
Stephen J. Hoell	12932 SE Vernie mile, OR 17222
Linda R. Harsaway	4839 SE May Rd Milw., Or. 97222
Edwin M. Seely	14327 Upper Aldercrest Milw OR 97222
Mary M. Seely	14327 Upper Aldercrest, Or. Milw 97222
Muriel Lee Spitzer	16921 SE Snodgrass Rd Milw 17222
David K. ...	" " " " " "
Laurie M. ...	" " " " " "
Edna J. Wiland	5705 SE Aldercrest Rd Milwaukie 97222
R. John J. Spitzer	15294 LA CRESCENTA MILWAUKIE OR 97222
Rockie Dodman	13266 S.E. River Rd Milwaukie Or 97222
Sharon Redman	13266 S.E. River Rd Milwaukie Or 97222

(over)

Kathy Gardner

12209 SE 38 Milw.

Steph H. May

14611 SE CEDAR Milw.

Joshua Mara

4410 SE ALDERCREST Milw.

Helen Heatham

5217 Aldercrest Rd Milw.

Eileen Streetter

15294 LaFrescenta Way

59 signatures

Jan 8, 1983

We, the undersigned interested parties, would prefer to ban all sexually-oriented businesses from Milwaukee entirely. We understand that this is not possible due to the present interpretation of the First Amendment of the U.S. Constitution. We would strongly urge the City Council and the Planning Commission to take whatever action necessary to assure the maximum possible distance for such businesses: adult book stores, massage parlors, nude modeling studios, adult movie theaters, etc., from all residentially zoned property, public parks, schools, churches, hospitals, and day care centers within the city.

Name	Address
William D. Halloway	11965 SE 37th Ave Milwaukee
Linda K. Crabb	13450 S.E. Ruschiff Lane, Milwaukee
Robert J. Jeppert	13600 SE RUSK ROAD Milwaukee, Or
Neda J. Jeppert	13600 S.E. Rusk Rd, Milwaukee, Or,
Hwer Hamann	2704 SE Chestnut Hill. 97222
Peggy Hamann	" " " "
Marka Clifford	3710 SE Concord #114 Mil. 97222
Robert C. Clifford	" " " "
Gene Berthodler	12537 SE Outfield Rd. Milw. 97222
Cole T. Barber	6260 SE Lake Rd. Milw. 97222
Paul E. Rawson	12118 SE 22nd Milwaukee 97222
Susan J. Rawson	13118 S.E. 27th Ave. Milw. 97222
John Rawson	3500 SE Concord #32 Milwaukee 97222
David E. Edwards	15188 SE Laborer Way, Milwaukee 97222
William K. Miller	5256 SE Grandview, Milw. 97222
Gerald W. Cummings	14571 SE Upper Abercrombie Dr Milw.
D. Brent Cummings	14511 S.E. Upper Abercrombie Dr. mil
	(over)

Ladonna Leane 5305 Aldercrest Rd.

Sally Hubler 2833 Concord Milwaukee

Doug Hubler 2833 Concord Milwaukee

Juanita Snicek 4410 SE Aldercrest Rd.

Don E. Gardner 17209 SE 38th Milwaukee

Jack Brenneman 12521 SE Guilford

Jan 8, 1983

We, the undersigned interested parties, would prefer to ban all sexually-oriented businesses from Milwaukee entirely. We understand that this is not possible due to the present interpretation of the First Amendment of the U.S. Constitution. We would strongly urge the City Council and the Planning Commission to take whatever action necessary to assure the maximum possible distance for such businesses: adult book stores, massage parlors, nude modeling studios, adult movie theaters, etc., from all residentially zoned property, public parks, schools, churches, hospitals, and day care centers within the city.

Name	Address
Tom Henning	12116 SE 21st - Milwaukee
Roy O Ogden	12120 SE 21st Milwaukee Ave
Blanche Ogden	- - - - -
K. A. A.	12136 SE Esch Milwaukee
Michael Batcheller	12009 SE 22nd Ave Milwaukee
Arl J. Batcheller	12009 SE 22nd Ave Milwaukee
Farley E. Murdoch	12218 SE 21st Ave Milwaukee
Wanda Murdoch	2100 SE Sparrow Milwaukee 97222
Walt Huber	2100 SE Sparrow Milw. 97222
E. Lina Huber	12210 SE 21st Milwaukee
Janice J. Frutiger	12115 SE 21st Milwaukee 97222
Ellenore March	12116 SE 21st Milwaukee "
Ronald Henning	

~~(over)~~

My name is Loretta Chase of 11233 S.E. 27th Apt. # 101, Milwaukie, Or. I manage, along with my husband, Ted, the Shorewood Terrace Apts. ~~are~~ close to downtown Milwaukie, across from the Milwaukie Elementary School and behind the Milwaukie High School. Being in this location, we do have quite a bit of activity going on around us most of the time. I have the occasion many a time to see the young peep from the High School, loitering, so called, on our street, especially during their lunch hours and after school also. These children are very vulnerable to places of so called pleasure and can be easily misled. They are susceptible to activities that come from Adult Book Stores and Message Parlors (and desecr activities have been proven to stem from these places) and I stand firm in so far as these children and your people should not be tempted toward these places. ~~They~~ should not be allowed to spring up in

Adult Book Stores & Parlors?

neighborhoods around schools, churches, downtown area (especially as small as Milwaukie is) for it is not only very costly to do away with them but it is also a detriment to the moral of our community.

Loretta Chase

John L. & Wilma E. Patrick, 5225 1/2^{SE} Hill Rd. Milwaukee
OR. 97222

Jan 10, 1983.

Milwaukee Planning Commission
City Council etc, OREGON.

Gentlemen

We voice strong opposition to license of
any adult book store in Milwaukee area; or
any such related live club with sensual, sexy and
~~adult~~ lewd reading, movies or live presentation.
Let us keep this area a healthy environment.

Such places can be the breeding pots for
the path of entry into outright crime for many young folks.

The demoralizing atmosphere of such places of
filth affect property values of both business & homes.
Ours is the obligation to protect our young
folk and young adults. It all sifts down soon to
reach the younger children too. We must protect them.

Thank you for your hearing.

John L. Patrick
Wilma E. Patrick.

P.S. quote the good Book. matt 18: 6-7 partials.
6. "And whosoever shall offend one of these little
ones..... It were better for him that a millstone were
hanged about his neck, and that he were drowned in
the depth of the sea. 7. Woe to that man by
whom the offence cometh!" Let us heed warning
W.E.P.

Regarding Proposal for Sex Shop in Milwaukie.

My family ~~has~~ been residents of the Milwaukie area since 1880. We have always been proud of Milwaukie and its "home town" atmosphere. It is part of your responsibility to take whatever action is required to keep the area one that we can still be proud of and in which our families can grow up in safety.

Sex parlors, porno book stores, ect do not contribute to a safe, liveable town.

Change is inevitable, but it is within your power and responsibility to direct this change in wholesome directions.

Donald C. McLaughlin
13775 S.E. Rush Rd.
Milwaukie, Oreg
97222

To The City Council of Milwaukee
and other governing bodies which
may be concerned:

We are opposed absolutely
to any adult entertainment
businesses, such as adult book-
stores, theatres, massage parlors
and the like, being allowed
in the City of Milwaukee.

This type of business established
in our community would lead
to its deterioration as a place
to live and work.

William Beachell

Wanda L. Beachell

Jan 11, 1983

To City of Milwaukee Planning Comm: -

I am absolutely against the adult movie location in Milwaukee, ^{massage parlors,} etc.

Reason - as a young lad when women wore skirts to the floor, I never as much as saw my mother's ankles, ... ~~until~~ or any other ladies', until one day when I was walking down a street in Vancouver, WA, my hometown, I saw two ladies across the street, and one raised her dress until I could see her ankle. She did not know I was there, I was titillated to a great extent, and often walked down the street in hopes I would again see a lady's ankle. But I never did until the ~~gas~~ changed.

This is comparable to the adult movie, etc. situation ... our innocent young children will see the bulletins etc. posted on the buildings and be ever curious to see the "ankles" by way of the books, films, etc. available inside.

Our children must be freed from exposure to this satanic plot.

God love our people and children!

James R. Lively
15289 S.E. EL RANCHO
MILWA OR 97222
654-0442

1/11/83

Speaking as the past vice principal of Milwaukee Junior High but not as a spokesman for the school or the North Clockman School District my personal conviction is that such ~~an~~ proposed place would do nothing to enhance the beauty, reputation, or livability of Milwaukee. Indeed, it would serve as an unhealthy magnet to the youth of our city. It would not attract the type of people that would serve as good models for our kids.

Please consider the following

1. If such books etc would have no negative effect upon impressionable youth then all the good books and instruction used in schools must therefore have no positive effect. I don't believe it!
2. If such materials could not be purchased directly by those under age - please remember that alcohol, cigarettes etc cannot also! However, anyone working with kids will agree that somehow kids end up with such.
3. The amount of sexual abuse in families and among young kids is increasing. Some of the materials sold in such places promote adult ~~sex~~^{sex} with children. If we want to encourage such activity we should ask Children's Services and other such agencies to quit trying to discourage it. We should do away with laws requiring teachers et al to report it

continued

3. If on the other hand we oppose such activities, we should not endorse the establishment of a center which could promote ~~them~~ ^{them} through ~~the~~ its literature, tapes etc.

4. This body tonight may not be a political body and therefore not interested in majority viewpoint! However, it would seem that if your task is to make proper recommendations to the elected council it should be based upon facts and certainly the fact that a great many people oppose such a center should be a strong ~~and~~ consideration. - Unless of course you enjoy making recommendations that will get the council a lot of negative public relations.

5. Research will prove that such a center would have an extremely negative economic effect upon property values and other businesses in our community.

In conclusion, your decision should be motivated by the desire to do what's best for Milwaukee's future, youth, and citizens. It should not be motivated by a desire to increase the bank account of those who wish to ~~buy~~ make profit by vice

(If such activities promoted by such places are not vice - why do we have a vice squad in major cities to discourage these activities)

Marion Chapman

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - JANUARY 11, 1983

3.3 PROPOSED AMENDMENT TO THE MILWAUKIE ZONING ORDINANCE
CONCERNING ADULT ENTERTAINMENT BUSINESSES.

Mr. Trotter explained the procedures that will be followed during all of the public hearings. He briefly explained the history of this proposed Ordinance, and the options the Commission could act upon at this meeting. The Commission may continue the public hearing until the next regular scheduled meeting or until Staff and Commission have reviewed testimony and are prepared to present any new evidence. The Commission may decide upon a draft ordinance and recommend it to the Council, at that time another public hearing will be scheduled.

Mr. Trotter explained that on November 16, 1982 the City Council considered a Relaxation Treatment Business and a Adult Entertainment Business Ordinance. He defined the term "Relaxation Treatment Business" as follows: nude modeling business, a sexy reading room business, a sex counseling business, a sexy dance studio, a sexual encounter center business, a sex sauna, or bath house business. He also defined the term "Adult Entertainment Business", as follows: Such activities as, adult book stores and theaters which are activities involving some sort of expression which may be entitled to First Amendment protection. The Council has passed Ordinance #1533, providing for regulation of Relaxation Treatment Businesses. The Council discussed regulating adult entertainment businesses and forwarded the issue to the Commission for consideration of an amendment to the Zoning Ordinance, not to prohibit these businesses but to regulate the time, manner, and location, and to develop criteria for Conditional or Outright Use within various zones of the city. This Ordinance is a sample which could be considered for adoption. Before the Commission can make a recommendation to the Council it is necessary to know what the needs of the citizens are, examine legal First Amendment Rights, and land use requirements involved in this issue, such as potential adverse affects on surrounding property or the neighborhood.

GUEST SPEAKERS:

SPEAKING: RON SCHANAKER, Milwaukie Police Chief

Mr. Schanaker said it is necessary to have an Ordinance, such as the one proposed, before these types of businesses are permitted to operated in the City of Milwaukie. Legal opposition, inconvenience to potential owners and other problems will be reduced if specific regulation has been established prior to application of an adult entertainment business. Currently, the City is not faced with this type of activity within the community.

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SPEAKING: RON SCHANKER - Continued

Mr. Schanaker said it has been his experience that when an issue is addressed in an Ordinance prior to application of a controversial issue it is much easier to avoid problems. He is very concerned about the safety of the community, and the likelihood that these businesses would locate within the close proximity of places that young people generally congregate.

Adult bookstores are more than just stores with an array of Playboy magazines, films, and printed literature. Most of their income is from other activities, such as: presentation of peep shows, films and slides; homosexual activity within enclosed areas; sales of sexual apparatuses.

The City of Milwaukie is a small community and does not have the same problems as other metropolitan areas. It should be the primary concern of the citizens to maintain this point of view. Our community has several churches, schools which border a long narrow commercial area, and cannot afford to allow these types of businesses to be scattered throughout the finely knit community. Typically adult entertainment businesses are attracted to heavy traffic, low-rent spaces, good exposure, and young clientele. Distance is a prime concern because of Milwaukie's relatively small downtown area. Mr. Schanaker mentioned that in Perth Amboy, New Jersey, a community twice the size of Milwaukie, the people decided the best location for this type of business was out near the City Dump. He stated it is the City Staff and Council's responsibility to make sure that the liveability of the community stays the way the citizens want it to stay, even if special consideration must be given to First Amendment Rights.

SPEAKING: DON PAHLKE, PORTLAND POLICE BUREAU

Mr. Pahlke said that these types of business would not only deteriorate the community but drain the police resources who patrol them. In the past no matter what kind of Ordinance is established to regulate adult entertainment businesses the operators find a way to circumvent the restrictions, and once they are in it is hard to get them out. The elderly as well as the younger set of people will be affected in terms of safety and welfare of the entire community.

Mr. Pahlke has noticed that the businesses that were not allowed to operate in Portland any longer are now relocating to the outer communities, such as Milwaukie. Through the Civil Abatement Process the Portland Police Bureau has closed several adult bookstores and massage parlors based on prostitution activity within the establishments. The only massage parlors that have not caused problems are those licensed by the State and have

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SPEAKING: DON PAHLKE, PORTLAND POLICE BUREAU - Continued

Business Licenses to operate as masseuses. Investigations have proven that all the other massage parlors promote heavy prostitution activity. It has been Mr. Pahlke's experience that merchandize and literature sold at these establishments is directed toward homosexuality. Social diseases and increase in crime activity are other reasons to regulate adult entertainment businesses. Mr. Pahlke suggests that Milwaukie adopt an Ordinance that prohibits any type of adult entertainment business. Regulating these establishments to certain distances from residences, schools, churches or other public facilities only moves the problems down the street and around the corner. Most of the adult bookstores, and massage parlors in the City of Portland operate on a 24-hours basis, and anyone who lives close to these facilities will notice an increase in traffic, noise, and caliber of people who patronize them. Vandalism is likely to occur because clientele may be dissatisfied with services or merchandise. Crimes within these facilities range from prostitution, theft of wallets and credit cards, assault, and vandalism.

SPEAKING: ROGER MORRIS, PORTLAND POLICE BUREAU

Mr. Morris said he has been assigned to the Vice Division for two years. During this time his primary assignment has been to enforce the City Ordinance and State Statutes within massage parlors inside the City Limits. Because of Portland's Ordinance and Zoning, the businesses will soon begin to move toward the surrounding county and incorporated cities near Portland. In the beginning Portland attempted to regulate massage parlors through business type ordinances, but these businesses simply changed their name to remain in operation. Through the Civil Abatement Process, Portland has been successful in closing approximately 24 relaxation treatment businesses. The process is extremely costly and time consuming as paid civilian agents are used for investigation and documentation. The property owner is sued and the business is then closed. Portland's Ordinance regulates the amount of adult business, the space between them and the types of neighborhoods they allowed in. Mr. Morris wishes Milwaukie could have an Ordinance prohibiting these businesses within the city. If they are allowed city resources will be expended to investigate and prosecute owners and operators of these types of businesses. It has been his experience that every massage parlor not licensed by the State of Oregon for professional masseuse has been involved with prostitution.

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Topaz introduce Jean Gordon, Southeast Area Office, of Multnomah County.

SPEAKING: JEAN GORDON, 1022 S.E. 35th, Portland, Ore 97214

Ms. Gordon said she is currently the Director of the Multnomah County Public Involvement Program. She has worked with Southeast Uplift, Neighborhoods Against Crime, which involved citizen participation within neighborhood based organizations, such as: PTA, Citizen Advisor Committees to schools, civic organizations, churches, and neighborhood associations. Public safety and compatibility of adult entertainment businesses with the neighborhood were concerns voiced by citizens. Reports of children viewing activities through open doors from the street, in residential neighborhoods, has been a primary concern. Data was requested from the Police Department which showed that crime rate increased dramatically in vicinities where adult book stores were located. An informal survey was taken to determine if potential businesses or families would locate near adult book stores. The response was negative, and because of the undesirable effects on commercial space near adult book stores, rental rates were discounted.

SPEAKING: BILL HUPP, 2626 S.E. Washington, Milwaukie

Mr. Hupp mentioned that several police officers had commented about the probability of adult entertainment businesses moving into Milwaukie. He said the number of citizens attending the public hearing proves the concern and support the community has for the efforts to establish and maintain regulation of adult entertainment businesses.

SPEAKING: JACK BRENNERMAN, 12521 S.E. Gilford, Milwaukie

Mr. Brennerman presented the Commission with a petition signed by citizens stating support for action by the Council to regulate adult entertainment business by limiting their distance to the greatest possible distance from churches, schools, day care centers, residences, parks, and bus stops within the city. He mentioned that insurance companies generally do not insure these types of businesses, and one must obtain insurance through a substandard insurance company at an increase rate. Tenants adjacent to adult entertainment businesses are also affected by higher rates and cancellation.

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SPEAKING: JIM BACKENSTOS, 3626 S.E. Harrison, Milwaukie

Mr. Backenstos said he agrees with the reports from Portland Police Bureau and supports efforts of the Commission and Council to establish an ordinance to regulate these facilities.

SPEAKING: JOE LUTZ, 5631 S.E. 83rd Ave.

Mr. Lutz said he had presented material to Mr. Eades concerning statutes for the State of North Carolina. He and his staff have been researching case records of various states. He explained that the North Carolina statute calls for the burden of proof, for the right to operate an adult book store, is on the owner or operator of such business. That Ordinance also states that books and movies cannot be sold within the same place. The North Carolina Statute has been upheld five times. Mr. Lutz said his staff has researched the possibility of using the same statute for the City of Milwaukie and have found that it would also be upheld in the State of Oregon. He mentioned reports from various Police Bureaux show a direct connection of sexual crimes and poronography. He read a section from the North Carolina Circuit Court Record: "Our concern is not with the questions of the practical ineptitude of legislation or even the possibility its sure sillyness and asininity in a social or philosophic scense, but whether it violates specific rights secured by the Constitution." It is Mr. Lutz' opinion that an Ordinance such as this could be enacted to steer away the prospect of facing litigation.

SPEAKING: RUSS ISOM, 11201 S.E. 27th, Milwaukie

Mr. Isom stated that if it is necessary to allow adult entertainment at any location within the City, then it would be best to locate them in an out-of-the-way place.

SPEAKING: DON BADLEY, 11647 S.E. 35th, Milwaukie

Mr. Badley mentioned that adult entertainment facilities do reduce property values within any community. He said the crime element in many cities is frightening, especially at night.

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SPEAKING: PHIL LISAC, 4027 S.E. Filbert St., Milwaukie
Representing FATHER O'HARA

Mr. Lisac said if a map were devised showing overlapping radius of all the schools, churches, parks, businesses, day care centers, and bus stops it would be most difficult to find a spot to allow adult entertainment facilities. He said if a business of this type were located downtown he would not shop in Milwaukie.

SPEAKING: LEROY HUMMEL, 4791 S.E. King Rd., Milwaukie

Mr. Hummel said that in the last few years he has been teaching hunting safety to the youth of this community. People have become more alert of good practices, but the effects of these businesses upon the community would be most definitely detrimental and degrading. He does not wish to pay extra taxes for police protection because of increase in crime, or higher insurance rates due to these businesses within the community.

SPEAKING: BILL POOLE, 10550 S.E. 29th, Milwaukie

Mr. Pool stated briefly his support for the proposed Ordinance.

SPEAKING: PAUL ISAAC, 13700 S.E. Kuehn, Milwaukie

Paul mentioned his experience while in an adult book store one evening when his car was out of commission. As he had gone into the store for assistance with his vehicle he was approached by persons of homosexual persuasion. Paul expressed his concerns about the growth of these businesses in the future if they are allowed to locate now.

SPEAKING: CONNIE SMITH, 615 S.E. Nixon, Milwaukie

Ms. Smith said she enjoys the community as it is, and supports the efforts of the City Staff to adopt an Ordinance such as this.

SPEAKING: TOM SCOTT, 2615 S.E. Park, Milwaukie

Mr. Scott said he was raised in Milwaukie, near the location of the former "Chase", on McLoughlin Blvd. He remembers a lot of unfavorable activity within the area of that facility. He said he would not come to Milwaukie to shop if these businesses were allowed.

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SPEAKING: HECTOR FRUTOS, 4706 S.E. King Rd., Milwaukie

Mr. Frutos said he is opposed to the infiltration of these adult businesses within the community. He stated that some cities in California, New York, Oklahoma and other states have sectioned off part of the city to accommodate such "Smut Businesses", and feels if we allow this to happen to Oregon it will not continue to be the beautiful state we now know.

Mr. Trotter mentioned letters from: Loretta Chase, 11233 S.E. 27th.; Donald McLoughlin, 13775 S.E. Rusk Rd.; William & Wanda Beachell, no address; James Lynch, 15289 S.E. El Rancho; John & Wilma Patrick, 5225 ½ S.E. Hill Rd.; Marvin Capman, Milwaukie Jr. High School; and statement from Joe Bernard, Bernard's Garage, all in support of the proposed amendment for adult entertainment business regulation. The Commissioners took a few minutes to read all the correspondence presented.

Mr. Trotter explained that Staff has presented several alternatives in terms of distances of 200', 500' and 1,000' from various facilities within the city limits. Jon presented a map showing these areas in relationship to zones and various facilities throughout the community. Ms. Sweetland said that the various locations of bus stops throughout the community should also be considered when determining the allowed locations for these businesses. Mr. Brown said that if bus stops were considered to be a public facility then there probably would not be any location for an allowed adult business because the routes crisscross in Milwaukie.

COMMISSIONERS RESPONSE:

SPEAKING: GREG EADES, CITY ATTORNEY

Mr. Eades said there are a number of concerns and adverse impacts which need to be worked into this Ordinance. He suggested that Staff invite persons from the real estate field, and business community to testify of their concerns regarding property values and insurance rates. Schools will also be of primary concern because of the number of persons at one location.

Mr. Trotter mentioned that churches are not mentioned in the Portland Ordinance dealing with adult entertainment. In the City of Milwaukie, churches are allowed in every zone, but no testimony has been received upholding the restriction of these businesses near churches, or what negative impacts there would be.

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Mr. Eades said Staff had developed the map showing distances from all public facilities, but perhaps it is not necessary to include every public facility, such as the sewage treatment plant. The map does not show specific available locations, and to withstand an anti-trust suit it may be necessary to provide such locations.

Mr. Littlehales asked the City Attorney to explain the Civil Abatement Process. Mr. Eades said the Civil Abatement Process is available to the City now, under the Public Nuisance Statute. In order to find a nuisance, there must first be an existing business, and second, criminal activity in the business. Whether a civil law suit or criminal prosecution it will be very time consuming and expensive.

Ms. Roholt noted the comment by Ms. Jean Gordon referring to goals of the community, and suggested that Milwaukie implement an ordinance that focuses on the goals of Milwaukie as well. Mr. Trotter mentioned these goals are already set in Policies from the Comprehensive Plan.

Mr. Trotter requested Staff to present the Commission with further information regarding the negative impacts in residential area, insurance rates for commercial districts, and what distance, location, and hours of operation limitations should be addressed in this type of Ordinance. He mentioned that theaters are only allowed in certain zones in the city, and it would be interesting to relate what impacts there would be to other areas if a luxury movie theater were to be located elsewhere.

Ms. Sweetland asked Mr. Eades if just one adult entertainment business were allowed within the City, would the City still be liable in an anti-trust suit. Mr. Eades said if that were the case the City would then be regulating competition. He read from an article in Land Use Law, Regulating Poronography - Recent Legal Trends, by Allen Weinstein: Guidelines for Ordinance Drafting. "The courts appear to be guided by the following general rules, first, an ordinance whose effect is to severely restrict the locations available to accommodate adult businesses, whether present or anticipated will be struck down. Locational restrictions on adult businesses are permissable only if "the market for this commodity is essentially unrestrained." Thus, at a minimum, ordinances should not operate to reduce the total number of existing adult businesses in a community or preclude the normal operations of the market in providing new businesses, as demand warrants. Further, the presence of adult businesses in neighboring communities to which residents have reasonable access (for instance the City of Portland) will not leave a community free to eliminate such businesses within its

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own borders." Mr. Eades explained this does not tell one what must be done to provide for the demand, or if there is no demand, whether the City must provide any. Mr. Eades continued to read: "Ordinances whose wording is vague, especially where the definitions in the Ordinance make it unclear what is and what is not regulated, will be struck down. Ordinances that do not develop a factual basis for their restrictions on adult businesses or which do not relate their restrictions directly to the recognized zoning purposes will be struck down. Pornography Zoning is permitted to have limited impact on free expression, only because it serves other legitimate governmental interests, such as preservation of neighborhoods. To guard against regulations that are motivated by distaste for protected speech itself, communities must demonstrate the adverse effects associated with the places where the expression occurs and narrowly tailor their restrictions to further this specific governmental interest. Fourth, Ordinances that grant government officials broad unbridled discretionary powers (which may be the situation in certain kinds of Conditional Use Procedures) to determine whether or not an adult business will be permitted, such as: special use permits and licensing provisions will be struck down. The courts will permit officials discretionary power to close or prohibit an adult business only where their authority stems from an Ordinance not directed solely to adult uses, and where there are both strict limits on administrative discretion and procedures that safeguard First Amendment Rights." Mr. Eades concluded, that it will be difficult to implement an Ordinance that is foolproof.

Mr. Cathey stated that the main issues before the Commission are the health, safety, and welfare of the community; that all research done should focus on the impacts and effects upon these issues.

Topaz stated that the next Planning Commission Meeting will be on January 25, 1983, beginning at 6:30 p.m. The Public Hearing for that meeting will address the proposed draft amendment for Mobile Home (Modular Home), Manufactured Housing to the current Zoning Ordinance. The next public hearing on adult entertainment businesses could be held on February 8, 1983. A larger facility was requested to accommodate those interested in attending the public hearings.

Mr. Trotter Made a Motion to Continue to Public Hearing on proposed adult entertainment ordinance until February 8, 1983, location to be announced. Mr. Liane Seconded the Motion, the Motion carried unanimously.

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QUESTIONS FROM AUDIENCE:

SPEAKING: LEROY HUMMEL, 4681 S.E. King Rd., Milwaukie

Mr. Hummel asked if there would be any conditions placed on operation of these business to provide safety for persons who happen to be walking down the street unescorted. Mr. Trotter said at this time his question could not be answered. It will be necessary to know what the negative impacts are before an ordinance can be adopted, and even then some impacts to the community may have to be dealt with through other legal means.

Mr. Hummel asked if the State Corrections Institution had been considered as a public facility when devising the map showing areas where an adult business could be located. Jon said it had been considered as a public facility as all other City, State or County facilities would be in determining buffer areas.

SPEAKING: RUSS ISOM, 11201 S.E. 27th, Milwaukie

Mr. Isom asked if the citizens could do anything to assist the City in developing a good ordinance. Mr. Trotter said the City does not intend to prohibit adult entertainment businesses but to regulate them according to negative impacts and if these same impacts apply to other businesses then regulation should be imposed on those businesses also.

SPEAKING: JACK BRENNERMAN, 12521 S.E. Gilford, Milwaukie

Mr. Brennerman stated another point to consider is that churches are utilized for many functions other than services, such as: day schools, youth activities, and various other functions during the week.

Mr. Eades said he had presented information to the Commission referring to risks in relation to monetary damages where cities have been held liable for anti-trust suits by restricting competition, and violation of Constitutional Rights. He said it would be extremely expensive and time consuming for Staff to undergo any kind of litigation, and the City cannot afford such a lawsuit.

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Mr. Trotter stated that the City Council had directed the Planning Commission to approach adult business entertainment from a Zoning Ordinance standpoint. The Zoning Ordinance has specific requirements as to what one may or may not do. There are a lot of other ways that this problem might be attacked, but the City Council has directed the Commission to view it from a land use decision, by finding facts and making a decision thereon. One of the decisions could be that this is not a land use issue, and it may not be appropriate for the Planning Commission to adopt an ordinance regulating these businesses, but to deal with the problem another way. Mr. Trotter reminded the audience that at the present time any adult business can come into the city and operate that business without regulation, simply by applying for a business license to operate any place within the City.

SPEAKING: BILL POOLE, 10550 S.E. 29th Milwaukie

Mr. Poole mention the community of Park Rose recently dealt with a similar problem regulating adult businesses, and suggested that Staff research the incident and provide he Commission with that information.

The meeting adjourned at 11:15 p.m.

PLANNING COMMISSION MINUTES

REGULAR MEETING

DECEMBER 14, 1982

MEMBERS PRESENT:

DON TROTTER
BETTY ROHOLT
JOHN LITTLEHALES
AL LAINE
BOB BROWN

STAFF PRESENT:

TOPAZ FAULKNER, PLANNING DIRECTOR
JON STEIN, ASSOCIATE PLANNER
CAROL LEE, SECRETARY
GREG EADES, CITY ATTORNEY

EXCUSED ABSENCES:

REBECCA SWEETLAND
GEORGE CATHEY

Mr. Trotter called the meeting to order at 7:00 p.m., explaining the procedures for public hearing on the Adult Entertainment Ordinance. Persons who wished to testify were asked to sign their name and address on a sheet the secretary had prepared.

Jon presented the Staff Report, listing eleven alternatives with criteria appropriate for each alternative.

Greg Eades, City Attorney said that the City Council had asked the Planning Commission to draft an Ordinance concerning certain specified adult entertainment businesses in the City of Milwaukie. The Council is interested in the needs in the City of Milwaukie. The Council is interested in the needs of the citizens of Milwaukie, and what kind of control the City can exercise over adult businesses. The City is limited to certain measures of control. The two legal alternatives available are criminal prosecution under the obscenity statutes and time, manner, and place regulations. The Council feels the best option is regulation through the Zoning Ordinance before there is application for this type of business within the City. Regulation of this type must be handled carefully to avoid anti-trust lawsuits against the City. By holding public hearings the City may be able to establish public need to justify this type of Ordinance in the City of Milwaukie.

Mr. Laine asked Greg to give an example in which the City would be held liable for an anti-trust lawsuit.

Greg explained that all types of regulatory activity, including Zoning, that affect business has the potential of anti-competitive affect.

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Mr. Trotter asked Greg to explain his statement relating to demonstrable damages to the neighborhood and overall quality of urban life, from his memorandum of December 8, 1982.

Greg said this language probably came from the purpose clause of the Detroit, Michigan Zoning Ordinance. Most Ordinances have a purpose statement reflecting the general public health and welfare of the city. The primary purpose then is to adopt reasonable time, manner, and place regulations rather than effectively prohibit this type of business. If a Conditional Use procedure were adopted to permit this type of business under certain conditions, but had no provision for location, it would be held unconstitutional.

Topaz introduced the guest speaker, Bruce Halperin, Portland Bureau of Planning.

SPEAKING: Bruce Halperin
Portland Bureau of Planning
1120 S.W. 5th Portland, Ore.

Mr. Halperin explained some of the experiences that Portland has had in the last two years with the regulation of adult businesses. Originally, regulation of relaxation and treatment businesses was handled through the Police Code which authorized operation of these facilities through permits and licensing. One of the criteria was that no relaxation or treatment related business would be allowed within 500' of a residential zone, public or private school, and any business not meeting this criteria would have six months to relocate.

After several public hearings, the Portland Planning Commission recommended to the Council that adult bookstores and adult theaters be regulated by not allowing them within 500' of a residential zone, public or private school, and businesses not meeting the regulation would have six months to relocate or cease operations. The adult bookstore portion of the Ordinance took affect in April, 1982. The City also implemented an Ordinance, in April, 1982, stating that no new adult entertainment business would be allowed to locate within 500' of an existing business or 1,000' of each other in areas outside of the downtown core.

Criteria were established through complaints of vandalism, noise, crime, and exposing the interior of the facilities to passersby; a detailed inventory of where adult businesses would be allowed under the new Ordinance was developed showing vacant buildings that would provide opportunity for this type of business.

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SPEAKING: Rex Armstrong
ACLU COOPERATING ATTORNEY
707 S.W. Washington St.
Portland, Ore

Mr. Armstrong said that he agrees with statements by Greg Eades in terms of what the U.S. Supreme Court has said is permissible concerning some limitations that might be imposed for adult businesses of various types. However, he does not feel that a similar decision, as the one in Detroit, would be reached by the Oregon Supreme Court under the State Constitution. Article I, Section 8 states: "No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever." Subject in this context includes discussion of sexual material. Any provision that attempts to restrict the ability to engage in discussion or presentation of any information on a particular subject is not permitted. His opinion is that a governmental body cannot restrict discussion, presentation, or distribution of certain subjects based on the content. If restriction is allowed for sexual material it then may also be placed on political material. Regulation protecting the welfare of the community such as theaters, billboards or bookstores located within a residential area, would be permissible. Regulations for parking, signing, lighting, and hours of operation should be considered equivalent to other commercial uses to avoid violation of the Oregon Constitution.

Mr. Trotter said the Commission had received a letter from Jean Baker supporting the Council's decision to establish regulation of adult entertainment businesses. Mr. Trotter said that all comments from the audience should focus on land use issues and their impacts on surrounding areas.

SPEAKING: Father O'Hara
St. John's Catholic School and Church

Father O'Hara expressed his concerns for the youth of the community, and stated that the community should guard against destruction of today's youth by regulating solicitation and operation of sex oriented businesses.

SPEAKING: Arnold Callen
12012 S.E. Wood, Milwaukie

Mr. Callen said the opinion of the community favors strict regulation for adult entertainment businesses, perhaps restricting location to 1,000' from any church, school, and residence.

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Mr. Trotter asked the audience if there was anyone else present who wished to testify in favor or opposition to the proposed Ordinance. There was no response. The Commission recessed for ten minutes.

Mr. Liane said even though there may be a possibility of the Oregon Supreme Court contesting an Ordinance regulating location of adult entertainment businesses the community and Council are in favor of regulation.

Mr. Trotter read the section of the Zoning Ordinance that specifically states the purpose of such an Ordinance for the community. All of the Conditional Uses are based on protection of the surrounding property in accordance with the Zoning Ordinance. He feels that the Commission should continue to establish a Conditional Use procedure for adult entertainment businesses which are objective and deal with land use issues. All legal limitations and implications should be considered by the Commission in order to establish a practical Ordinance.

Mr. Brown said that the Commission had not received any testimony reflecting the impacts of the neighboring businesses or community, and without these facts it is difficult to evaluate the concerns of the community with other Conditional Uses.

Mr. Littlehales said the Commission should concentrate on establishing regulation based on time, manner and place of such adult entertainment facilities.

Mr. Laine Made a Motion to continue the Public Hearing until the next meeting, Motion died for lack of Second.

Mr. Brown asked what type of legal notice was publicized for the Public Hearing. Staff replied that the legal notice was printed in both the Oregonian and New Review, as well as articles describing the issue in detail.

Greg Eades suggested that the Public Hearing be continued and for Staff to make every attempt to acquire all the information possible on this issue, by contacting various neighborhood groups in the City of Portland.

Topaz agreed that various groups such as churches, downtown merchants, and the city's Key Communicators should be contacted for continued public hearings.

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Mr. Trotter Made a Motion to continue the Public Hearing on the proposed adult entertainment ordinance until January 11, at 7:30 P.M.; Ms. Roholt Seconded the Motion, it carried unanimously.

There was some discussion among the Commissioners regarding the lack of testimony and who to notify of the next public hearing.

6.0 CONSENT AGENDA

6.1 CITY COUNCIL MEETING MINUTES: November 16, 1982

6.2 PLANNING COMMISSION MEETING MINUTES: November 23, 1982
No Corrections.

7.0 OLD BUSINESS

7.1 CONFIDENTIAL MEMORANDUM FROM CITY ATTORNEY

RE: M-82-9, M-82-10, C-82-10, VR-82-24

Keith Wilson, Applicant and Property owner

Location: Northwest corner of Freeman Rd. and
Chelsea Ave.

Addressing Mr. Cathey's concerns regarding the legality of subdividing or partitioning this property.

Mr. Trotter mentioned that he had spoken to Mr. Cathey by telephone, it was his opinion that the Commission should not allow the partitioning of the property without review through the subdivision process.

Mr. Brown Made a Motion not to reopen the application as per Greg Eades recommendation. The Motion died for lack of Second.

Ms. Roholt asked what the advantages or assurance are for the City if this application were processed as a Subdivision rather than a Minor Land Partition.

Staff explained that there would be no visual impacts, but there would definitely be more protection for the property owner.

Mr. Trotter Made a Motion that Mr. Wilson be advised that he must resubmit application for a subdivision and comply with all requirements, because the Minor Land Partition does not comply with the Oregon Revised Statutes 92.010. Ms. Roholt Seconded the Motion. The Motion Carried 4-1, Mr. Laine abstaining because he was not present at the original public hearing.

Mr. Trotter Made a Motion to cancel the December 28, Planning Commission Meeting, Mr. Laine Seconded the Motion, it passed unanimously. The meeting adjourned at 9 p.m.

December 14, 1982

Milwaukie Planning Commission
City of Milwaukie

RE: Matter of zoning areas for "adult" businesses

In Support of the proposal

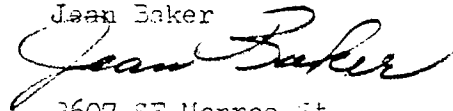
It is desirable to adopt such an ordinance to:

- 1: Protect the public use of the downtown area as a neighborhood shopping area, where families and youth can go about their business without being exposed to activities associated with prurient interests.
- 2: The public does not wish to be exposed to this type of activity.
- 3: The tax base, based in part upon the demand features of commercial property could be damaged by the mingling of such adult business with customary business.
- 4: Intermingling could cause existing businesses to close as regular customers prefer to shop elsewhere.
- 5: There has been a successful effort in several east-coast cities to separate adult businesses into their own zones. It seems to have met the demands of fair zoning & constitutional rights, while it also preserves the integrity of a business area and residential areas.
- 6: The city of Milwaukie has so little commercially used land, the impact from adult businesses would be great, and disproportionately so to a larger town. Protection of it then becomes more important than, in say, Portland, where vast amounts of property tend to diffuse impacts, and the socio-economics of a neighborhood may even favor a mixed use.

Such a case does not exist in Milwaukie. Zoning, then, is the most desirable way in which to allow everyone to live in peace, with equal application of law and land use protection.

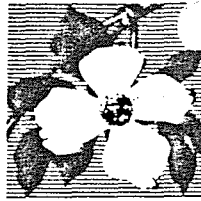
The city is to be commended for initiating this action prior to the application by any business to operate within the core area. Our land use laws increasingly address the reality of social needs and enhancement of balanced, fair and responsible planning. Milwaukie needs this ordinance, and it deserves praise for timely consideration of this important issue.

Jean Baker



2607 SE Monroe St.

Milwaukie, Oregon 97222



MEMORANDUM

TO: PLANNING COMMISSION
FROM: PLANNING DEPARTMENT
DATE: DECEMBER 13, 1982
RE: ADULT ENTERTAINMENT BUSINESS

In considering an adult entertainment business as a Conditional Use the Planning Commission might consider the following Alternative:

ALTERNATIVE XI:

CRITERIA:

1. Whether a similar use is within 1,000'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards or attract habitual assembly.
4. Whether use is within 1,000' of residential area.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

IMPACTS:

Use would not be permitted within any Commercial or Industrial area.



MEMORANDUM

TO: PLANNING COMMISSION
FROM: PLANNING DEPARTMENT
DATE: DECEMBER 6, 1982
RE: ADULT ENTERTAINMENT BUSINESS

At the request of the City Attorney, Staff has developed alternatives regarding the regulating of adult entertainment businesses. The alternatives include criteria related to land use impacts on surrounding businesses.

Adult entertainment businesses are not listed as an outright or conditional use in Commercial (C-C, C-G, C-L) and Industrial Zones (M-G, M-L). Drinking establishments which have similar impacts regarding traffic, street access, lighting, nearness to dwellings, noise, etc., are allowed as Conditional Uses in Commercial and Industrial Zones and are regulated as follows:

Section 6.02.12 - Standards Governing Conditional Uses, Page 81.

Drinking Establishment.

In considering a conditional use applicaiton for a drinking establishment, the Planning Commission shall consider the following:

- A. Nearness to dwellings, churches, or other uses which require a quiet environment.
- B. Building entrances, lighting, and other features which could generate or be conducive to noise or other disturbance for adjoining uses.
- C. Vehicle access, parking, and circulation which could contribute to noise or hazards, or attract habitual assembly of unruly persons.
- D. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these to insure that such establishments do not become unduly or unnecessarily disruptive.

In considering an adult entertainment business as a Conditional Use application for an adult entertainment establishment the Planning Commission might consider the following Alternatives:

ALTERNATIVE I:

CRITERIA:

1. Whether a similar use is within 200'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards, or attract habitual assembly.
4. Nearness to schools, dwellings, churches, parks, or other uses that require a quiet environment.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs that are compatible with adjacent land uses.

IMPACTS:

Adult entertainment uses would be allowed as Conditional Uses in Commercial and Industrial areas. Alternative I; Criteria #1, would reduce clustering.

ALTERNATIVE II:

CRITERIA:

1. Whether a similar use is within 200'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards or attract habitual assembly.
4. Whether use is within 200' of residential area.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

ALTERNATIVE II: Continued

IMPACTS:

Use would be allowed as Conditional Use in Commercial and Industrial areas. Criteria #1, would reduce clustering and Criteria #4, would prohibit the use within 200' of a residential area. However, use might be near a church.

ALTERNATIVE III:

CRITERIA:

1. Whether a similar use is within 200'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards or attract habitual assembly.
4. Whether use is within 200' of church, school, park, residential area or use that requires a quiet environment.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

IMPACTS:

Two Hundred foot "Buffer Area" would limit sites for use to a small area of downtown, and within Milwaukie Industrial Park, Omark Park, and Koll Business Center..

ALTERNATIVE IV:

CRITERIA:

1. Whether a similar use is within 500'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards or attract habitual assembly.

ALTERNATIVE IV: Continued

CRITERIA:

4. Whether use is within 500' of a church, school, park, residential area or use that requires a quiet environment.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

IMPACTS:

Use would not be permitted within any Commercial area. Potential sites would be contained within a small area of the Milwaukie Industrial Park and Koll Business Center.

ALTERNATIVE V:

CRITERIA:

1. Whether a similar use is within the same block.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards or attract habitual assembly.
4. Whether use is within 500' of a church, school, park, residential area or use that requires a quiet environment.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

IMPACTS:

Use would not be permitted within any Commercial area and limited to a small area in the Industrial Parks.

ALTERNATIVE VI:

CRITERIA:

Adult entertainment businesses might be considered as an Outright Use in C-L, C-G, C-C, M-L, and M-G Zones if the use complies with the following Criteria:

1. Whether a similar use is within 200'.
2. Relationship to neighboring uses.
3. Vehicle access, parking, circulation which could contribute to noise or hazards, or attract habitual assembly.
4. Whether use is within 200' of a school, dwelling, church, park, or other uses that require a quiet environment.
5. Building entrances, lighting and other features which could generate or be conducive to noise or other disturbance for adjoining use.
6. External appearance and signs are compatible with adjacent land uses.

IMPACTS:

The use would be allowed outright in various Commercial and Industrial Zones. The application would be reviewed by Staff and there would be no public hearing, shortening the review process. The Planning Commission would review at public hearings only those applications which did not comply with the criteria.

ALTERNATIVE VII:

Adult entertainment business might be considered as an Outright Use in Commercial Zones and Conditional Uses in Industrial Zones, if the use complies with specific Criteria such as those listed in Alternative #1.

IMPACTS:

The use would be allowed Outright in various Commercial and as a Conditional Use in Industrial Zones. Staff would review proposals in Commercial Zones and Planning Commission would review proposals as Conditional Uses in Industrial Zones subject to Criteria. The review

ALTERNATIVE VII: Continued

IMPACTS:

process in Commercial Zones would be shortened with the elimination of the public hearing procedure. All applicable standards regarding parking, signing, landscaping, etc. would have to be met.

ALTERNATIVE VIII:

Adult entertainment businesses might be considered as an Outright Use in Commercial and Industrial Zones.

IMPACTS:

There would be no Criteria and no formal review procedure by Staff or the Planning Commission. Uses could be clustered or be close to schools, churches, parks and residences. All applicable standards regarding parking, signing, landscaping, etc. would have to be met.

ALTERNATIVE IX:

There would be no regulations for adult entertainment businesses which maintains the status quo. Each application would be reviewed on an individual basis as it relates to equivalent uses allowed as an Outright or Conditional Use.

ALTERNATIVE X:

Action would be delayed until a new development code is reviewed by the Planning Commission and City Council at public hearings. An adult entertainment amendment would be considered with the development code and other amendments.

The first six Alternatives would limit the number, and location of adult entertainment businesses; give Staff and the Planning Commission the opportunity to reduce any potential visual, noise, circulation and land use impacts on other properties within the vicinity. The Alternatives are for discussion purposes and variations might be considered. There is no recommendation.

MEMORANDUM

TO: PLANNING COMMISSION

FROM: GREG EADES, CITY ATTORNEY *ye*

DATE: DECEMBER 8, 1982

SUBJECT: LEGAL CONSTRAINTS ON REGULATION OF ADULT BUSINESSES.

Although there are state statutes dealing specifically with prostitution and massage parlors, the law on obscenity is far from clear and contained primarily in U.S. Supreme Court decisions. The only obvious rule is that the city can't prohibit adult bookstores, theaters, etc. An outright prohibition would violate the free speech and press provisions of the U.S. and State Constitutions. However, there are at least two other options available. First, the city can regulate the time, manner and place of adult entertainment. In 1976, the U.S. Supreme Court upheld a Detroit ordinance which controlled the location of adult theaters and a number of cities have enacted similar zoning ordinance amendments which create either adult entertainment zones or criteria for evaluating such business as a conditional use.

A second approach would be to regulate the content of particular books, magazines, movies and other forms of entertainment. The First Amendment does not protect obscenity, so the city could adopt an ordinance prohibiting the sale, distribution or exhibition of allegedly obscene publications and shows. There are several problems with this approach. First, there's no way to objectively define in advance what's "obscene". Prosecutions under this ordinance would be lengthy and complicated. Second, ORS Chapter 167 creates certain obscenity offenses and is apparently intended to be exclusive. The statutes may restrict our ability to legislate in this area. Third, criminal prosecutions necessarily occur after the fact, that is, after the business has begun and the owner has some property interest to protect. It is preferable to control the location of these businesses before they come to town.

The Detroit ordinance approved by the Supreme Court in 1976 is the only valid zoning ordinance model available to us and even it's not foolproof. The Court approved use of a 1,000 foot anti-clustering provision for adult uses by a slim 5 to 4 margin. The decision was based on two findings: first, that the regulation was a sincere attempt by the city to prevent demonstrable damage to neighborhoods and the overall quality of urban life; and second, that the regulation did not substantially diminish the number of such businesses that could be allowed. So, in order to be valid under this

PLANNING COMMISSION
DECEMBER 8, 1982
Page 2

decision, an ordinance would have to be based on 1) a demonstrable need related to valid land use concerns; 2) guarantee of access of adult entertainment distributors to their market and 3) locational restrictions that do not exceed 1,000 feet. The Detroit ordinance also includes a 500 foot limit between adult uses and certain protected uses.

More than any other subject you've tackled, this one is likely to be highly controversial and confused by individual opinions and concerns. In order to avoid the possibility of a challenge to the regulations, however, it is necessary to concentrate as much as possible only on legitimate land use concerns in considering the subject. You need to begin with two assumptions: 1) the adult entertainment uses described can't be prohibited or unreasonably restricted, and 2) any criteria or standards adopted must be related to the protection of surrounding uses and based on demonstrable, factual evidence. Stated another way, an ordinance based on the majority's moral judgment of this type of use is likely to be invalidated.

Finally, any comprehensive regulation like this, whether done through a zoning ordinance amendment or a new ordinance, may make us subject to anti-trust liability. Since the U.S. Supreme Court decided Community Communications v. City of Boulder in January of this year, cities are no longer immune from liability under the anti-trust laws. If a regulatory ordinance is found to have an anti-competitive effect, the city could be liable for treble damages. Whether or not a violation of the anti-trust laws is ultimately established, the city couldn't even afford to defend an anti-trust lawsuit.

In conclusion, we can't enforce an outright prohibition on adult entertainment. Of the other options available, amendments to the zoning ordinance establishing time, manner and location regulations seem the most feasible.

Let me know if you have any questions.

GE/vk

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
NOVEMBER 23, 1982 - PAGE 7

CONDITIONS: M-82-9; M-82-10; C-82-10, VR-82-24

1. Drainage street improvements, sidewalks and utilities and procedures for fire protection to be approved by Public Works and Fire Departments.
2. Provide evergreen hedge or site-obscuring fence along north, south, and west, property lines along Parcels #2 & #3 location and type of barrier to be approved by Staff.
3. Partition to comply with Oregon Revised statutes.

5.1 PROPOSED CITY ORDINANCE AMENDMENT FOR ADULT ENTERTAINMENT.

Mr. Trotter explained that the City Council had adopted an Ordinance for Relaxation Treatment Business. The Council has referred another proposed Amendment to the Planning Commission for consideration of Amendment to the Zoning Ordinance #1438 for Adult Entertainment Businesses. The Council has submitted a sample Ordinance to be considered at public hearings. The Planning Commission will receive public testimony to determine the needs of the citizens of Milwaukie as related to specific issues of unreasonably restricting or prohibiting certain businesses and impacts of surrounding businesses. The purpose of the Amendment is not to prohibit adult entertainment businesses, but rather to regulate the location and to develop criteria for granting a Conditional or Outright Use within various zones of the city.

It was the consensus of the Commission that a public hearing be scheduled for the next regular Planning Commission Meeting on December 14, 1982, to discuss the issue of adult entertainment. Expert witnesses will be invited to make presentations or answer questions. Legal notice and a press release will be prepared to explain in detail the issues to be discussed. A Staff Report will be prepared and available for review prior to the public hearing, and comments will be accepted from concerned citizens. Staff will prepare a draft ordinance implementing criteria based on comments from Staff and the audience, as well as questions from the Commissioners. The Draft Ordinance will be discussed at a second public hearing, date and time to be set on December 14. The Commissioners were encouraged not to discuss the proposed Amendment outside of the public hearings.

6.1 CITY COUNCIL MEETING MINUTES: October 19 & November 2, 1982

6.2 PLANNING COMMISSION MEETING MINUTES: October 26, 1982

Mr. Littlehales mentioned that Finding #18: No adverse testimony received at public hearing, should be added for VR-82-19, C-82-18; Page 2 of Planning Commission Minutes. Page 6, of the Planning Commission Minutes for VR-82-20 should also include an additional Finding #10: No adverse testimony received at the public hearing.

THE MEETING ADJOURNED AT 8:45 p.m.

MEMORANDUM

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TO: MAYOR AND CITY COUNCIL

FROM: GREG EADES, CITY ATTORNEY *JE*

DATE: AUGUST 13, 1982

SUBJECT: Adult Business Ordinance.

Attached is the draft ordinance regulating adult businesses you requested. After at least seven hours of research on this, I've decided there is no foolproof formula to avoid a constitutional challenge. This draft is the best I could do in the time allowed, but it still has several deficiencies, many of which can be corrected before it is adopted. The ordinance could be improved by: 1) developing a factual basis, through a public hearing, survey or otherwise, for the conclusions in Section 1; 2) providing a rationale for the distance restrictions established in Section 3; 3) adding specific criteria to be considered in evaluating the conditional use applications; and 4) permitting adult business as an outright use in certain zones. Items 1 - 3 can be handled during the hearings on the ordinance; item 4 is up to you and the community.

If you want to proceed with this, we should set it for hearing before the Planning Commission. I suggest we provide for at least one hearing each before the Commission and the Council and allow time in between for necessary staff work and public notification. We could complete the process easily in 60 - 90 days and still do a very careful, thorough job.

As I've said before, there are substantial risks in enacting an ordinance of this type. Any ordinance, no matter how carefully drafted, will in some way restrict First Amendment rights and is therefore subject to judicial scrutiny. Appeals under this ordinance will be lengthy and expensive. Also, the city could be liable for substantial damages or attorney's fees to prevailing parties. Fees often can amount to more than any damages claimed. The City of Bremerton, Washington, just had a similar zoning restriction over-turned and an award of \$30,000 in attorney's fees is imminent. If a violation of the antitrust laws is found, the city could be liable for triple damages under the Antitrust Act. So you should carefully balance the present potential need for this ordinance against the potential liability before you decide to go ahead with it.

Finally, I hope I've made it clear that the city can't prohibit the location of adult business in the city, even if you attempt to do so indirectly through a very onerous conditional use procedure. If the effect of the ordinance is to prohibit or severely restrict

MEMORANDUM

August 13, 1982

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Page 2

locations available to accommodate adult businesses, it will be invalidated if challenged, regardless of the feelings of the community or the "good faith" intent of the city.

We can discuss this further at the meeting on the 17th.

GE/vk

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1438 BY ADDING NEW PROVISIONS DEALING WITH ADULT ENTERTAINMENT.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The Council recognizes that the uncontrolled or unconditional location of businesses that offer adult entertainment in other communities has led to urban blight, decay and related community problems. Special and limited regulations of such businesses are necessary to insure that they will not contribute to the blighting or downgrading of the zones in which they are permitted or the downgrading of surrounding neighborhoods within the city.

Section 2. Section 1.03 of Ordinance No. 1438 is amended by adding the following definitions in appropriate alphabetical order:

"Adult arcade" means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depicting or description of "specified sexual activities" or "specified anatomical areas."

"Adult bookstore" means an establishment which has as a substantial portion of its stock-in-trade and offers for sale for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

b. Instruments, devices or paraphenalia which are designed for use in connection with "specified sexual activities."

"Adult club" means a nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Adult motel" means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Adult motion picture theater" means an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Adult theater" means a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

"Adult entertainment facility" refers to adult arcade, adult bookstore, adult club, adult motel, adult motion picture theater and adult theater as those terms are defined in this Section.

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation or management of the Community Services Department.

"Specified anatomical areas" means and includes any of the following:

a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; or

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

a. The fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

c. Masturbation, actual or simulated; or

d. Excretory functions as part of or in connection with any of the activities set forth in a through c of this definition.

Section 3. Section 6 of Ordinance No. 1438 is amended by adding new subsection 17 to read as follows:

17. Adult Entertainment Facility: In addition to the other conditions which may be imposed under Section 6.01 and this section, the proposed location of an adult entertainment facility shall not be within one thousand (1,000) feet of either an existing or previously approved adult entertainment facility or within five hundred (500) feet of either a public park, a church, a day care center, a hospital, a school or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment facility to either the closest property line of the impacted property or to the closest structural wall of any pre-existing or previously approved adult entertainment facility; and provided further, however, that any conditional use permit thus granted shall contain and be subject to all of the following conditions:

- a. The exterior appearance of the adult entertainment facility will not be incompatible with the external appearance of the structures already constructed or in the course of construction within the immediate neighborhood in such manner as may cause blight, deterioration, or substantive depreciation in property values within the neighborhood; and
- b. No explicit sex-oriented signs or material will be displayed that can be seen from any public right-of-way; and

- c. From the date that the adult entertainment facility commences operation, there will be on the premises a manager of the business who shall be responsible for maintaining order on the premises and for compliance with the provisions of this ordinance.

Section 4. Sections 3.08.2, 3.10.2, 3.11.2, 3.12.2, 3.13.2 and 3.14.2 of Ordinance No. 1438 are amended to add the following conditional use by insertion at the end of each:

Adult entertainment facility.

Read the first time on _____, 1982 and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 1982.

Signed by the Mayor on _____, 1982.

Joy Burgess, Mayor

ATTEST:

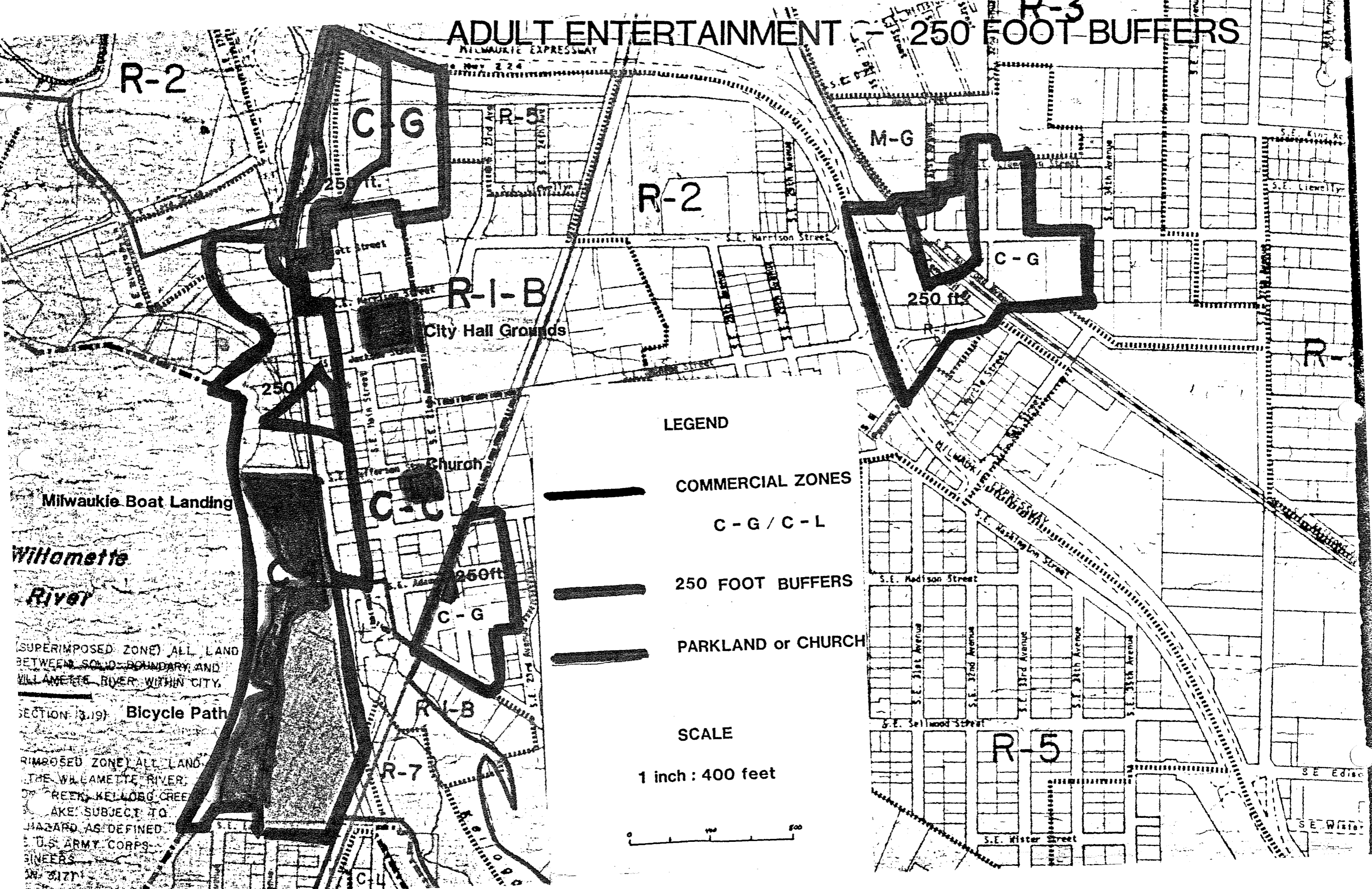
Laurie Perkin, Recorder

Approved as to form:

Greg Eades

Greg Eades, City Attorney

ADULT ENTERTAINMENT - 250 FOOT-BUFFERS



R-2

C-G

R-5

R-2

M-G

R-1-B

C-G

City Hall Grounds

250

250 ft

LEGEND

COMMERCIAL ZONES

C-G / C-L

250 FOOT BUFFERS

PARKLAND or CHURCH

SCALE

1 inch : 400 feet



Milwaukie Boat Landing

Willamette River

(SUPERIMPOSED ZONE) ALL LAND BETWEEN SOLID BOUNDARY AND WILLAMETTE RIVER WITHIN CITY.

SECTION 13.19) Bicycle Path

(SUPERIMPOSED ZONE) ALL LAND ON THE WILLAMETTE RIVER, CREEK, KELLOGG CREEK AND LAKE SUBJECT TO HAZARD AS DEFINED BY U.S. ARMY CORPS OF ENGINEERS

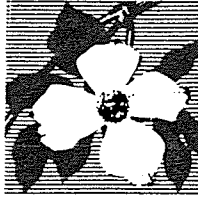
C-L

R-5

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CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

MEMORANDUM

April 4, 1983

TO: CITY COUNCIL

FROM: GREG EADES, CITY ATTORNEY *GE*

SUBJECT: ADULT BUSINESS ORDINANCE

The Mayor asked me to distribute the attached material from Multnomah County. Last year, the county apparently placed a moratorium on the location of new adult businesses until ordinance amendments could be considered. An ordinance similar to that of Portland was prepared and, in addition, the Commission requested an ordinance providing for the licensing of adult bookstores and theaters. The ordinances will be considered by the Board of County Commissioners tomorrow night.

I can't recommend either the moratorium or the licensing ordinance. A moratorium would prohibit the location of adult businesses and is subject to challenge. A more feasible alternative would be to adopt the ordinance you are considering as soon as possible with an emergency clause, if necessary.

I don't know why the county is considering licensing adult businesses. The research I've done suggests that such a license constitutes a "prior restraint" on the exercise of free expression and is not lawful. In addition, I don't see what it accomplishes. According to the ordinance, anyone that applies and pays the fee gets a license. I'm trying to get further information on this ordinance from the County Counsel's office. We can discuss it further at the meeting.

In response to other questions from the Mayor, neither Portland nor Multnomah County prohibit or regulate satellite antenna programming in taverns. The proposed Milwaukie ordinance does not address this either. The zoning ordinance could specify hours of operation for certain businesses and in some cases, hours are established as a condition for a conditional use permit. Finally, state law limits advertising of adult materials to persons under 18.

I will be happy to answer further questions at the meeting.

Final Adoption Scheduled 4/5/83

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

An ordinance amending Title 6 of the Multnomah County Code to provide for the annual licensing of adult bookstores and adult theaters, establishing standards, fees and the administration therefor, requiring the removal or relocation of unlicensed businesses and establishing penalties.

Multnomah County ordains as follows:

SECTION 1. FINDINGS.

1. The County regularly receives a large number of complaints about adult bookstores from residents, neighborhood associations, and businesses. These complaints concern criminal activities, vandalism, public display of activities being conducted on the premises, and late night traffic and noise. The County is advised that the City of Portland receives similar complaints regarding adult theaters located in the City. There are presently no adult theaters in unincorporated Multnomah County.
2. Adult bookstores and theaters are inherently incompatible with residential zones and related uses such as schools and religious institutions because these businesses adversely affect the quality and stability of nearby residential and commercial areas.
3. It is in the best interest of the County to resolve this conflict by separating adult bookstores and theaters from residential zones and related uses. To that end, the Board has prepared, and the Planning Commission has recommended adoption of amendments of the Zoning Ordinance to regulate the location and spacing of these businesses and procedures and criteria for administrative or quasi-judicial action on new locations.
4. The Board finds that the proper administration and enforcement of that ordinance requires the annual licensing of such businesses and ordinance enforcement by the County Sheriff.
5. The concerns expressed by residents or urban neighborhoods in which adult businesses are allowed have been raised at various public hearings and have been deemed valid. The Board finds that the measures contained herein to avoid the ill effects of uncontrolled locations and concentrations of adult businesses are a necessary response to these concerns.

6. It is in the best interest of the County to require adult bookstores that cannot meet the new requirements to relocate or cease operations within six months so as to resolve the conflicts between residential uses and these businesses. The six month amortization period has been considered reasonable in other jurisdictions as an appropriate period to allow these businesses to recoup investment costs.

SECTION 2. AMENDMENT.

Title 6 of the Multnomah County Code is amended to add the following:

6.70.10 Title. This Chapter shall be known as the Multnomah County Adult Bookstore and Adult Theater Ordinance, and may be so pleaded and referred to.

6.70.15 Definitions. As used in this Chapter, unless the context requires otherwise:

- A. "Adult Bookstore" means an establishment having as a substantial or significant portion of its merchandise, items such as books, magazines or other publications, films or video tapes which are for sale, rent or viewing on premises, and which are distinguished or characterized by their emphasis on matters depicting specified sexual activities. Any bookstore or similar establishment which bars entry by persons 17 years old or younger is an adult bookstore.
- B. "Adult Theater" means an establishment used primarily for presenting material for observation by patrons therein, having as a dominant theme, material distinguished or characterized by an emphasis on matters depicting specified sexual activities. Any theater which bars entry by persons 17 years old or younger is an adult theater.
- C. "Specified Sexual Activities" means real or simulated acts of human sexual intercourse, masturbation, sadomasochistic abuse, or sodomy; or human genitals in a state of sexual stimulation or arousal.

6.70.20 Policy and Purpose. The Board has determined that it is necessary to provide for the annual licensing of adult businesses and adult theaters, based upon the findings of Section 1 of Ordinance No. PC 1-83 and Section 1 of this ordinance, and to provide for the administration and enforcement of this ordinance in order to protect the health, safety and welfare of the people of Multnomah County and the use and values of their properties; this Chapter shall be liberally construed to those ends.

6.70.25 Administration and Enforcement.

- A. The Sheriff of Multnomah County shall be responsible for the administration and enforcement of this ordinance.
- B. The Sheriff may adopt rules necessary to the administration and enforcement of this Chapter.

6.70.30 License Required. It shall be unlawful for any person to conduct an adult bookstore or adult theater business in unincorporated Multnomah County without a current annual license.

6.70.35 Standards for Issuance of License. The Sheriff shall issue an annual license upon a finding, as a result of inspection and investigation, that:

- A. An accurate and complete application has been filed, and fees paid; and
- B. That the Director of the Department of Environmental Services has certified that the applicable requirements of Ordinance No. PC 1-83 and of the building, plumbing and other codes are satisfied.

6.70.40 Denial or Revocation of License.

- A. The Sheriff may initiate denial or revocation of a license upon finding that a licensee fails to meet the requirements of this Chapter or is operating in violation of this Chapter or existing laws or ordinances.
- B. Any person whose license has been denied or revoked may, after 30 days from the date of the denial or revocation, reapply upon the prepayment of a \$35 application fee. That sum shall not be credited to the applicant's annual license fee.
- C. The Sheriff shall, upon finding that a violation of this Chapter has occurred, provide written notice to the licensee of the violation, and shall demand that the violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe with reasonable certainty, the violation and the action necessary to correct the violation.
- D. The licensee shall notify the Sheriff when corrective action under subsection (C) of this section has been taken. The Sheriff shall then make an inspection, if necessary.

6.70.45 Unlicensed Business Removal or Relocation.

- A. Any adult bookstore or adult theater remaining unlicensed for an uninterrupted period of six months after the effective date of this Chapter shall be deemed a violation of this Chapter, and shall be removed or be relocated so as to comply with the requirements of MCC 6.70.10 through 6.70.65.
- B. In the event removal or relocation is required by a failure to satisfy the distance standards between adult bookstores or adult theaters as specified by Ordinance NO. PC 1-83, the business most recently established shall be the one deemed in violation and subject to removal or relocation.

6.70.50 Fees; License Renewals.

- A. The annual license fee shall be \$180.
- B. The fee shall be due and payable upon initial license application and thereafter on the first day of April each year.
- C. The license fee shall be prorated to the full month for each full or partial month remaining until the next April first.
- D. Revenue from license fees shall be used to off-set the costs of administration and enforcement of MCC 6.70.10 through 6.70.65, and for such other purposes as the Board may determine in the budget approval process.

6.70.55 Appeals and Hearings; Review.

- A. A person receiving notice of an action by the Sheriff under this Chapter may request a hearing by filing a written request for hearing with the Sheriff within 30 days of receipt of the notice. The request shall set forth reasons for the hearing and the issues to be heard.
- B. The Sheriff shall, upon receipt of request for hearing, promptly notify the Board, and the Board shall set a time and place for hearing not more than 60 days from the date of receipt of request for hearing.
- C. The Board shall give notice to the person requesting hearing as to the time and place for the hearing not less than 30 days prior to the hearing.

- D. The person requesting the hearing and the Sheriff may make argument, cross-examine witnesses, submit testimony, rebuttal evidence and written documentation, and submit briefs on matters pertinent to the issue to be determined.
- E. All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted by the person requesting hearing, and the Sheriff shall be retained by the Board for a period of at least two years.
- F. The Board shall issue its order determining the question within 30 days from the date of the hearing, or any continuance not to exceed 30 days, and shall mail a copy of the order to the person requesting the hearing.
- G. Review of the action of the Board shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to 34.100; provided, however, that any aggrieved person may demand relief by writ of review.

6.70.60 Conformance With Other Law. This Chapter shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all State laws and rules and other County ordinances which relate to the activities regulated by this Chapter.

6.70.65 Penalties. Any person convicted of a violation of MCC 6.70.10 through 6.70.60 shall be punished by a term of not more than six months in the Multnomah County Jail, or by a fine of not more than \$1,000, or both.

ADOPTION.

This ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on _____, 1983, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this ____ day of _____, 1983, being the date of its _____ reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By _____
Presiding Officer

Authenticated by the County Executive on the ____ day of _____, 1983.

APPROVED AS TO FORM:

JOHN B. LEAHY, County Counsel
for Multnomah County, Oregon

Dennis Buchanan, County Executive

By Laurence Kressel
Laurence Kressel
Chief Deputy County Counsel

- (A) Adult Business Ordinance
- (B) Prescribed Conditions
- (C) Design Review
- (D) Instruction for Application

on 2/22/83; Final adoption schedule on 4/5/83.

Multnomah County, Oregon
 Dept. of Environmental Services
 Planning & Development Section

PC 1-83

(A)

ADULT BUSINESSES ORDINANCE

Attachment A

The following Zoning Ordinance provisions apply in regulating the location of adult businesses:

1. They are permitted as Uses Under Prescribed Conditions in GC - General Commercial, and EC - Extensive Commercial:

"11.15.4210 Uses Permitted Under Prescribed Conditions.

The uses permitted subject to prescribed conditions for each use are:

- (A) The following uses, conducted within an enclosed building, subject to approval by the Planning Director when found to satisfy the approval criteria of MCC .4018 and of the conditions stated below:

(11) Adult entertainment use such as an arcade, bookstore, shop, theater or similar use where persons under 18 years of age are not admitted, provided that at the time of location, the site is not within 660 feet of property used for a church, clinic, day care center, hospital, library, nursing home, park, playground or school.

2. The commercial district approval criteria are:

"11.15.4018 Uses Permitted Under Prescribed Conditions Approval Criteria.

Unless otherwise specified in the provisions of an Urban Commercial District, in approving a use under prescribed conditions, the approval authority shall find that the proposal:

- (A) Will have access in accord with the following, which shall be in addition to the standards of MCC 11.60:
 - (1) Access drives shall be no more than 25 feet wide measured at the property line;
 - (2) Access drives shall be 50 feet or more from the nearest curb return of a public street adjoining a corner lot;

(A)

- (3) Access drives shall be 25 feet or more from any abutting residential district property line;
 - (4) Access drives shall be 50 feet or more from the area designated a public transit vehicle stop;
 - (5) In the event the applicant's lot has a street-side lot line less than 50 feet in width and there is an access drive on an adjoining non-residential lot improved according to the Street Standards Chapter MCC 11.60, whose nearest point is no more than ten feet from the common property line, then the applicant shall acquire an easement from the owner of the adjacent property for shared access or shall demonstrate that shared access is not possible. Shared access is not possible if the owner of the adjoining lot refuses, in writing, to grant a written request from the applicant for an easement for access purposes;
 - (6) In the event there is an access drive abutting a common property line on an adjoining parcel, then the access drive on the applicant's property, if any, shall be paired with the access drive on the adjoining parcel;
 - (7) Access drives on the same street frontage which serve the same lot shall be 170 feet or more apart (Driveway Standard Policy 36); and
 - (8) Access drives shall be located on non-arterial street frontages, if any, unless the result would be that traffic from the proposed use would have to pass single family residential units or land designated for low density residential use;
- (B) No exceptions to dimensional standards or landscaped buffers are required by the proposal;
- (C) Paved pedestrian walks shall connect to the public sidewalk(s) abutting the property. A sidewalk shall be constructed along any street lot line of the property, where non exists, as a committed part of the development. Pedestrian walks shall also be provided from building entrances to parking areas;

- (D) Lighting related to the site shall be as follows:
 - (1) Lights from vehicles maneuvering to, from and on the property shall not be cast onto properties designated or zoned for residential use. The application shall specify the type and size of landscaping or screening necessary to achieve the effect described above, if applicable, and
 - (2) Exterior lighting shall not be cast onto adjoining properties designated or zoned for residential use;
- (E) No outdoor sound amplification systems shall be operated on the property;
- (F) Parking shall be as specified in MCC .6100 through .6148, except that not more than 125% of the number of spaces required shall be provided;
- (G) Signs associated with the proposal shall be subject to the sign limitations of MCC .2946;
- (H) The proposal shall comply with Strategy 1.E., of Powellhurst Community Plan Policy No. 23, if the property is located abutting SE 82nd Avenue in that Community; and
- (I) All utilities shall be placed underground."

3 Additionally, these uses may locate in the three industrial zones, LM, GM, or HM, as conditional uses, upon approval of a public hearing of the Planning Commission and satisfaction of the following:

"11.15.5045 Industrial Area Retail and General Commercial Use Approval Criteria.

In approving a retail or general commercial use as a conditional use, the approval authority shall find that the proposal:

- (A) Will satisfy the applicable elements of Comprehensive Plan Policies:
 - (1) No. 5, Economic Development,
 - (2) No. 19, Community Design,

- (3) No. 22, Energy Conservation,
- (4) No. 23, Redevelopment,
- (5) No. 27, Commercial Location,
- (6) No. 28, Strip Development,
- (7) No. 30, Industrial Location,
- (8) No. 35, Public Transportation,
- (9) No. 36, Transportation System Development Requirements, and
- (10) No. 40, Development Requirements;

- (B) Will satisfy a public need for the use which cannot be met on property in the vicinity which is classified or designated in the Comprehensive Plan to permit the use;
- (C) Will satisfy the approval criteria and development standards for the use as specified in the urban commercial district in which the use is permitted; and
- (D) Will satisfy the approval criteria of MCC .5040(C) through (G) (if an airport-related use)."

4. Finally, an established adult business is protected as a non-conforming use under the following:

"NON-CONFORMING USES.

- 11.15.8805 (D) A non-conforming structure or use may be maintained with ordinary care."

BEFORE THE BOARD OF COMMISSIONERS

MULTNOMAH COUNTY, OREGON

Ordinance No. _____

An Ordinance amending the Zoning Code by establishing locational and spacing requirements for adult bookstores and adult theaters and requiring removal of nonconforming adult bookstores after a six-month amortization period.

Multnomah County ordains as follows:

SECTION 1. Amendment

Section 11.15.4037 is added to the Multnomah County Code and shall read as follows:

11.15.4037 Adult Bookstores and Adult Theaters

(A) Findings

1. The County regularly receives a large number of complaints about adult bookstores from residents, neighborhood associations and businesses. These complaints concern criminal activities, vandalism, public display of activities being conducted on the premises, and late night traffic and noise. The County is advised that the City of Portland receives similar complaints regarding adult theaters located in the City. There are presently no adult theaters in unincorporated Multnomah County.
2. Adult bookstores and adult theaters are currently allowed as Uses Under Prescribed Conditions in two zones: GC (General Commercial) and EC (Extensive Commercial). They are also allowed as conditional uses in three other zones: LM (Light Manufacturing, GM (General Manufacturing) and HM (Heavy Manufacturing).
3. These zones sometimes abut residential zones or include residential neighborhoods. Consequently, some of these business are located in close proximity to residential uses and other uses which are incompatible with "adult entertainment".

4. Adult bookstores and theaters are inherently incompatible with residential zones and related uses such as schools and religious institutions because these businesses adversely affect the quality and stability of nearby residential and commercial areas.
5. It is in the best interest of the County to resolve this conflict by separating adult bookstores and theaters from residential zones and related uses.
6. It is in the best interest of the County to require adult bookstores that cannot meet the new requirements to relocate or cease operations within six months so as to resolve the conflicts between residential uses and these businesses. The six month amortization period has been considered reasonable in other jurisdictions as an appropriate period to allow these businesses to recoup investment costs.
7. The locational regulations for adult bookstores, adult theaters and related businesses established herein restrict the area where these businesses may locate. Since the allowable areas for these businesses have decreased, the likelihood of such businesses clustering has increased.
8. The potential for clustering of adult bookstores and adult theaters within the areas where such businesses are allowed deserves attention. Residents, neighborhood organizations, and businesses located in these areas have stated that clustering of adult businesses in the allowable areas will increase crime, create or accelerate blighted conditions, and make the areas more resistant to the County's revitalization efforts.
9. The concerns expressed by residents of urban neighborhoods in which adult businesses are allowed have been raised at various public hearings and have been deemed valid. The Board finds that the measures contained herein to avoid the ill effects of uncontrolled concentrations of adult businesses are a necessary response to these concerns.
10. Other jurisdictions, such as the City of Portland, have adopted minimum spacing regulations for adult businesses in conjunction with locational requirements. These regulations have been upheld

in cases outside of Oregon. No case law from this state provides direct guidance on this subject as yet.

11. Establishing minimum distances of 660 feet between adult businesses will effectively discourage clusters of such businesses in the allowable areas. These prescribed distances, however, will allow reasonable opportunity for existing businesses required to relocate and for new businesses to be established.

(B) No adult bookstore or adult theater shall be located within 660 feet of any of the following protected districts and uses:

1. a residential district;
2. a residence
3. a church;
4. a library
5. a hospital;
6. a day care center
7. a public or private elementary, junior high or
8. high school;
9. a nursing home
10. a park or public playground;
11. another adult bookstore or adult theater.

(C) The distances referred to above shall be measured in a straight line, without regard to intervening structures or objects, from the closest point of the structure or portion of the structure containing the adult use to the closest point of the protected district or use.

(D) Any existing adult bookstore which does not conform with the locational and spacing requirements of Ordinance No. _____ is declared a nuisance and shall be removed and/or relocated to a conforming location within six months of the effective date of said ordinance.

SECTION 2. AMENDMENT

Multnomah County Code, Section 11.15.4210(A)(11) is amended to read as follows:

- (11) adult bookstore or adult theater, when in compliance with MCC 11.15.4037

"Specified sexual activities" means real or simulated acts of human sexual intercourse, masturbation, sadomasochistic abuse, or sodomy; or human genitals in a state of sexual stimulation or arousal.

ADOPTED this _____ day of _____, 198³.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Caroline Miller, Presiding Officer

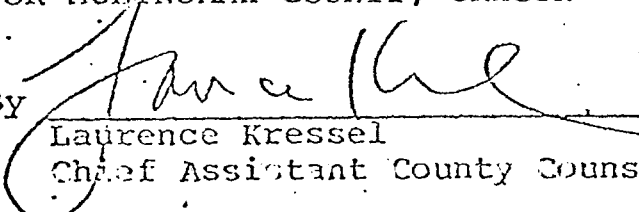
AUTHENTICATED this _____ day of _____, 198³.

Donald E. Clark, County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By



Laurence Kressel
Chief Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 355

An Ordinance prohibiting issuance of permits for adult entertainment uses for 90 days and declaring an emergency.

Multnomah County ordains as follows:

SECTION 1. FINDINGS.

1. The Board of Commissioners has reviewed the provisions in the Zoning Code governing the location of so-called adult bookstores, theatres and similar adult entertainment uses and has found them to be insufficient to prevent the proliferation of these uses and to promote sound land use planning in the unincorporated portions of the County. Accordingly, a substantially revised set of zoning provisions has been drafted and has been forwarded to the Planning Commission for review and comment, as required by state and county law. The Planning Commission has scheduled a hearing on the draft ordinance in January, 1983. The Board expects a report and recommendation shortly thereafter.

2. During the period in which the new zoning regulations are being considered, the Board has found that it would be inappropriate to allow the establishment or relocation of adult entertainment uses. Such uses should only be permitted to be sited in conformity with up-dated controls found by the Board to protect the public health, safety and welfare. Accordingly, a moratorium of limited duration is in order.

3. A moratorium concerning the subject in question has been in effect since July 1, 1982 (Ordinance No. 322) and is scheduled to expire on December 27, 1982. In light of the scheduled Planning Commission hearing on a draft adult-use ordinance in January, 1983, the Board deems it appropriate to extend the moratorium for an additional period, not to exceed ninety (90) days. *attach.*

SECTION 2. PERMIT MORATORIUM.

No land use, occupancy, or other permit shall be issued by Multnomah County for the establishment or relocation of any

"adult entertainment use", as defined in the Multnomah County Zoning Code, for a period of 90 days from the effective date of this Ordinance.

It being necessary for the protection of the health and safety of the citizens of Multnomah County, an emergency is declared and this Ordinance shall take effect immediately upon being signed by the County Executive.

Adopted this 16th day of December, 1982.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By Caroline Miller
Caroline Miller, Presiding Officer

(SEAL)
APPROVED AS TO FORM:

John B. Leahy
John B. Leahy, County Counsel
Multnomah County, Oregon

Authenticated by the County Executive on December 20, 1982.

Donald E. Clark
Donald E. Clark, County Executive

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 322

An ordinance prohibiting issuance of permits for adult businesses for 90 days; declaring an emergency.

Multnomah County ordains as follows:

Section 1. No permit shall be issued by Multnomah County for the establishment, relocation or operation of an adult business in Multnomah County for a period of 90 days from the effective date of this ordinance.

Section 2. It being necessary for the protection of health and safety of the citizens of Multnomah County, an emergency is declared and this ordinance shall take effect on the date of its adoption.

Adopted this 1st day of July, 1982.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

(SEAL)

APPROVED AS TO FORM:

By *Caroline Miller*
Caroline Miller, Presiding Officer

John B. Leahy, County Counsel
Multnomah County, Oregon

Authenticated by the County Executive on July 6, 1982.

Donald E. Clark
Donald E. Clark, County Executive

CAO -

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1438 BY ADDING ADULT ENTERTAINMENT BUSINESSES PROVISIONS.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

A. Currently, Ordinance No. 1438 does not distinguish between adult entertainment businesses and other commercial uses. Adult entertainment businesses are permitted outright in commercial zones and as conditional uses in certain industrial zones.

B. The city has received testimony from city residents that adult entertainment businesses are not compatible with residential, church, public park and school uses.

C. Experience in other communities has shown that the concentration of adult businesses contributes to blight and deterioration in commercial and residential areas.

D. The City of Portland has documented complaints concerning existing adult entertainment businesses showing that these uses adversely affect the quality and stability of nearby residential and commercial areas and it is likely that the same effects would be experienced in Milwaukie if such businesses located here.

E. It is in the best interest of the city to mitigate the adverse impacts of adult entertainment businesses by separating them from each other and from surrounding residential, church, public park and school uses.

F. These uses can be adequately separated by prohibiting adult entertainment businesses within 250 feet of a residential zone, church, public park or school and within 500 feet of another adult entertainment business and by prohibiting them in the downtown commercial area.

G. The proposed regulation supports the following elements of the city's Comprehensive Plan, Ordinance No. 1437:

1. Community Conservation and Development Division, Objective #4, Neighborhood Conservation, page 30.
To maximize the opportunities to preserve, enhance and reinforce the identity, pride of existing well defined neighborhoods in order to encourage the long-term maintenance of the city's housing stock.

2. Economic Base and Industrial/Commercial Land Use Element, Objective #1, Economic Development, Page 35.
The city will encourage an increase in the overall economic development activity within the city.
3. Economic Base and Industrial/Commercial Land Use Element, Objective #8, Commercial Land Use: Convenience Centers, page 38(a).
To limit intrusion of commercial uses into neighborhood areas, while providing easy accessibility for residents.
4. Recreational Needs Element, Objective #4. Neighborhood and District Parks, page 45.
To develop a city-wide park and recreation system which meets the needs of neighborhoods and the city as a whole.
5. Neighborhood Area 1, Objective #1 - Single Family Character, page 54.
To maintain the single family character of designated single family areas by encouraging maintenance and rehabilitation of older structures, and by improving the quality of new residential development.
6. Transportation Element, Objective #8 - Pedestrian/Bikeway, page 72.
To develop a pedestrian/bikeway system which connects local activity centers such as parks, schools and activity centers.

H. The Planning Commission considered these proposed regulations at a public hearing on March 8, 1983 and recommended that the Council adopt them.

Section 2. Definitions. Section 1.03 of Ordinance No. 1438 is amended by adding the following definitions in appropriate alphabetical order:

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels and adult theaters.

"Church" means a structure used by a religious organization having tax-exempt status.

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation or management of the Milwaukie Community Services Department.

"Specified anatomical areas" means and includes any of the following:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activites set forth in (a) through (c) of this definition.

Section 3. Standards. Sections 3.10.3 and 3.12.3 of Ordinance No. 1438 are amended by adding the following at the end, together with the appropriate numbering:

Adult Entertainment Business: The proposed location of an adult entertainment business shall not be within 500 feet of an existing or previously approved adult entertainment business or within 250 feet of either a public park, a church, a day care center, a primary, elementary, junior high or high school or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business to either the closest property line of the impacted property or to the closest structural wall of any pre-existing or previously approved adult entertainment business.

Section 4. Prohibited Uses. Section 3.11 of Ordinance No. 1438 is amended by adding at the end:

4. Prohibited Uses. In a C-C Zone, the following uses and their accessory uses are prohibited:

a. Adult entertainment business.

Read the first time on _____, 198__, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 198__.

Signed by the Mayor on _____, 198__.

Joy Burgess, Mayor

ATTEST:

Laurie Perkin, Recorder

Approved as to form:

Greg Eades, City Attorney

CITY OF MILWAUKIE PLANNING DEPT. STAFF REPORT

DATE: FEBRUARY 8, 1983

FILE NO: C-83-2

APPLICATION : CONDITIONAL USE
APPLICANT : MARY LEE MURPHY
PROPERTY OWNER : WILLIAM R. DAVIS
LOCATION : West side of McLoughlin Blvd.,
North of Milwaukie Ski and Sports

PROPOSAL:

Request to use vacant parking lot as a car rental business.

SITE CONDITIONS:

ZONING: C-L, Limited Commercial

ACCESS: Access is from McLoughlin Blvd., and a continuous driveway apron running the length of the parcel.

EXISTING USE:

The east portion of the site is paved with asphalt, the west portion is separated by a 5' high chain link fence and is undeveloped.

TOPOGRAPHY:

The east paved portion is relatively flat, while the west side slopes down slowly to the Willamette River.

VEGETATION:

The west portion has extensive ground cover, berry vines, and scattered deciduous trees. There is no vegetation within the paved area.

SURROUNDING ZONING AND LAND USE:

See Vicinity Map

The Property and adjacent parcels are zoned C-L, Limited Commercial.

NORTH: Goff Insurance then Battery Exchange
EAST: McLoughlin Blvd., beyond is Shell Service Station
SOUTH: Milwaukie Ski and Sports
WEST: Steady heavily vegetated slope down to abandoned interurban right of way, then slope down to the Willamette River.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
STAFF REPORT - MARY LEE MURPHY C-83-2
PUBLIC HEARING - FEBRUARY 8, 1983

PROPOSED USE:

The applicant proposes to store and rent 10 older VW's. There will be five employees with a maximum of one on the site at a time. A portable trailer will be provided, which will be located in the southeast corner near Milwaukie Ski and Sports. A wall sign will be provided on the trailer but details have not been submitted. The parcel will have ingress from the northeast corner and egress at the southeast corner. There is no curb separation between the sidewalk and parking lot pavement. (See Exhibit #1 - General Site Plan, Exhibit #2 - Trailer Profile, And Exhibit #3 - Application, for details.)

The undeveloped west portion of the site is within the Floodplain, Ecologically Significant Natural Area and Open Space. The proposal will not be built within these areas.

CITY PLANS, POLICIES, AND REGULATIONS:

COMPREHENSIVE PLAN MAP DESIGNATION: Commercial

RELEVANT ELEMENTS OF THE COMPREHENSIVE PLAN:

OBJECTIVE #2 - Employment Opportunity, Policy #1, Page 36.

The City will encourage new and existing industries, businesses and employment centers that will provide primary, head of household jobs as well as opportunity for second income sources within households.

OBJECTIVE #9 - Downtown Office Center, Policies #3 & #7, Page 39.

To emphasize downtown Milwaukie as a district commercial center with the major concentration of office and service uses in the City.

3. A mix of office and commercial uses is encouraged in individual structures downtown, as long as retail uses are contiguous to existing retail development.
7. When developing an improvement plan for downtown, the City will investigate means for providing a buffer or clear demarcation between the highway service uses along McLoughlin Boulevard and the office and retail commercial uses in downtown Milwaukie.

RELEVANT ELEMENTS OF THE COMPREHENSIVE PLAN: Continued

OBJECTIVE #10 - McLoughlin Blvd., Policies #1, 2, 3, & 4, Page 40.

To provide for highway service uses along McLoughlin Blvd. while improving the visual and pedestrian-oriented linkages between downtown and the Willamette River.

1. The City will work with the Oregon Department of Transportation and MSD during their transportation planning programs to identify appropriate land uses and access arrangements along McLoughlin Boulevard. The City will integrate its own downtown improvement plans and waterfront plans with these regional transportation planning programs (see Transportation Element).
2. The opportunity will be taken during any improvement or modification of the McLoughlin corridor to create new and more efficient vehicular access to the riverfront, as well as pedestrian access not in conflict with motorized transportation.
3. Improved pedestrian and bicycle connections will be provided between downtown and the riverfront through the provision of pedestrian paths, amenities, signals, separated crossings, etc. designed to ensure the safety of pedestrians and bicyclists.
4. The visual relationship between the downtown area of Milwaukie and its waterfront will be improved.

RELEVANT ELEMENT OF THE ZONING ORDINANCE:

Section 4.14 - Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

Section 5.01.3.b - Off-Street Parking Requirements

Service or repair shop or retail store handling bulky merchandise such as auto- mobiles or furniture.	One space for each 550 square feet of gross floor area.
--	---

Section 5.03.8.b - Off-Street Parking and Loading,
General Provisions.

Design requirements for parking spaces and loading areas shall be as follows:

- b. Ten percent of the area of the site designated for parking shall be landscaped. The landscaping shall be designed to enhance the appearance of the parking area while maintaining clear vision for traffic safety.

ANALYSIS AND EVALUATION

1. AESTHETICS:

A light colored, 24' to 28' long portable trailer will be placed in the southeast corner, near Milwaukie Ski and Sports. The actual size of the trailer is not indicated. Impact on McLoughlin Blvd. in relationship to Willamette River will be minimal, if the site is beautified and the trailer is attractive. The parking area is totally without vegetation. The trailer and site appearance could be significantly improved if the trailer tongue and wheels are removed, the trailer skirted, surface stained a natural color, and shrubs and trees are planted in tubs around the structure and site periphery. A natural color and additional plant materials would be more compatible with the significant natural area west of the fence.

2. SOCIAL:

The use will have five employees with a maximum of one employee on the site at one time. The hours and days of operation and other services to be performed on the site are not indicated. Outdoor repair servicing would have a negative visual impact. The applicant has indicated that a wall sign will be provided on the side of the trailer, but the actual position and placement of the sign is uncertain. Security lighting is available along the east property line. The applicant has indicated that the portable trailer will be less than 500 sq.ft. in area, which requires one off-street parking space. Off-street parking is adequate, however, a parking lot layout for car rental storage and employee parking has not been provided.

3. SAFETY:

The site has signalized pedestrian access at the intersection of Jackson St. and McLoughlin Blvd. Southbound ingress and egress points are indicated. Access is not available for the northbound traffic. The driveway runs the length of the property frontage. Curbs should be provided between the ingress and egress points along the east property, which would separate vehicles from the sidewalk. The State Highway Department supports the provision of an extruded curb. Vehicles can now enter and exit the site along the entire McLoughlin frontage which could create vehicular and circulation conflicts. A parking lot layout should be submitted indicating adequate access and on-site circulation.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
STAFF REPORT - MARY LEE MURPHY C-83-2
PUBLIC HEARING - FEBRUARY 8, 1983

ANALYSIS AND EVALUATION: Continued

4. NATURAL AREA:

The paved vehicle parking area is without vegetation. Section 5.01.8.b of the Zoning Ordinance requires 10% of the parking lot area be landscaped in trees, grass, and shrubs. It would be difficult to meet minimum landscape requirements without removal of some asphalt. Additional plant materials around the trailer and site periphery would improve the appearance, break up the continuous pavement and be more harmonious with the significant natural area west of the chain link fence. Battery Exchange, which is north of the Don Goff Insurance Office, began operation in spring 1981. Prior to the opening the property had site conditions similar to the applicant's. The site appearance has been dramatically improved with the addition of landscape islands adjacent to McLoughlin Blvd., on the east side of the building and in the northeast corner of the site. OBJECTIVE #10 - McLoughlin Blvd., Policy #4, Page 40 of the Comprehensive Plan encourages improvements of visual relationships between the downtown area and the waterfront.

5. FIRE AND PUBLIC WORKS DEPARTMENTS MEMORANDA:

See attached memoranda for details.

RECOMMENDATION:

Approve Conditional Use Request with Conditions to use vacant parking lot on west side of McLoughlin Blvd., north of Milwaukie Ski and Sports as a car rental business.

FINDINGS:

1. The proposal complies with the following elements of the Comprehensive Plan:
 - A. OBJECTIVE #2 - Employment Opportunity, Policy #1, Page 36.
 - B. OBJECTIVE #9 - Downtown Office Center, Policy #3, Page 39.
 - C. OBJECTIVE #10 - McLoughlin Blvd., Policies #1-#4, Page 40.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
STAFF REPORT - MARY LEE MURPHY C-83-2
PUBLIC HEARING - FEBRUARY 8, 1983

FINDINGS: Continued

2. The Following Sections of the Zoning Ordinance will be met:
 - A. Section 5.03.8.b - Off-Street Parking and Loading, General Provisions, Design Requirements.
 - B. Section 5.01.3.b - Off-Street Parking Requirements
3. Circulation would be improved by provision of extruded curb between ingress and egress points.
4. Site appearance in relationship to significant natural area to the west would be improved with provision of trailer skirt-ing, natural stain on the trailer, and landscape tubs around the periphery of the trailer and parking lot.
5. A sign will be provided with minimal disturbance to adjacent uses.
6. The use will have five employees, with a maximum of one employee on site at one time, reducing the employee parking needs.
7. The property has signalized pedestrian access at the inter-section of McLoughlin Blvd. and Jackson Street.

CONDITIONS: C-83-2

1. Submit sign details to be approved by Staff.
2. Utilities, parking lot layout, curbing, drainage and procedures to be approved by Public Works and Fire Departments.
3. Remove trailer tongue and wheels.
4. Trailers shall be skirted and surfaced stained a natural color, to be approved by Staff.
5. An accurate site plan shall be submitted, showing a variety of drought resistant shrubs, trees, and tubs around the trailer and site periphery, and a vegetation maintenance program to be approved by Staff.
6. Provide assurance that there will be no outdoor on-site vehicle repair and service.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
STAFF REPORT - MARY LEE MURPHY C-83-2
PUBLIC HEARING - FEBRUARY 8, 1983

CONDITIONS: C-83-2

7. Indicate site and location of trailer.
8. Clarify days and hours of operation.
9. Application shall be reviewed by Planning Commission within six months after use opens if there are any complaints.

ATTACHMENTS:

Vicinity Map
Exhibit #1 - Site Plan
Exhibit #2 - Trailer Profile
Exhibit #3 - Application
Fire Department Memorandum
Public Works Department Memorandum

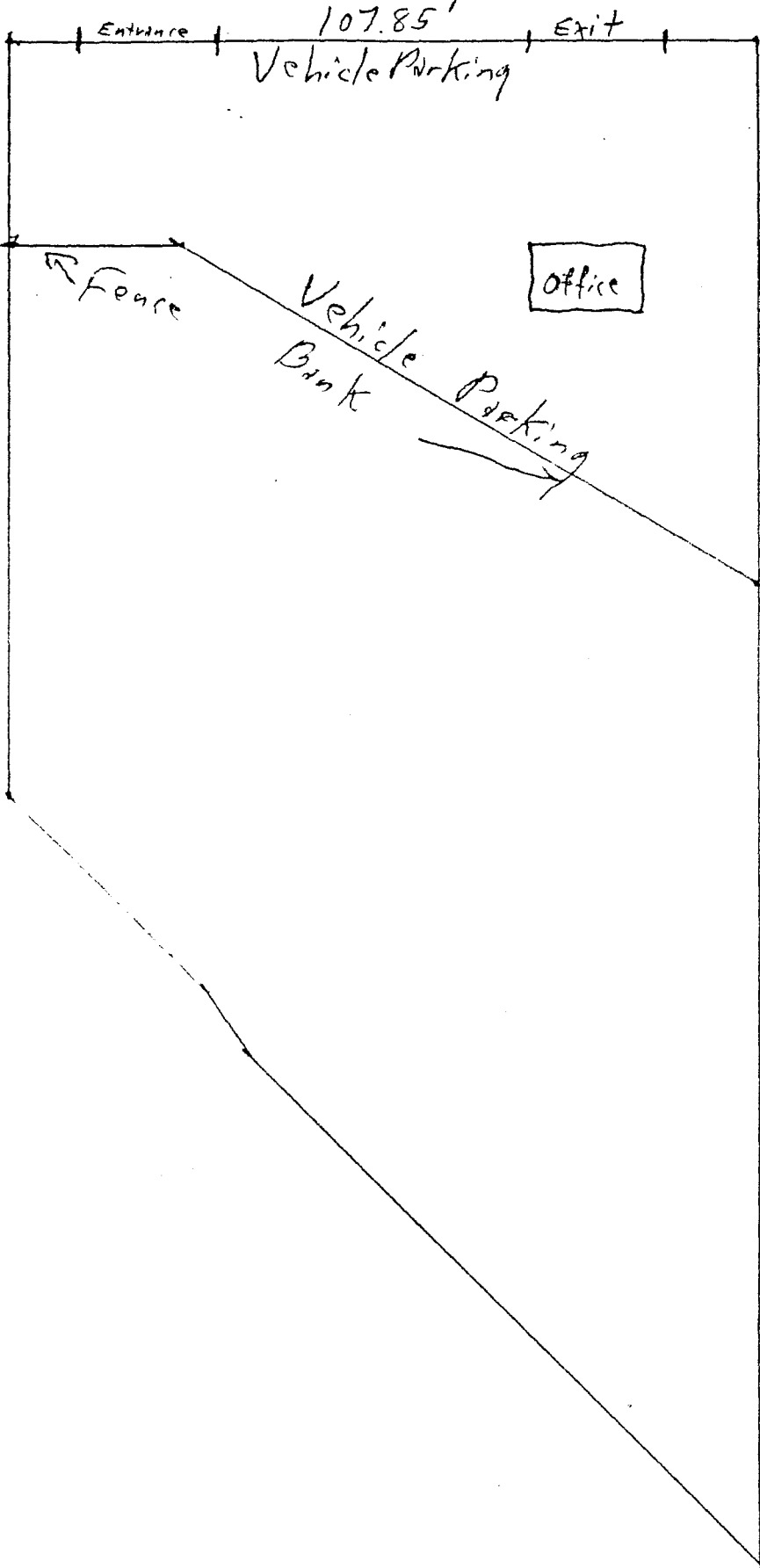
Street

McLoughlin Blvd.



Storm Drain →

Goff
Insurance
Agency



Exhaust
Specialties

EXHIBIT #	1
DATE	1/17/83
SUBMITTED BY	Murphy
RECEIVED	JS

1 square = 5'

Combination Office and Storage Trailers—

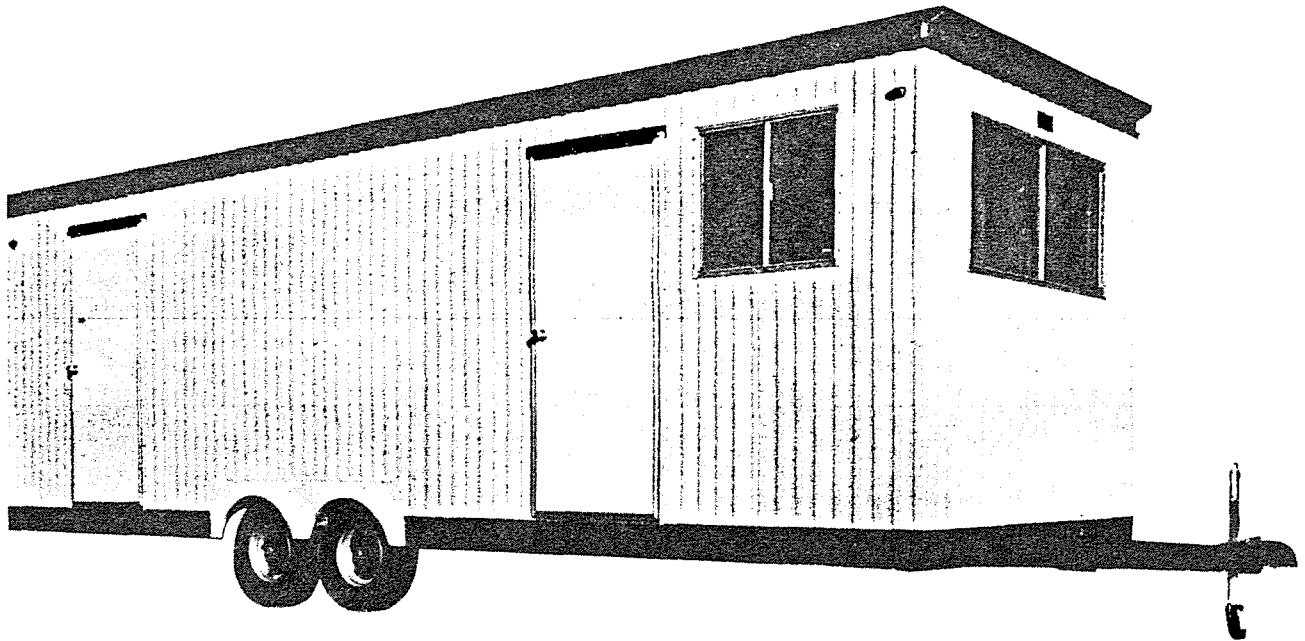
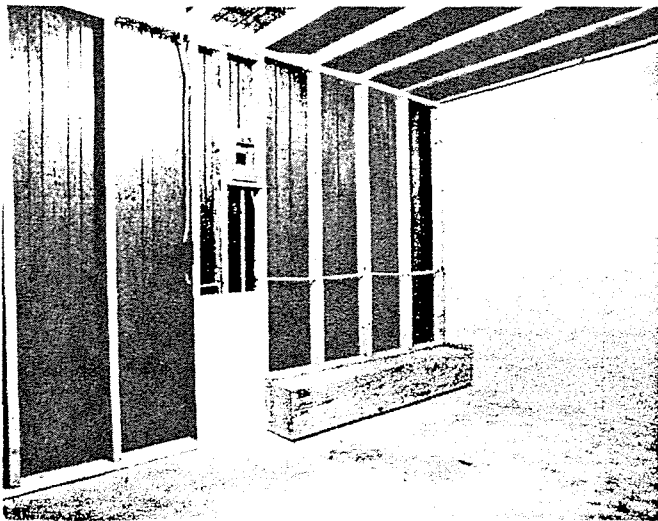
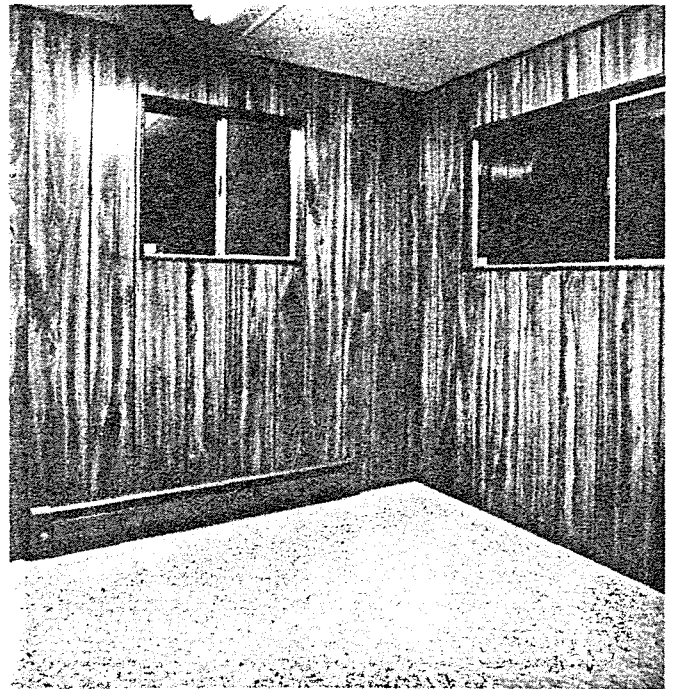


EXHIBIT #	2
DATE	1/17/83
BY	Murphy
RECEIVED	JR

OFFICE

Lighting: 1 each, 4' 2-tube florescent fixture
Heating: 1 ea 4' baseboard elec. heater, w/thermostat
Plug-ins & switches: 3 receptacles, 1 switch, 110 volt

For top efficiency, you can't beat an Office Boy Combination Unit. This single trailer (in either 24 or 28 foot lengths) combines a generous field storage section with a completely separated office section. The storage section is left bare for your convenience, and the office portion is completely finished, as in the Office Trailer. This is the perfect unit for the person who needs office and storage space close together.



STORAGE

Lighting: 1 pull chain light - center ceiling
Plug-ins: 1 receptacle, 110 volt
No windows
No finish

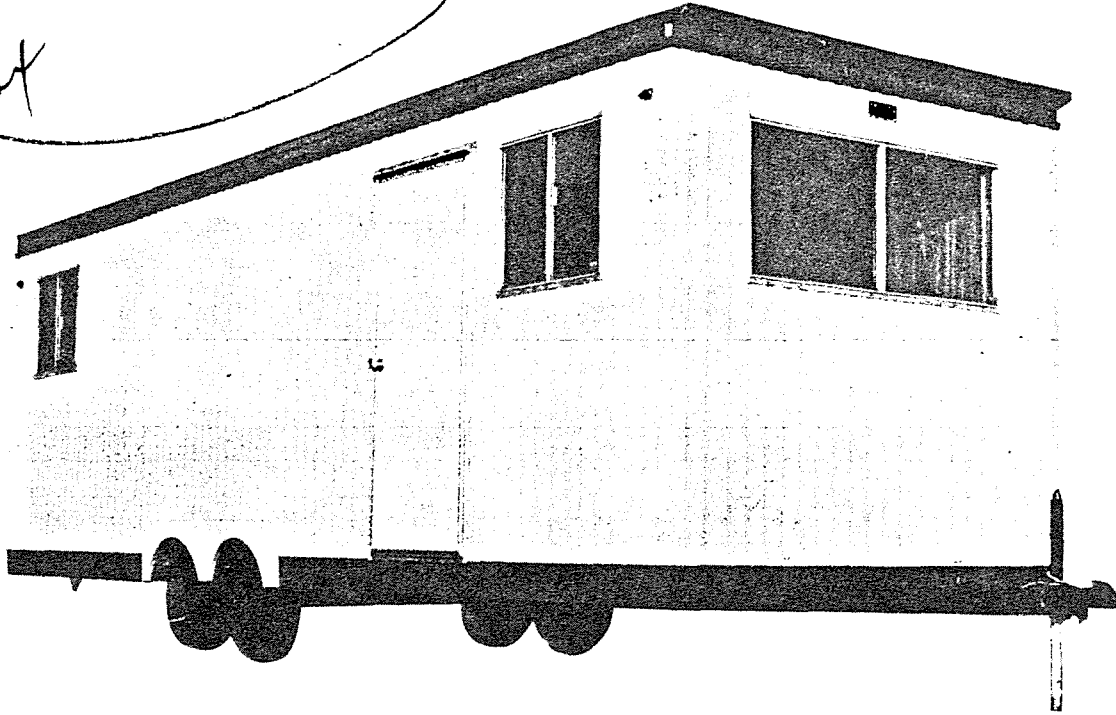


ELDER EQUIPMENT, INC.

P.O. Box 20365 • 13817 N.E. Sandy Boulevard
Portland, Oregon 97220 • (503) 255-5712

The Office Unit

8x16
Model
OM 816
Boy



Our customers are tough critics! They have to be. In the construction business, only the finest materials can be used to complete projects that have to be safe and durable.

So we build the Office Trailer Units to meet those standards set by people in the construction business! And we must be doing something right. Over 50% of our business is repeat business from satisfied customers! On almost any construction site in Oregon or Washington, our Office Boy Trailers can be found

performing a variety of duties.

Lighting: 4' 2-tube florescent fixtures

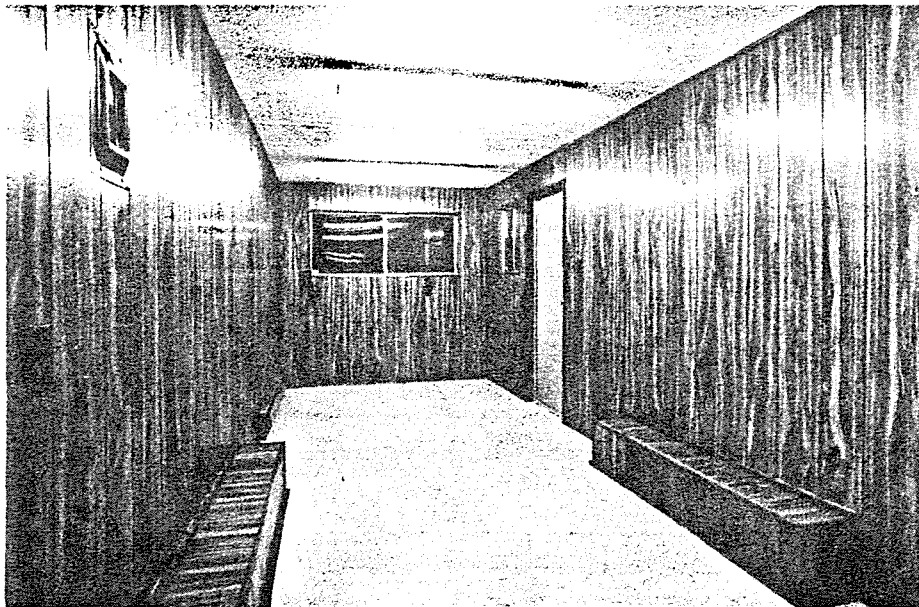
Heating: baseboard electric heaters

OM816S & OM820S - 1 ea 6' heater w/thermostat

OM824S - 1 ea 4' heater w/thermostat, and 1 ea 3' heater w/thermostat

OM828T - 2 ea 4' heaters w/thermostats

Plug-ins & switches: 6 receptacles, 1 switch, 110 volt



ELDER EQUIPMENT, INC.

P.O. Box 20365 • 13817 N.E. Sandy Boulevard
Portland, Oregon 97220 • (503) 255-5712

Milwaukie Planning Commission
10722 S.E. Main Street
Milwaukie, OR 97222
Phone: (503) 659-5171

CONDITIONAL USE
[WILLAMETTE GREENWAY ZONE]
[DEVELOPMENT IN THE FLOODWAY (FW)]

FOR OFFICE USE ONLY

No. C-83-2

Fee \$ 150.00

APPLICATION IS TO BE SUBMITTED
IN BLACK PEN OR TYPEWRITTEN ONLY

PLEASE READ CAREFULLY. Application will be processed when all questions are answered and accurate site plan is submitted in accordance with Planning Department guidelines. If you have questions, contact the Planning Department at 659-5171.

I HEREBY REQUEST A CONDITIONAL USE on property described below. With this application, I am furnishing _____ copies of a legibly drawn SITE PLAN showing exact dimensions and arrangement of the proposal as well as elevation drawings and any other drawings, topographic surveys, photographs or other material essential to the understanding of the proposed use and its relationship to the surrounding properties as may be required by staff and/or Planning Commission. On the reverse side of this application, I am explaining circumstances for granting my request for a CONDITIONAL USE.

APPLICANT(S): (Print) Mary Lee Murphy Date: 1/17/83

Mailing Address: 3147 S.E. Tacoma, Portland, Or ZIP 97202 Phone: 653-8057

PROPERTY OWNER(S) (Print) William R. Davis Phone: 654-1310

Mailing Address: 4301 S.E. Hill Road, Milwaukie, Oregon ZIP 97222

REQUEST: Purpose of request is to ask for a conditional use to grant under C-L zone the ability to use the property to rent and park vehicles. Use as rental car facility

Zone Classification: C-L Comp Plan Designation: _____

Legal Description: Township 1S Range 1E Section 35 Tax Lot(s) 02900
(Submit metes and bounds description upon request)

Property Location: McLoughlin Blvd. Immediately North of Eastern C-P Blvd (cross street) Jackson St.

In granting a Conditional Use, conditions may be attached which are found necessary to lessen the impact of the Conditional Use on nearby property, protect the general welfare of the City, and achieve the purposes of the Zoning Ordinance.

Date of Meeting: 2/8/83

I CERTIFY that the information contained in this application is true and accurate to the best of my knowledge and I further agree to comply with the provisions of all state statutes and city ordinances and regulations regarding this application.

Signature Wm R. Davis Date: 1/17/83

FOR OFFICE USE

Approved: _____ Denied: _____ Continued: _____ Appealed: _____

CONDITIONAL USE

EXHIBIT #	3
DATE	1/17/83
SUBMITTED BY	Murphy
RECEIVED	js

What must be shown to gain approval for a conditional use is that the use applied for here reasonably addresses the need identified by the zoning order to approve a conditional use application, it would be determined if the particular use at the particular location is desirable to the public welfare and that it is not detrimental or injurious to the public safety or to the character and value of the surrounding properties.

Explain fully why you consider this conditional use to be in the best interests of the public and the immediate neighborhood. Please use black, not blue, ink or typewriter.

The property is presently under consideration, by the Oregon State Department of Transportation, for condemnation due to proposed improvements to McLaughlin Blvd. Under C-L zone the use of this property for this purpose is not addressed for this purpose. If this is allowed it would provide additional security in the area as the property would be lighted. Also there is presently no rental car facilities in Milwaukie to handle the emergency needs of the population. In the past the property was used as a used car lot with no apparent problems. It is contemplated that approximately ten cars would be on the property at any given time. These cars are all Volkswagens. This operation will provide employment for approximately five people. Only one employee will be on the site at any given time. Wall sign or office will be provided

CITY OF MILWAUKIE



FIRE DEPARTMENT
11022 S.E. 37th • phone 659-4042

Plans Examination Report No. 100
City Plan No. C-83-2

Date JAN. 25, '83

Building 8'x16' MOBILE OFFICE TRAILER Occupancy CAR RENTAL FACILITY
Address M^cLOUGHLIN & JACKSON ST. Construction Type II-N
Architect _____ Address _____
Owner MARY LEE MURPHY Address 3147 S.E. TACOMA, PORTLAND, 653-1057
~~Stories _____ Main Area _____ Basement Area _____ Attic Height _____
Fire Walls _____ Fire Escapes _____ Exits _____ /Total Width _____
Stairs _____ Enclosed _____ Other Vertical Shafts _____ /Enclosed _____
Sprinklers _____ Area Covered _____ Supervised To _____ Man. Alarm _____
Fire Ext. _____ Class _____ Smoke/Heat Det. _____ /Area Covered _____
Floor _____ Ceiling _____ Roof _____ Stru. Members _____ Wall Cover(ext) _____
(Interior) _____ Heating System _____ Fuel _____ Cooling Sys. _____~~

- (1) FIRE MARSHAL WILL ALLOW A MOBILE TRAILER UNIT TO BE PARKED AND USE TEMPORARY AS AN OFFICE FACILITY PROVIDED IT WILL NOT BE USE AS A STORAGE BUILDING, LIVING QUARTERS, OR REPAIR SHOP.
- (2) ELECTRICAL AND HEATING WILL NEED APPROVAL FROM THIS OFFICE BEFORE FINAL OCCUPANCY PERMIT IS ISSUED.
- (3) SUBMIT TIME SCHEDULE TO REPLACE TEMPORARY OFFICE.

By Jean C. Vidar
Plans Examiner/Construction Inspector

PLANNING COMMISSION MINUTES

REGULAR MEETING

February 8, 1983

MEMBERS PRESENT:

DON TROTTER
GEORGE CATHEY
JOHN. LITTLEHALES
REBECCA SWEETLAND
BETTY ROHOLT
AL LIANE
BOB BROWN

STAFF PRESENT:

TOPAZ FAULKNER, PLANNING DIRECTOR
JON STEIN, ASSOCIATE PLANNER
STEVE HALL, PUBLIC WORKS DIRECTOR
JESSE VILLAREAL, FIRE DEPARTMENT
CAROL LEE, SECRETARY
JERRY THELANDER, PLANNING INTERN

Mr. Trotter called the meeting to order at 6:30 p.m. The meeting was held at the St. John's Episcopal Church, 2036 S.E. Jefferson, Milwaukie, Oregon.

- 3.1 MARY LEE MURPHY, Applicant; WILLIAM DAVIS, Property Owner
C-83-2
REQUEST: To use vacant parking lot as a car rental business.
LOCATION: West side of McLoughlin Blvd., North of
Milwaukie Ski and Sports

Jon presented the Staff Report.

Mr. Trotter asked Jesse what the Fire Department considered the term "temporary" to be. Jesses said the reasonable time for temporary use would be approximately a six-month period

Mr. Littlehales mentioned the report states the use will not include storage, living space, or repair shop, however the diagram shows that a good portion of the area will be used as field storage.

APPLICANT'S RESPONSE:

SPEAKING: PAUL MURPHY, 3147 S.E. Tacoma, Portland
Representing applicant MARY LEE MURPHY, and
Mr. William Davis, Property Owner

Mr. Murphy stated that the main reason the applicant has choosen to use a temporary office facility is because Mr. Davis has already been contacted by the State Highway Department regarding condemnation of the land. He was notified that it may be one or two years before action is taken on the land.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

Mr. Murphy said that Mr. Ron Forest, State Highway Department Representative has suggested modification of the landscaping plan. The State Highway Department controls any specifications for landscaping within the right-of-way of McLoughlin Blvd. and approximately 6' of the property.

Mr. Murphy said the applicant does not intend to use the property for storage or as a parking lot and should not be required to stripe the lot. He said there is an existing storm drain for surface water located at McLoughlin Blvd., near the adjacent property of Goff Insurance. The trailer will be leased property and the trailer tongue and wheels cannot be removed, nor the color changed, but skirting will be provided. The applicant does not intend to do any repair or maintenance work on the property. The expected hours of operation would be 7:00 a.m. until 7:00 p.m., Monday through Friday; 10:00 a.m. through 6:00 p.m., Saturday; Noon through 5:00 p.m., Sunday. The time period of operation will be determined through negotiations of Mr. Davis and the State Highway Department. The trailer size will be 8' x 24', without any storage space. Restroom facilities will be provided by Olson Brothers Shell Service Station.

Mr. Trotter asked if there was anyone in the audience who wished to testify in favor or against the application.

Mr. Trotter said he is concerned about the exact location of the State Highway Department's right-of-way.

Mr. Murphy explained some of the details of his proposed business. He said there would be a total of 10 VW's for rent, all maintenance would be done at other locations, VW electrical conversions and storage of vehicles will also be at another location. Employees will be hired on a part-time basis.

Ms. Sweetland Made a Motion to approve C-83-2, with additional Finding #8: No adverse testimony; and modify Condition #6: provide written agreement that there will be no outdoor on-site vehicle repair and service; modification of Condition #9: Application shall be reviewed by Planning Commission within six months after use opens if there are any complaints or if there are more than 10 vehicles for rent on the lot. Mr. Littlehales Seconded the Motion.

Mr. Littlehales said he is concerned about a permanent landscape plan as well as Conditions #3 and #4.

Mr. Trotter requested more information regarding the exact location of the State Highway Department's right-of-way, and what type of landscaping the City can require for the site.

THE MAIN MOTION FAILED, 3 - 2, Mr. Trotter, Mr. Littlehales, Ms. Roholt voting against the Motion.

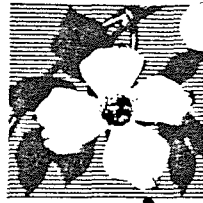
CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 8, 1983

Mr. Trotter Made a Motion to continue the public hearing of C-83-2 until February 22, 1983 to enable staff to work with the State Highway Department to determine the exact location of the State right-of-way, and give applicant opportunity to provide an accurate site plan showing the location of the office, proposed arrangement of rental vehicles and permanent landscape plan. Ms. Roholt Seconded the Motion. The Motion Carried Unanimously.

Mr. Murphy stated he may have to find another location because he could not afford to wait until February 22 for a decision from the Commission.

Mr. Cathey joined the Commission at 7:00 p.m.

CITY OF MILWAUKIE



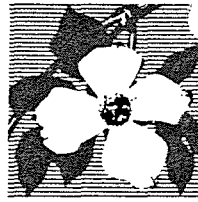
PLANNING DEPARTMENT
in the City Hall • phone 659-5171

MEMORANDUM

TO: TOPAZ FAULKNER, PLANNING DIRECTOR
FROM: JON STEIN, ASSOCIATE PLANNER
RE: MCLOUGHLIN BLVD. - IMPROVEMENTS SOUTH OF HARRISON ST.
DATE: FEBRUARY 9, 1983

I spoke to Ken Allman, Assistant Maintenance Engineer at ODOT. He indicated the following:

1. Present six-year plan is still in effect.
2. No firm date on condemnation for right-of-way expansion and road improvements.
3. All signs and landscaping must be kept out of the right-of-way.
4. Landscaping close to right-of-way is permissible only if it is low lying and preserves clear vision. Deciduous vegetation is discouraged near right-of-ways because of potentially clogging drains.
5. Applicant should submit site plans showing layout, landscaping and signs.
6. ODOT encourages improvements of ingress and egress points as well as supports extruded curbs along right-of-ways to channel traffic and reduce circulation conflicts.



MEMORANDUM

TO: THE MILWAUKIE PLANNING COMMISSION

FROM: PLANNING DEPARTMENT STAFF

RE: C-83-2 MARY LEE MURPHY

DATE: FEBRUARY 15, 1983

On February 8, 1983 the Planning Commission continued the Conditional Use Request C-83-2, to use a vacant parking lot located on the west side of McLoughlin Blvd., north of Milwaukie Ski and Sport as a car rental business until the following information is submitted:

1. Produce a legible site plan to scale showing both existing and planned permanent landscaping, vehicle and building location.
2. Determine location of the east property line and State right-of-way boundary.
3. Details on office trailer, location, skirting and rest rooms.
4. Confirmation on availability of restroom facilities.

The applicant has provided a site plan (Exhibit #1) showing landscaping tubs, office location in the southwest corner and parking spaces for 12 cars. Low lying cedars (10), and junipers (24) will be provided in clear vision areas and along the south property line and near the office. Evergreen trees (6) will be located in the northeast and southeast planting areas. Details on gallon size, caliper, height and maintenance is not indicated.

The trailer will be rented. The applicant will cover the tongue and wheels with metal skirting that will match the beige colored trailer.

Rest room facilities are available at Olsen Brothers Shell Station, opposite the property at the northeast corner of Jackson Street and McLoughlin Blvd. Confirmation has not been provided.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
MEMORANDUM - C-83-2 MARY LEE MURPHY
PLANNING COMMISSION MEETING - FEBRUARY 15, 1983

Staff has provided an aerial map (Exhibit #2) of McLoughlin Blvd., which shows an 80' right-of-way, pavement and sidewalks. The right-of-way parallels the east building line of Exhaust Specialties from north to south. ODOT generally allows low lying evergreen landscaping in the right-of-way as long as clear vision is maintained. An extruded curb will be provided between the ingress and egress points as per requirements of the State Highway Department. ODOT shall review landscaping to insure compliance and that circulation conflicts are minimized at ingress and egress points.

RECOMMENDATION:

Approve Conditional Use Request C-83-2, Mary Lee Murphy, with Conditions to use vacant parking lot on west side of McLoughlin Blvd., north of Milwaukie Ski and Sports as a car rental business.

FINDINGS: C-83-2

1. The proposal complies with the following elements of the Comprehensive Plan:
 - a. Objective #2 - Employment Opportunity, Policy #1, Page 36.
 - b. Objective #9 - Downtown Office Center, Policy #3, Page 39.
 - c. Objective #10 - McLoughlin Blvd., Policies #1 - #4, Page 40.
2. The following Sections of the Zoning Ordinance will be met:
 - A. Section 5.03.8.b - Off-Street Parking and Loading, General Provisions, Design Requirements.
 - B. Section 5.01.3.b - Off-Street Parking Requirements.
3. Circulation would be improved by provision of extruded curb between ingress and egress points.
4. Site appearance in relationship to significant natural area to the west would be improved with provision of trailer skirting, natural stain on the trailer, and landscape tubs around the periphery of the trailer and parking lot.
5. A sign will be provided with minimal disturbance to adjacent uses.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
MEMORANDUM - C-83-2 MARY LEE MURPHY
PLANNING COMMISSION MEETING - FEBRUARY 15, 1983

FINDINGS: Continued C-83-2

6. The use will have five employees, with a maximum of one employee on site at one time, reducing the employee parking needs.
7. The property has signalized pedestrian access at the intersection of McLoughlin Blvd. and Jackson Street.

CONDITIONS: C-83-2

1. Submit sign details to be approved by Staff.
2. Utilities, parking lot layout, curbing, drainage and procedures to be approved by Public Works and Fire Departments.
3. Trailer base, including wheels and tongue, shall be skirted and the color shall match beige color of trailer.
4. Submit site plan showing specific location, size and caliper of proposed vegetation and maintenance details.
5. Provide assurance that there will be no outdoor on-site vehicle repair and service.
6. Application shall be reviewed by Planning Commission within six months after use opens if there are any complaints.
7. Clarify and confirm location of rest room facilities.

ATTACHMENTS:

- Exhibit #1 - Site Plan
Exhibit #2 - Aerial Map

SCALE 1" = 12 FT

2/14/83

DAVIS PROPERTY
RENT A BUG
PLANTING LAYOUT

8 PLANTERS

2 FT X 8 FT X 1 1/2 HEIGHT

PLANTS

24 JUNIPER

10 CEDAR
SHRUBS

6 TREES

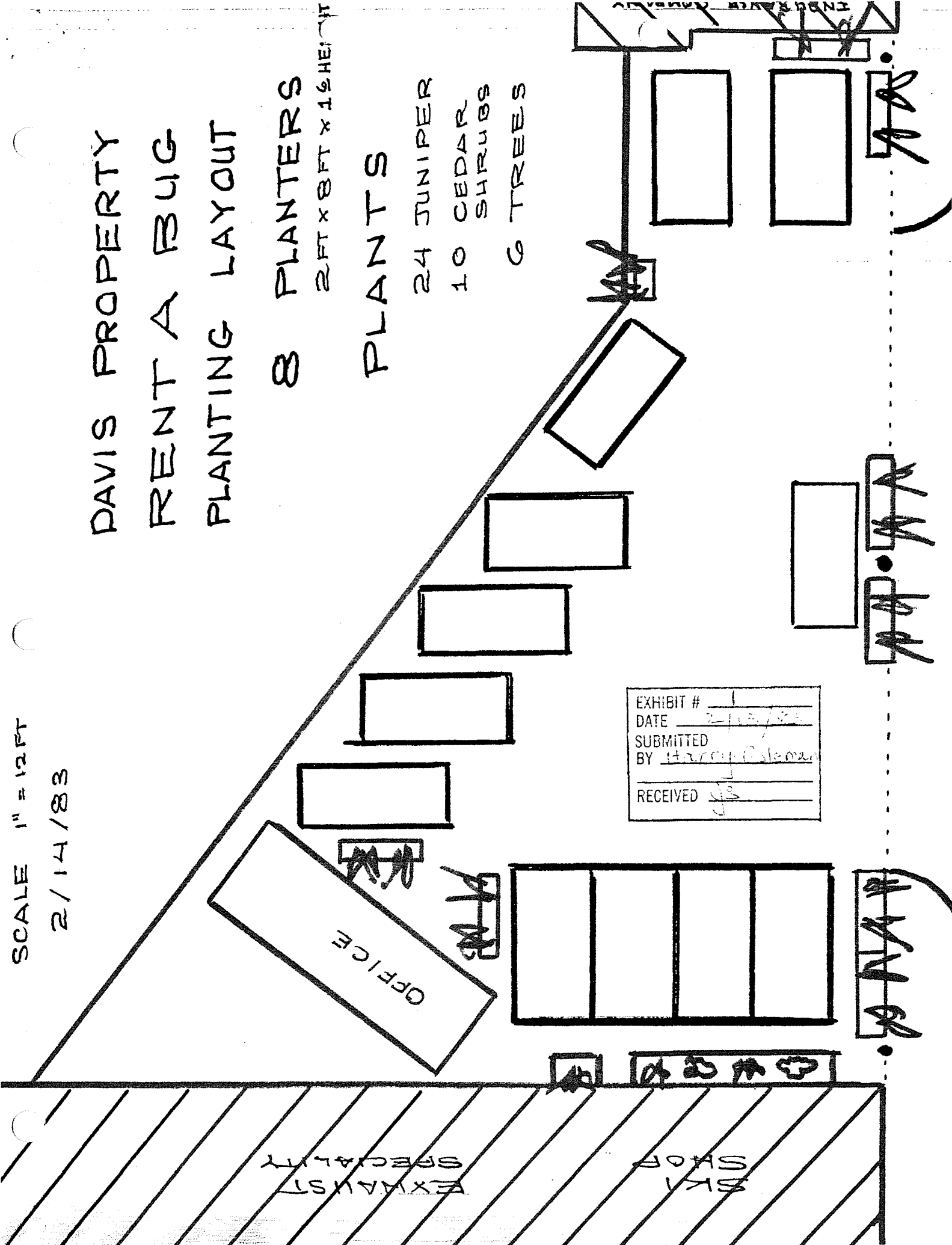
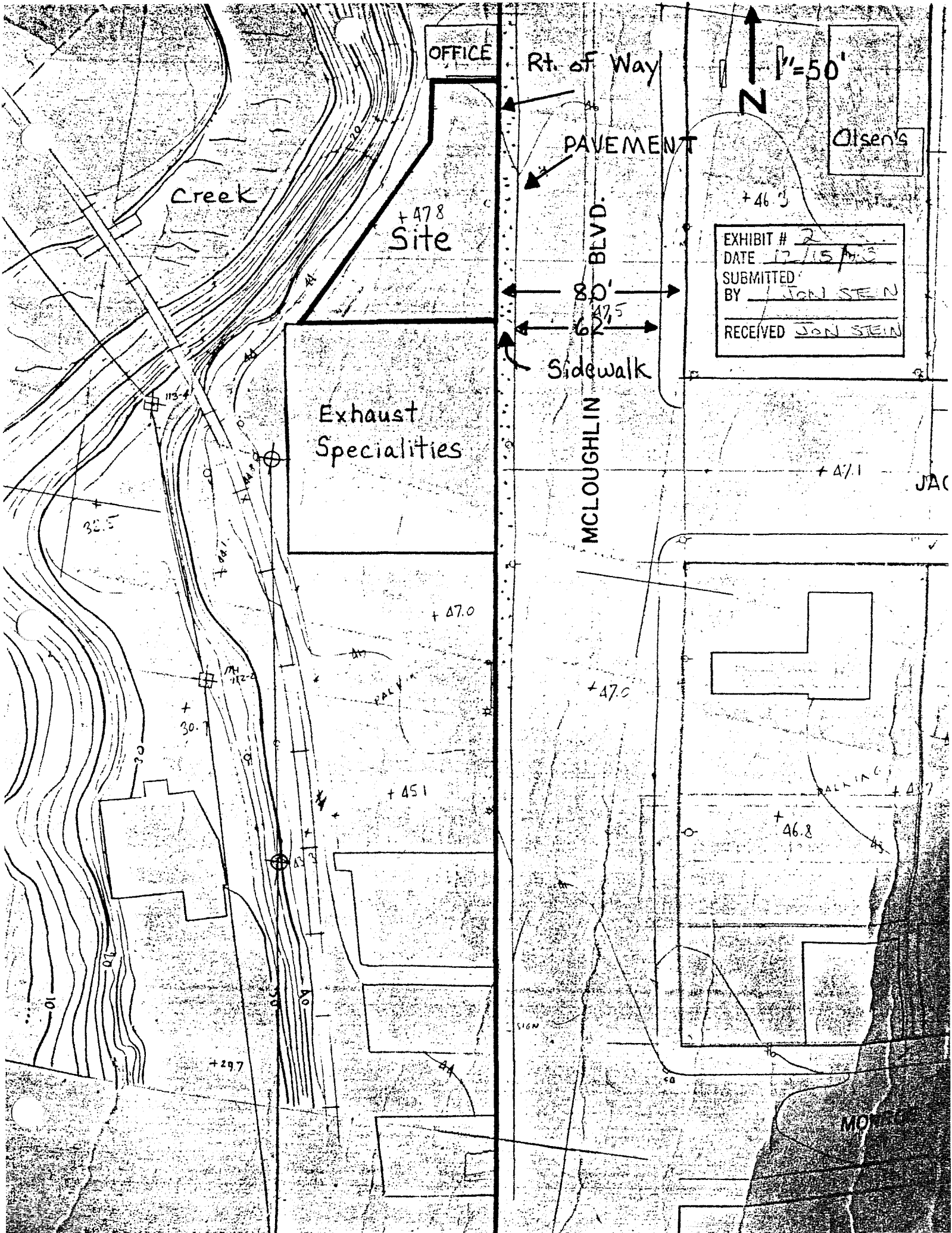


EXHIBIT #	1
DATE	2/14/83
SUBMITTED BY	Tarry Coleman
RECEIVED	JS

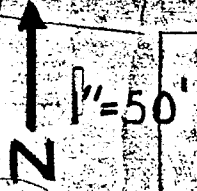
EXHIBIT SPECIALTY

SKA SKA



OFFICE

Rt. of Way



Olsen's

Creek

+478 Site

PAVEMENT

EXHIBIT #	2
DATE	12/15/83
SUBMITTED BY	JON STEIN
RECEIVED	JON STEIN

BLVD.

80'

62'

Sidewalk

Exhaust Specialities

MCCLOUGHLIN

+47.1

JAC

+47.0

+47.0

+45.1

+46.8

+29.7

MONTGOMERY

PLANNING COMMISSION MINUTES

REGULAR MEETING

FEBRUARY 22, 1983

MEMBERS PRESENT:

DON TROTTER
JOHN LITTLEHALES
REBECCA SWEETLAND
BETTY ROHOLT
MR. LIANE
BOB BROWN

STAFF PRESENT:

TOPAZ FAULKNER, PLANNING DIRECTOR
JON STEIN, ASSOCIATE PLANNER
JERRY THELANDER, PLANNING INTERN
CAROL LEE, SECRETARY
GREG EADES, CITY ATTORNEY

EXCUSED MEMBERS:

GEORGE CATHEY

Mr. Trotter called the meeting to order at 6:40 p.m. The meeting was held in the Council Chambers, City Hall.

3.1 MARY LEE MURPHY, Applicant C-83-2
WILLIAM DAVIS, Property Owner

REQUEST: Continuation of Public Hearing held February 8, 1983 to use a vacant parking lot located on the west side of McLoughlin Blvd, north of Milwaukie Ski and Sports as a car rental business.

Jon presented the Staff Report. Mr. Murphy had no comment. There was no testimony in favor or in opposition to the request.

Mr. Trotter asked Mr. Murphy what type of materials would be planted in the planter boxes. Jon said the landscaping plan did not indicate what would be planted.

Mr. Trotter asked how many of the spaces would be used by employees. Mr. Murphy said two of the spaces would be utilized by employees. He said he agreed with conditions recommended in the Staff Report.

Mr. Liane said he felt the landscaping requirement is unnecessary. Mr. Trotter explained that according to the Comprehensive Plan the Commission shall promote the beautification of the downtown area and other adjacent properties, and shall be consistent when imposing any landscaping regulations.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

Ms. Sweetland made a Motion to APPROVE C-83-2 with additional Finding #8: No adverse testimony received. Ms. Roholt Seconded the Motion. Mr. Trotter made a Motion to Amend the Main Motion adding Condition #8 read: The planters on the proposed site plan be made of brick with mortar joints. As an option the applicant may use extruded curbing and in-ground planting. Finding #9: Condition for permanent landscaping containers is consistent with landscaping beautification policy of the gateway to the city and surrounding property. Condition #9: The maximum number of VW's to be stored on the site at one time will be ten. Ms. Sweetland stated the additional Conditions would be accepted as part of the Main Motion.

Mr. Murphy stated the owner, Mr. Davis did not wish to have permanent landscaping boxes installed on the property because the property has been leased for a temporary period of time.

Mr. Liane made a Motion to delete the Proposed Condition #8, according to applicant's testimony that the property will be used as a temporary location for the VW rental business. The Motion died for lack of second.

Mr. Littlehales made a Motion for amendment to the Main Motion to modify Condition #6 to read: Application shall be reviewed by Planning Commission within six months to ensure landscaping has been completed. An option for bond covering landscaping requirements, for commercial property, ensuring completion of landscaping plan within two months with penalty of Conditional Use Permit revocation was discussed by the Commission and Staff. The applicant had submitted an adequate landscaping plan for the rather small site, therefore the Commission did not find it necessary to impose a bonding requirement. Ms. Sweetland Second the Motion for Amendment. The amendment carried 5 - 0, Mr. Brown abstaining. Mr. Trotter repeated the Main Motion. The Main Motion CARRIED 5 - 0, Mr. Brown abstaining.

Mr. Trotter stated the conditions requiring completion of the landscaping plan does not reflect the integrity of the applicant. The Planning Commission has a policy of imposing requirements to ensure completion of various conditions.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

FINDINGS C-83-2

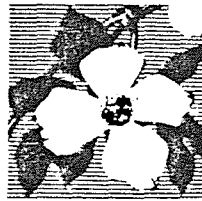
1. The proposal complies with the following elements of the Comprehensive Plan:
 - A. OBJECTIVE #2 - Employment Opportunity, Policy #1, Page 36.
 - B. OBJECTIVE #9 - Downtown Office Center, Policy #3, Page 39.
 - C. OBJECTIVE #10 - McLoughlin Blvd., Policies #1 - #4, Page 40.
2. The following Sections of the Zoning Ordinance will be met:
 - A. Section 5.03.8.b - Off-Street Parking and Loading, General Provisions, Design Requirements.
 - B. Section 5.01.3.b - Off-Street Parking Requirements.
3. Circulation would be improved by provision of extruded curb between ingress and egress points.
4. Site appearance in relationship to significant natural area to the west would be improved with provision of trailer skirting, natural stain on the trailer, and landscaping around the periphery of the trailer and parking lot.
5. A sign will be provided with minimal disturbance to adjacent uses.
6. The use will have five employees, with a maximum of one employee on site at one time, reducing the employee parking needs.
7. The property has signalized pedestrian access at the intersection of McLoughlin Blvd., and Jackson Street.
8. No adverse testimony was received at the public hearing.
9. Condition for permanent landscaping containers is consistent with the Landscaping Beautification Policy of the Gateway to the City and surrounding properties.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
PLANNING COMMISSION MINUTES
REGULAR MEETING - FEBRUARY 22, 1983

CONDITIONS: C-83-2

1. Submit sign details to be approved by Staff.
2. Utilities, parking lot layout, curbing, drainage and procedures to be approved by Public Works and Fire Departments.
3. Trailer base, including wheels and tongue, shall be skirted and the color shall match beige color of trailer.
4. Submit site plan showing specific location, size and caliper of proposed vegetation and maintenance details.
5. Provide assurance that there will be no outdoor on-site vehicle repair and service.
6. Application shall be reviewed by Planning Commission within six months to ensure landscaping has been completed.
7. Clarify and confirm location of rest room facilities.
8. The planters on the proposed site plan be made of brick with mortar joints. As an option, the applicant may use extruded curbing and in-ground planting, consistent with remaining plantings on-site and those of adjacent buildings.
9. The maximum number of VW's to be stored on the site at one time will be ten.

CITY OF MILWAUKIE



PLANNING DEPARTMENT
in the City Hall • phone 659-5171

March 1, 1983

Mary Lee Murphy
3147 S.E. Tacoma
Portland, Ore 97202

RE: C-83-2, VW rental business west side of McLoughlin,
north of Milwaukie Ski and Sports.

At the Planning Commission Meeting held February 22, 1983 the Commission voted to approve your request to use a vacant parking lot located on the west side of McLoughlin Blvd, north of Milwaukie Ski and Sports as a VW car rental business based upon the following Findings and Conditions:

FINDINGS: C-83-2

1. The proposal complies with the following elements of the Comprehensive Plan:
 - A. OBJECTIVE #2 - Employment Opportunity, Policy #1, Page 36.
 - B. OBJECTIVE #9 - Downtown Office Center, Policy #3, Page 39.
 - C. OBJECTIVE #10- McLoughlin Blvd., Policies #1 - #4, Page 40.
2. The following Sections of the Zoning Ordinance will be met:
 - A. Section 5.03.8.b - Off-Street Parking and Loading, General Provisions, Design Requirements.
 - B. Section 5.01.3.b - Off-Street Parking Requirements.
3. Circulation would be improved by provision of extruded curb between ingress and egress points.
4. Site appearance in relationship to significant natural area to the west would be improved with provision of trailer skirting, natural stain on the trailer, and landscaping around the periphery of the trailer and parking lot.
5. A sign will be provided with minimal disturbance to adjacent uses.

FINDINGS: C-83-2 Continued

6. The use will have five employees, with a maximum of one employee on site at one time, reducing the employee parking needs.
7. The property has signalized pedestrian access at the intersection of McLoughlin Blvd. and Jackson Street.
8. No adverse testimony was received at the public hearing.
9. Condition for permanent landscaping containers is consistent with the Landscaping Beautification Policy of the Gateway to the City and surrounding properties.

CONDITIONS: C-83-2

1. Submit sign details to be approved by Staff.
2. Utilities, parking lot layout, curbing, drainage and procedures to be approved by Public Works and Fire Departments.
3. Trailer base, including wheels and tongue, shall be skirted and the color shall match beige color of trailer.
4. Submit site plan showing specific location, size and caliper of proposed vegetation and maintenance details.
5. Provide assurance that there will be no outdoor on-site vehicle repair and service.
6. Application shall be reviewed by Planning Commission within six months to ensure landscaping has been completed.
7. Clarify and confirm location of rest room facilities.
8. The planters on the proposed site plan be made of brick with mortar joints. As an option, the applicant may use extruded curbing and in-ground planting, consistent with remaining plantings on-site and those of adjacent buildings.
9. The maximum number of VW's to be stored on the site at one time will be ten.

CITY OF MILWAUKIE - PLANNING DEPARTMENT
MARY LEE MURPHY - C-83-2
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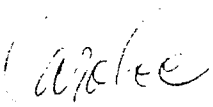
The decision of the Planning Commission was based on goals to improve the appearance of Milwaukie's downtown area, and to ensure completion of these Conditions.

Authorization of a Conditional Use shall be void after six months unless substantial construction pursuant thereto has taken place. The Planning Commission may extend authorization for an additional six months upon written request. Any action or ruling of the Planning Commission may be appealed to the City Council within fifteen days after the Planning Commission decision.

Enclosed is a copy of the public hearing C-83-2, Planning Commission Meeting Minutes, held February 22, 1983. If you have any questions the Planning Department Staff will be available for your assistance.

Sincerely,

THE MILWAUKIE PLANNING COMMISSION


Carol Lee
Secretary

CL

ENCLOSURE

CC: William R. Davis, 4301 S.E. Hill Rd., Milwaukie
Greg Eades, City Attorney
Steve Hall, Public Works Director

SECTION 6. CONDITIONAL USES

Section 6.01. Authorization to Grant or Deny Conditional Uses. Conditional uses in this Ordinance may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in Section 6.01. through 6.03. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to standards and requirements expressly specified by the Ordinance, any additional conditions which it considers necessary to protect the welfare of the surrounding property and the City as a whole. These requirements may include increasing the required lot size or yard dimensions, limiting the height of buildings, controlling the location and number of off-street parking and loading spaces, limiting the number, size and location of signs, and requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this Ordinance and classified in this Ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with conditional uses.

Section 6.02. Standards Governing Conditional Uses. A conditional use shall comply with the standards of the zone in which it is located, except as these standards have been modified in authorizing the conditional use and as otherwise modified as follows:

1. Yards. In a residential zone, yard ~~width~~ shall be equal to at least two-thirds the height of the principal structure. In any zone, additional yard requirements may be imposed.
2. Height Exception. A church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet, except as provided in an L-F zone, if the total floor area of the building does not exceed one and one-half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.
3. Access to Property and Building Openings. The City may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within 50 feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.
4. Church. The Planning Commission may authorize a church as a conditional use if in its judgment the size of the site is adequate for the intended use, but not less than 10,000 square feet in area, access to the site is adequate, and the surrounding property will not otherwise be adversely affected.
5. Public Utility or Communication Facility. In considering a conditional use application for such facilities as a utility substation, water storage tank, radio or television transmitter, etc., the

Milwaukie Ordinances

CONDITIONAL USES

Planning Commission shall determine that the site is located as to best serve the intended area with a minimum effect on surrounding property. As far as possible, towers, tanks, poles, overhead wires, pumping stations, and similar gear shall be located, designed, and installed with suitable regard for aesthetic values.

6. School. In considering a conditional use application for school facilities, the Planning Commission shall determine that the site is located as to best serve the intended area, access to the site is adequate, and the surrounding property will not otherwise be adversely affected.
7. Mobile Home Park. The Planning Commission may authorize a mobile home park as a conditional use providing it meets requirements of the Oregon State Board of Health. In addition, the following minimum requirements shall apply:
 - a. The minimum area for a mobile home park shall be three acres.
 - b. The average area of a mobile home site within the mobile home park shall not be less than 2,500 square feet excluding roadways, recreation areas, and other accessory facilities. No mobile home site shall have an area less than 2,000 square feet.
 - c. A sight-obscuring fence not less than 6 feet shall enclose a mobile home park except at points of ingress and egress.
8. Surface Mining. In considering a conditional use application for surface mining, the following minimum requirements shall apply:
 - a. Open pit and gravel excavating or processing shall not be permitted nearer than 50 feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 feet to the right-of-way line of an existing or platted street or an existing public utility right-of-way.
 - b. Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding one foot horizontal for one foot vertical.
 - c. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.
 - d. A rock crusher, washer, or sorter, shall not be located nearer than 500 feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

CONDITIONAL USES

Milwaukie Ordinances

9. Junk or Wrecking Yard. In considering a conditional use application for a junk or wrecking yard, the Planning Commission shall require that it be enclosed by a sight-obscuring fence not less than six feet high.
10. Day Care Center. The Planning Commission may authorize a day care center provided it meets the requirements of all State and County statutes or ordinances regulating such uses. In addition, the following minimum requirements shall apply:
 - a. The minimum lot size shall be 10,000 square feet.
 - b. The minimum outside play area shall be 100 square feet per child, must be fenced and may be partially covered.
11. Hospital, Sanitarium, Rest Home or Nursing Home. In considering a conditional use application for the above, the following minimum requirements shall apply:
 - a. The minimum lot size shall be 15,000 square feet plus one thousand (1,000) square feet per bed for each bed over fifteen (15).
12. Drinking Establishment. In considering a conditional use application for a drinking establishment, the Planning Commission shall consider the following:
 - a. Nearness to dwellings, churches, or other uses which require a quiet environment.
 - b. Building entrances, lighting, and other features which could generate or be conducive to noise or other disturbance for adjoining uses.
 - c. Vehicle access, parking, and circulation which could contribute to noise or hazards, or attract habitual assembly of unruly persons.
 - d. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these to ensure that such establishments do not become unduly or unnecessarily disruptive.
13. Single-family Attached and Townhouse Dwellings. In considering a conditional use application for single-family attached or townhouse dwellings, the Planning Commission shall consider the following:
 - a. Whether a structure of a similar type is within 200 feet.
 - b. Relationship to neighboring uses.

Milwaukie Ordinances

- c. Street access.
 - d. Terrain of the site.
14. Multi-family Condominium and Apartment Dwellings: In considering a conditional use application for multi-family condominium and apartment dwellings, the Planning Commission shall consider the following:
- a. Relationship to neighboring uses.
 - b. Street access.
 - c. Terrain of the site.

The project shall not cause traffic to move through adjoining lower density areas. (As amended by Ord. 1447 adopted Feb. 4, 1980)

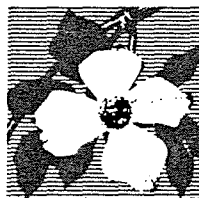
15. Senior, Retirement and Handicapped Housing. In considering a conditional use application for senior, retirement and/or handicapped housing the Planning Commission shall consider the following:
- a. Pedestrian access to transit.
 - b. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.
 - c. Pedestrian access to banking, churches, hospital, and restaurant.

The Planning Commission may recommend to the City Council an increase in density to as much as that permitted by the next higher zone. The City Council shall make the final decision on density increase.

- d. Quality of project as a living environment for residents.
- e. Minimizing impact on the surrounding area.

An applicant is required to submit materials and the Planning Commission shall attach conditions, which will insure that the special nature of the housing, and groups to be served, are clearly defined and maintained in perpetuity. Also, a project is required to meet the definition for this type of housing defined in Section 1.03.

16. Mobile Homes: In considering a conditional use application for a mobile home in R-10, R-7, R-5, R-3 or R-2 zones, the following requirements shall apply:
- a. Requirements of the Uniform Building Code for single family detached structures must be met.
 - b. Requirements of the Subdivision and Zoning Ordinances applicable to the appropriate zone must be met.
 - c. The mobile home (manufactured housing) must be located in a permanent foundation or other structure having similar appearance to foundations found in immediate area.
 - d. The exterior of the mobile home must be constructed of material similar in appearance and quality to residential exteriors found in the immediate area. (As amended by Ord. No. 1447, adopted Feb. 4, 1980.)



NOTICE OF PUBLIC HEARING

TO: PROPERTY OWNERS

ON: TUESDAY, APRIL 5, 1983 AT APPROXIMATELY 7 P.M.

AT THE MILWAUKIE CENTER
5440 SE Kellogg Creek Drive (North Clackamas Park)

The Milwaukie City Council will consider the appeal

OF: William R. Davis, applicant and property owner

ON: Planning Commission approval of Conditional Use Request
C-83-2 allowing car rental business.

LOCATION: West side of McLoughlin Blvd, north of Milwaukie
Ski and Sports

PROPOSAL: Request to remove conditions providing for a maximum
of 10 volkswagons at any one time and construction
of brick planters.

Interested citizens and the general public are invited to attend
this meeting or submit comments in writing prior to the hearing.

If you have any questions, please contact the Planning Department
or City Recorder, 659-5171.

14980 S.E. River Forest
Milwaukie, Ore 97222

PROPERTY OWNERS NOTIFIED

June Frances
William Davis
31 Hill Rd.
Milwaukie, Ore 97222

George Keck
1334 S.E. Lava
Milwaukie, Ore 97222

Mildred Eastman
Exhaust Specialties
10799 McLoughlin
Milwaukie, Ore 97222

Alvin Wert
1651 S.E. Lava Dr.
Milwaukie, Ore 97222

Daniel & Francis Eastman
1781 Kilkenny Dr.
Lake Oswego, OR 97034

Douglas & Marie Cousin
1640 Manor Dr.
Gladstone, Ore 97027

Grace Wills
11104 S.E. Home
Milwaukie, Ore 97222

Ethel & Harold UNey
P.O. Box 22256
Milwaukie, Ore 97222

J.W. Cobb
1855 S.E. Jefferson
Milwaukie, Ore 97222

Midland Oil
P.O. Box 2440
Eugene, Ore 97222

Far West Federal Sav

Pendleton Woolen Mills
218 w.E. Jefferson
Portland Ore 97222

Barberis Celeste
1552 S.E. Lava
Milwaukie, or 97222

CITY OF MILWAUKIE
BILLS PAYABLE APRIL 5, 1983

IV
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1.	AASHTO	3.75	1-92	3.75
2.	American Bar Association	350.00	1-22	350.00
3.	Armeta Industries	77.00	4-	25.67
			20-	25.67
			30-	25.66
4.	Ash-Margulis, Inc.	18.00	1-62	18.00
5.	Bailey, Dick	39.75	1-61	39.75
6.	Baker & Taylor	77.81	1-34	77.81
7.	Bernard's Garage	343.84	1-52	343.84
8.	Boise Cascade Office Products	1,204.72	1-23	180.89
			1-32	63.56
			1-34	36.06
			1-35	22.20
			1-53	114.72
			1-62	43.29
			12-	744.00
9.	Boundary Commission	100.00	30-	100.00
10.	Chevron	24.40	1-53	24.40
11.	Chevron, Asphalt Division	141.90	4-	141.90
12.	Clackamas Cty. Sports Officials Assn.	1,568.00	1-36	1,568.00
13.	" " " " " "	1,435.00	1-36	1,435.00
14.	Clare, Frederick	19.00	1-34	19.00
15.	Clean One Janitor Supplies	304.47	1-62	304.47
16.	Columbia Battery Mfg. Co.	55.69	1-52	55.69
17.	Columbia River Chapter I.C.B.O.	10.00	1-93	10.00
18.	Coopers & Lybrand	4,475.00	1-23	4,475.00
19.	Crim Prevention Assn. of Oregon	25.00	1-52	25.00
20.	Clackamas Cty. Animal Control	266.00	1-52	266.00
21.	" " Department of			
	Environmental Services	326.93	4-	326.93
22.	" "	389.08	1-23	15.90
			1-24	202.08
			1-32	10.76
			1-62	160.34
23.	Clackamas Cty. Fire District #1	190.67	1-62	190.67
24.	" " Printing Department	210.00	1-23	210.00
25.	" " Recorder	16.00	1-92	16.00
26.	" " Sheriff's Dept.	7.35	1-52	7.35
27.	Daily Journal of Commerce	11.55	1-2-	11.55
28.	Dee Thomason Ford	37.98	7-	37.98
29.	Demco	38.32	1-34	38.32
30.	Dralle International Trucks, Inc.	536.38	7-	536.38
31.	Flying J. Propane, Inc.	5.60	4-	5.60
32.	Four Seasons Athletics & Awards	160.00	1-36	160.00
33.	Fred Meyer	47.64	1-62	47.64
34.	EBSCO Subscription Services	3,101.10	1-34	3,101.10
35.	Environmental Pollution Control, Inc,	15.14	20-	15.14
36.	Executive Dept.	300.00	1-53	300.00
37.	Gaylord Bros. Inc.	61.44	1-34	61.44
38.	Gibbens Col, Inc. Approval Recommended	210.13	1-25	210.13
39.	Goldsmith Wholesale Distributor	29.61	1-62	29.61

Hugh H. Brown
City Manager

CITY OF MILWAUKIE
BILLS PAYABLE APRIL 5, 1983

40.	Goodall Rubber Company	90.14	4-	30.05
			20-	30.05
			30-	30.04
41.	Goodyear Tire Centers	516.80	7-	516.80
42.	Grants Pass, City of <i>Basketball 7-shirts</i>	60.00	1-36	60.00
43.	Gresham Lawn & Tractor	38.76	1-36	38.76
44.	Halton Tractor Company	10.00	7-	10.00
45.	Hillsboro, City of <i>Budget</i>	5.00	1-22	5.00
46.	IBM	86.75	12-	86.75
47.	IBM Office Products	172.00	1-32	172.00
48.	ICBO	30.00	1-62	30.00
49.	International Assn., Chiefs of Police	24.00	1-51	24.00
50.	Institute for Research	22.96	1-34	22.96
51.	Jafco	62.94	1-33	62.94
52.	Kovac, Leonard J. Jr.	315.00	1-22	315.00
53.	Krupp Industrial Electric, Inc.	1,548.50	30-	1,548.50
54.	LGPI	50.00	1-21	50.00
55.	Leupold & Stevens, Inc.	82.50	4-	82.50
56.	Lipco Brokerage, Inc.	27.33	4-	9.11
			20-	9.11
			30-	9.11
57.	R.S.S. Workshop	6.00	1-36	6.00
58.	McDaniel, James I.	29.75	1-52	29.75
59.	McFarlane's Bark, Inc.	104.00	1-36	104.00
60.	McGarvey, Len	30.00	1-52	30.00
61.	McNaughton Book Service	547.50	1-34	547.50
62.	McMinnville, City of <i>Tournament City Fee</i>	85.00	1-36	85.00
63.	MTI Teleprograms, Inc.	233.50	1-52	233.50
64.	Main Street Cleaners	392.50	1-52	392.50
65.	Maloney Brothers Auto Parts	43.80	1-62	43.80
66.	Marvac Products, Co.	140.00	4-	40.00
			20-	100.00
67.	Merritt Microfilming, Inc.	85.00	1-92	85.00
68.	Meter Box Equipment Co.	232.81	30-	232.81
69.	Metro West Oil, Inc.	4,023.20	GL	4,023.20
70.	Milwaukie Postmaster	20.00	1-62	20.00
71.	Moen Machinery Co.	39.27	7-	39.27
72.	Motorola	144.25	1-62	144.25
73.	Municipal Finance Officers' Assn.	155.00	1-23	155.00
74.	National Police Chiefs & Sheriffs Information Bureau	28.35	1-51	28.35
75.	New Review	12.00	1-34	12.00
76.	New Review	24.00	1-23	12.00
			1-53	12.00
77.	North Clackamas Junior Baseball	350.00	1-36	350.00
78.	North Clackamas School District	70.65	1-36	70.65
79.	Northwest Outdoor Equipment, Inc.	60.01	1-36	60.01
80.	Northwest Regional City Management Conference	56.71	1-21	56.71

CITY OF MILWAUKIE
BILLS PAYABLE APRIL 5, 1983

81.	Northwest Natural Gas	1,503.42	1-32	429.25
			1-34	487.54
			4-	8.69
			30-	577.94
82.	Olinger Gladstone Dodge	6.00	1-52	6.00
83.	Olson Bros. Service	271.64	1-52	271.64
84.	Oregon Association of Court Admin.	80.00	1-33	80.00
85.	Oregon Occupational Safety and Health Conference	26.50	4-	8.84
			20-	8.83
			30-	8.83
86.	Oregon Peace Officers Association	11.30	1-52	11.30
87.	Oregonian, The	48.00	1-34	48.00
88.	Oregonian Publishing	54.90	1-35	54.90
89.	Oregon State Board of Medical Examiners	150.00	1-62	150.00
90.	PGE	21,011.67	1-25	16,720.98
			1-34	323.19
			1-37	452.35
			1-53	203.21
			1-61	46.86
			4-	205.84
			20-	189.93
			30-	2,869.31
91.	PNWS-AWWA Association	90.00	1-91	90.00
92.	Pace Auto Parts	143.80	7-	143.80
93.	Pacific Coast Laundry	242.30	1-34	18.00
			1-37	16.00
			1-52	4.00
			1-62	13.50
			4-	63.60
			20-	63.60
			30-	63.60
94.	Pacific Northwest Bell	1,931.71	1-21	34.85
			1-32	236.38
			1-36	37.93
			1-53	703.30
			1-61	50.20
			1-62	393.51
			4-	270.37
			20-	81.50
			30-	123.67
95.	Pacific Northwest Bell	305.14	1-34	305.14
96.	Pacific Northwest Bell	1,731.94	1-	1,731.94
97.	Pacific Western Bank	829.38	12-	829.38
98.	Parkrose Machine & Fab.	175.00	7-	175.00
99.	Pickle Barrel	42.75	1-10	21.38
			1-35	21.37

Planing Com / Council

CITY OF MILWAUKIE
BILLS PAYABLE APRIL 5, 1983

100.	Petty Cash	254.53	1-10	2.64
			1-21	19.70
			1-23	18.27
			1-34	36.71
			1-35	3.10
			1-36	39.27
			1-37	.76
			1-51	14.65
			1-52	58.15
			1-62	27.45
			7-	31.70
			30-	2.13
101.	Piper's Pub <i>Budget Council</i>	65.00	1-10	65.00
102.	Pitney Bowes	417.00	1-23	417.00
103.	Pixler Auto Parts, Inc.	10.00	7-	10.00
104.	Platt Electric Supply	211.75	1-32	98.62
			1-62	113.13
105.	Portland Precision Instrument	98.45	30-	98.45
106.	Robben Oil	645.24	1-62	645.24
107.	Rock Creek Sand & Gravel	344.00	4-	344.00
108.	Rodda Paint	151.20	1-36	151.20
109.	Riehl Contractor	279.00	1-37	279.00
110.	Rub-A-Dub Car Washes	19.90	1-52	19.90
111.	Safety Kleen	40.75	4-	13.58
			20-	13.58
			30-	13.59
112.	St. John The Baptist Parish Club	40.00	GL	40.00
113.	Samuels Steel Products	15.00	1-52	15.00
114.	Schetky Equipment	112.64	7-	112.64
115.	Shepard's/McGraw-Hill	16.00	1-22	16.00
116.	Short's Grinding & Machine Works	28.00	7-	28.00
117.	Southgate News Agency <i>o regan</i>	13.50	4-	4.50
			20-	4.50
			30-	4.50
118.	Southgate News Agency	90.00	1-21	90.00
119.	Steel Fabricators, Inc.	21.90	7-	21.90
120.	Stevens Automotive	141.28	7-	141.28
121.	Stiger, John C., M.D.	87.70	1-62	87.70
122.	Subpoena Fees	45.00	1-33	45.00
123.	U.S. Postmaster	20.00	1-35	20.00
124.	UniPac	460.00	30-	460.00
125.	Urban Land Institute	25.50	1-35	25.50
126.	Valley Communications	444.00	1-36	21.00
			1-52	189.00
			1-91	34.00
			4-	100.00
			30-	100.00
127.	Valley River Inn	70.00	1-33	70.00

CHART OF ACCOUNTS
FUNDS, DEPARTMENTS & DIVISIONS

Effective July 1, 1982

CITY COUNCIL	01-10	BONDED DEBT FUND	02
CITY ADMINISTRATION	01-21	EQUIPMENT RESERVE FUND	03
LEGAL	01-22	STATE TAX STREET FUND	04
COMPTROLLER	01-23	IMPROVEMENT BOND SINKING	
COMPTROLLER/PURCHASING	01-24	FUND	05
COMPTROLLER/GENERAL GOVERNMENT	01-25	STREET IMPROVEMENT FUND	06
		EQUIPMENT REPAIR FUND	07
COMMUNITY SERVICES ADMINISTRATION	01-31	BIKE AND FOOTPATH FUND	09
MILWAUKIE CENTER	01-32	FIXED ASSET ACCOUNT GROUP	10
MUNICIPAL COURT	01-33	REVENUE SHARING FUND	12
LIBRARY	01-34	COMMUNITY DEVELOPMENT GRANT	
PLANNING	01-35	FUND	13
PARKS & RECREATION	01-36	SEWER FUND	20
CITY HALL	01-37	WATER FUND	30
		GENERAL LEDGER/INVENTORY	GL
POLICE ADMINISTRATION	01-51		
FIELD SERVICES	01-52		
SUPPORT SERVICES	01-53		
FIRE ADMINISTRATION	01-61		
FIRE SUPPRESSION	01-62		
FIRE PREVENTION	01-63		
PUBLIC WORKS ADMINISTRATION	01-91		
PUBLIC WORKS ENGINEERING	01-92		
PUBLIC WORKS BUILDING	01-93		

CITY OF MILWAUKIE
BILLS PAYABLE APRIL 5, 1983

128.	Ward Harris Co.	270.00	1-21	45.00
			1-35	45.00
			1-51	45.00
			1-53	45.00
			1-91	90.00
129.	Washington City Management Assn.	125.00	1-21	125.00
130.	Washington Environmental Training Resource Center	100.00	20-	50.00
			30-	50.00
131.	Water, Food & Research Lab., Inc.	235.50	30-	235.50
132.	Water Metrics	291.00	30-	291.00
133.	Webfoot Fertilizer Company, Inc.	477.50	1-36	477.50
134.	Weiler Chevrolet	28.94	1-52	28.94
135.	Westate Tractor Company, Inc.	20.36	7-	20.36
136.	Western Pacific Construction Materials	469.30	4-	469.30
137.	Wichita Feed	229.56	1-36	64.20
			1-62	2.80
			4-	80.49
			7-	27.75
			20-	8.19
			30-	46.13
138.	Wiley Security Services, Inc.	40.00	1-36	40.00
139.	Zellerbach Paper Company	155.62	1-24	114.70
			1-23	40.92
		<hr/>		<hr/>
		\$61,555.80		\$61,555.80

IV
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RESOLUTION NUMBER _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE CALLING AN ELECTION ON THE 1983-84 OPERATING TAX LEVY.

BE IT RESOLVED by the City Council of the City of Milwaukie that the City will submit to the voters of the City at a special election on May 17, 1983 the question of whether the City should levy the necessary amounts for general City operation during 1983-84.

BE IT FURTHER RESOLVED that the question will be as follows:

PROPOSITION NO. 51. CITY OF MILWAUKIE 1983-84 OPERATING LEVY

QUESTION: Shall Milwaukie levy \$1,344,580 outside its tax base for city operation during 1983-84?

PURPOSE: Voter approval of this measure is necessary to fund essential city services. Without voters approval, the City can levy only \$1,275,278 as decided by the voters in 1966. This meets only about one-half of the City's current needs. If this measure is approved, \$1,023,624 of the taxes levied in 1983-84 fiscal year are eligible for partial state funding. However, \$320,956 of the taxes levied will be totally financed by local taxpayers without any partial state payment.

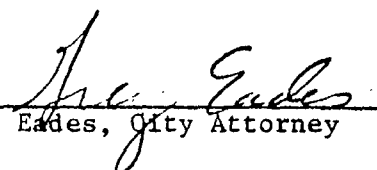
BE IT FURTHER RESOLVED that the City Recorder is directed to give notice of this election in the time and manner required by the amended Charter of the City and the statutes of the State of Oregon.

Introduced and adopted by the City Council on April 5, 1983.

ATTEST:

Joy Burgess, Mayor

Laurie Perkin, City Recorder



Greg Eades, City Attorney

1,344,580
1,275,278
320,956
\$ 2,940,814

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MILWAUKIE
CITY COUNCIL MEETING
March 15, 1983
7 p.m.

COUNCIL CHAMBERS

1428th MEETING

The one thousand four hundred and twenty eighth meeting of the Milwaukie City Council was held on March 15, 1983 with the following Councilors present:

Mayor Joy Burgess	Don Graf
Mike Richmond	Roger Hall
Ron Kinsella	

Also present:

Hugh Brown, City Manager	Ron Schanaker, Police Chief
Greg Eades, City Attorney	Gordon Erickson, Finance Dr.
Steve Hall, P. W. Director	Laurie Perkin, Secretary
Topaz Faulkner, Comm. Services Director	

The invocation was given and the pledge of allegiance was recited.

AUDIENCE PARTICIPATION

Mayor Burgess read a proclamation declaring March 13 - 20, 1983 International DeMolay Week.

Bill Hupp asked about legislation regarding gambling in the city. City Attorney said that in the absence of city regulation this issue would fall under the state statutes on gambling.

John Littlehales, member of the Planning Commission, read a letter dated March 15, 1983 and signed by the following members of the Planning Commission: John Littlehales, George Cathey, Robert Brown, Rebecca Sweetland and Betty Roholt. The letter stated their disagreement with the Council's decision not to reappoint Don Trotter to the Planning Commission and requested Council's response to concerns regarding communication, support and direction from Council.

George Cathey, member of the Planning Commission, also expressed his disappointment in the Council's decision and asked for an early response to the concerns of members of the Planning Commission.

Mayor Burgess thanked members of the Commission for their comments and stated that she stood by her decision. She commented on a letter received from Clair Kuppenbender dated February 24 which contained references to the former Chairman of the Planning Commission. Don Graf pointed out that Council had also received a staff report in response to Mr. Kuppenbender's letter dated March 1, 1983.

Jim Backenstos said he felt frustrated as a Key Communicator since he did not seem to be getting answers from City Hall.

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LEGISLATION

Payment of bills

It was MOVED by Graf, SECONDED by Kinsella, to approve payment of bills listed for March 15, 1983. MOTION CARRIED unanimously.

Al Liane asked why there were no license plates on the emergency rescue vehicle. Staff was asked to research this matter.

Island Station Water Improvements

Public Works Director has submitted memo dated March 9, 1983 requesting Council approval of extraterritorial water extension for the Island Station Project. He said that the proposal will result in better service to customers within the city limits, is the most logical way of providing needed improvements and that the city has the funds to complete the system. There will be an additional 33 customers in Milwaukie and 11 customers in Oak Lodge as well as an additional \$6 - \$7,000 in revenues. It was MOVED by Kinsella, SECONDED by Graf, to approve proposal as recommended by the Public Works Director. MOTION CARRIED unanimously.

Portland Drug Abuse Program

Police Chief, Ron Schanaker, introduced members of the Portland Drug Abuse Program which will begin in Milwaukie on April 1, 1983. Derick Leduc, member of the program's Board of Directors, explained the program and discussed the criteria used in admitting people to the program and the training of councilors.

Task Force on Poverty

John Maguire and Doug McClure, Chairmen of the task force, requested Council endorsement of the Final Report which included recommendations to publicize the existence and purpose of service organizations, to seek financial aid and volunteer existence from organizations. It was decided that a work session be held on March 23 at 5:30 p.m. to discuss the recommendations further.

Post Office location

Mayor has received a letter from Kenneth Solomon, Attorney, regarding the post office building at 2145 SE Monroe Street inquiring into the city's interest in the building. It was the concurrence of the Council that staff provide more information on the assessed valuation of this property as well as the property on which the Police and Fire Departments are located.

City Attorney said that access to the handicapped may be a condition by which the city would receive Federal Revenue Sharing funds in the future. He said he would do research on this.

North Clackamas Ballfield

Randy Westrick, Parks & Recreation Superintendent, has submitted memo dated March 11, 1983 recommending support of a proposal to erect a home run fence on North Clackamas ballfield which would be financed through the selling of advertising on the fence and could generate up to \$5,000 additional revenue which could be dedicated to the field lighting fund raising effort. Jim Backenstos and Bill Hupp spoke in support of the proposal. It was MOVED by Kinsella, SECONDED by Hall, to approve PARC's recommendation to erect a home run fence at North Clackamas Park. MOTION

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CARRIED unanimously.

Appointment of UN Day Chairman

It was decided to wait until the next meeting to appoint a UN Day Chairman.

Street lighting program

City Manager has submitted memo dated March 11, 1983 recommending the city begin the program to reduce street lighting in the city as approved by the Budget Committee. Steve Hall, Public Works Director, has reviewed lighting patterns and developed criteria for determining reductions. There was discussion on how to inform the public of the change and on public safety. Graf suggested that citizens might want to form their own lighting districts. It was decided that this issue could be discussed during the public hearing on the budget on April 5, 1983.

Cable TV Commission

There was discussion on whether to appoint a Cable Advisory Commission. It was decided to postpone the decision until after a franchise was awarded.

CONSENT AGENDA

Approval of minutes - March 1, 1983

Liquor licenses - Satyr Corp. DBA Fernwood Inn, Ship-A-Shore

Leave of absence - Linda Plaganis

It was MOVED by Hall, SECONDED by Graf, to adopt the consent agenda. MOTION CARRIED unanimously.

INFORMATION

Staff was directed to send certificates and letters of appreciation to Bernice Johnson who resigned from the Center Advisory Board and to Fred Abney who resigned from the Library Board. Kinsella said he would like more time to consider appointments and suggested that appointments not be made at the meeting during which interviews had been conducted. Council agreed to this.

It was decided to set up interviews for vacancies on City Advisory Bodies on April 19, 1983.

The meeting was adjourned at 9:28 p.m. to go into executive session under ORS 192.660 (1) (d) to discuss labor negotiations.

The executive session adjourned at 11:30 p.m.

Mayor Joy Burgess

Laurie Perkin, Secretary

CITY OF MILWAUKIE
SOLID WASTE TASK FORCE

March 10, 1983

7:00 P.M.

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Members present: Ron Kinsella, Michael Borg, Mel Dienes, Richard Hutchens, Cecil Erdt, Fred Kahut, Jean Baker.

Also present: Bill Bree, Bill McDonald, John Lamb, Lorna Olson.

1. Approval of Minutes: The minutes of the February 24th meeting were adopted as written.
2. Clackamas Transfer and Recycling Center
Michael Borg informed the Task Force of an article in the South Metro section of the Oregonian regarding the Clackamas Transfer and Recycling Center (CTRC) across from Rossman's Landfill. Metro has invited garbage haulers to visit the site and is considering adding some compatible recycling activities such as a drop center for cardboard, glass, tires, oil.
3. Legal Controls Thru Existing Ordinance
The question was raised whether freelance recycling could be prevented under the existing ordinance. In other words, if the city contracted for recycling services, could it prevent other recyclers from coming into the city. A letter stating these questions has been given to the city attorney. His response will be presented at the next meeting.
4. Handouts
Two reports were distributed for use by the Task Force members. The first is the recommendation of "Case Studies of California Curbside Recycling Programs", the second recommendation of "Residential Recycling Collection in Portland, Oregon". Both documents are intended as examples of issues considered in other areas and considered critical to a good recycling effort.
5. Final Report Outline
The Task Force is requested to evaluate all material received to date and to prepare an "outline" for the final report. All members outlines will be merged at the next meeting and a consensus outline prepared.
6. Goals
The task force developed research questions for goals 5,6, and 7.

VII
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Goal #5: Coordinator: Jean Baker

Use of Waste Stream as a resource for future jobs and economic development.

1. Whats happening to jobs in basic collection?
2. Does recycling add or subtract jobs?
3. What impact does recycling have on jobs in processing, manufacturing, etc.?
4. How would a city economical development program assist?

Goal #6 Coordinators: Roger Van Gelder, Mel Dienes and Bill McDonald

Equitable Rate Structure.

1. Whats the relationship between basic collection and recycling?
2. Should basic collection rate provide a subsidy "element" for recycling?
3. How would recycling affect the cost to garbage collectors?
4. Effect of frequency of collection
 - garbage
 - recycling
5. What about diversion credits?
6. What methods can be used to assure fair return to both basic collection and recycling?
7. To run recycling the money should come from rate structure, sales of materials and/or grants/subsidies.
8. What safeguards can be added to monitor the success and profitability of the "program".
9. Rate adjustment process.

Goal #7: Coordinators: Bill McDonald and Ron Kinsella

Responsible Regulatory practices and procedures.

1. What is the City's best role? (what should the city be doing?)
2. How much regulation?
3. What kind of support will the city provide?
 - anti-scavanger
 - mandatory collection
 - city billing
 - curbside service (recycling!)
 - exclusive rights to the service
 - exemptions
4. Monitor commercial industrial recycling of exotic material.
5. Monitor handling of hazardous materials.

VII
B

CITY OF MILWAUKIE
TASK FORCE TO HELP UNEMPLOYED AND
NEEDY IN CLACKAMAS COUNTY
MARCH 10, 1983

THE MILWAUKIE CENTER

Members Present:

John Macquire, Co-Chairman
Doug McClure, Co-Chairman
Jeanie Kuzman
Sara Hite
Beverly Kole
Marianne McGee
Joan Staley
Barbara Redman

Members Absent:

Mel Paulson
Mary Wilson
James Backenstos
Fr. Richard Huneger

1. Meeting called to order at 5:47
2. Final Report
 - A) Present to Council on March 15, 1983
 - 1) Asks them to send letter to groups addressed in report.
 - a) Doug and John meet with Hugh Brown to draft letter.
 - B) Suggestions for final report
 - 1) Clarify responsibility of actions-be more specific
 - a) Change A1-see document
 - 2) Discussion re coordination/follow-up contact in letter (add to handout)
 - 3) Make corrections on draft of final report
3. Prioritization
 - A) Discussion regarding prioritization of suggestions not addressed in Final Report.
4. Discussion of logistics for finishing reports

Meeting adjourned at 7:37

Marianne McGee, Secretary

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7. Senate Bill 405

This bill would require cities and local garbage hauler to offer recycling to customers within the franchise area. The Bill will be discussed on Friday, March 18th in a legislative committee. It is sponsored by the Oregon Environmental Council.

8. Next Meeting

March 24, 1983 at 7:00 p.m. - Council Chambers

Meeting adjourned at 9:00 P.M.

VII
C

SENIOR CITIZENS ADVISORY COMMISSION

MINUTES JANUARY 14, 1983

MEMBERS PRESENT: Nick Knapp, Vice Chairman
Presiding
Joe Keller, Art Renner, Kay Stevens, Gail Roach

MEMBERS ABSENT: Doris Olsen, Excused
Alice Measure, Unexcused
Art Johnson, Unexcused

STAFF PRESENT: Sara Hite

Minutes of October 8, 1982 were approved as read. Meeting for November was the joint evaluation session for the Center, minutes presented later.

Committees: Nick Knapp reported the King-Bell senior housing received final approval December 20 and is proceeding without problems. The attempt to change the ownership of Hillside Park is still underway. If a local structure can be set up, the much-needed rehabilitation can start.

Center programs are proceeding; consideration is being given to video games and to computer classes. The program committee approved the evaluation report of the two meetings as set up by a joint committee.

Transportation The County Advisory committee is still in the process of reorganization. Ridership has stayed about the same, but with increased service to Omark.

Center Evaluation Discussion of report to City Council. Kay Stevens moved to accept the report of the Evaluation Committee. The Motion was seconded and carried. The constant theme of need to get out the word about programs was stressed. Public Relations work needs to be done by each member of each committee. This group will support an annual evaluation by the same groups with a similar process.

Budget discussion will take place with the Center Advisory Board at a joint meeting in February. Nick will call Janet Witter to arrange a date for the meeting.

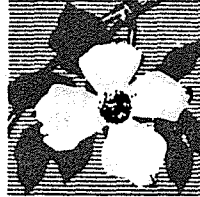
Resignation letter from Ron Kinsella was read. The City Council has been asked to appoint a replacement.

Next Agenda - Budget discussion, task force actions on social progress.

Adjournment.

Submitted by Gail Roach, Secretary

CITY OF MILWAUKIE



OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

March 17, 1983

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Nicholas R. Knapp
Executive Director
Housing Authority of the County of Clackamas
2889 SE Hillside Street
Milwaukie, Oregon 97222

Dear Nick:

The City of Milwaukie very strongly supports your efforts to transfer ownership of Hillside Park. We believe it is critical to adequately meet the housing requirements of needy families and this action provides increased possibilities to meet those needs. We will, of course, assist and cooperate with the new owners to provide for property improvement which benefit the owners, tenants and the city.

Your initiative during difficult economic times are to be contratulated and we stand ready to assist.

Sincerely,

Hugh Brown
Hugh Brown
City Manager

HB/le

cc: Board of Housing Authority Commission
Milwaukie City Council



HOUSING AUTHORITY of the COUNTY of CLACKAMAS

2889 S.E. HILLSIDE STREET MILWAUKIE, OREGON 97222 503-655-8267 MAINTENANCE 655-8273

23 FEB 83

MILWAUKIE

VII

D (2)

February 23, 1983

Mr. Hugh Brown
Milwaukie City Manager
10722 S. E. Main
Milwaukie, OR 97222

Re: Hillside Park

Dear Hugh:

The Housing Authority is intending to submit its transfer of ownership application to the Department of Housing and Urban Development within the next ten days; and we would be most interested in a letter of support from the City.

As discussed at the City Council meeting and subsequently with Mayor Burgess and Topaz Faulkner, I sincerely believe that Milwaukie stands to benefit appreciably with whatever long-term objective is selected by the new, nonprofit owners. Support of the ownership transfer will insure something will happen at Hillside Park; and we hope to receive substantial input from you and other City personnel with regard to what that long-term objective will be. While the possibilities range from sale for commercial development and using the proceeds to build elsewhere to renovation of the existing 100 units; it is very clear to me and hopefully to you that the City stands to benefit.

I have sent a copy of the application to Topaz Faulkner. Please feel free to contact me if you have any questions or require additional information.

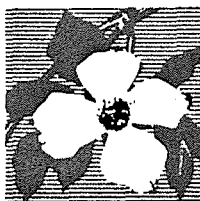
Sincerely,

Nicholas R. Knapp
Executive Director

NRK:bb

cc: Board of Housing Authority Commissioners

CITY OF MILWAUKIE



VII
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CITY COUNCIL
in the City Hall • phone 659-5171

March 23, 1983

Judge Robert Morgan
11097 SE 21st
Milwaukie, OR 97222

Dear Bob:

Thank you for your recent letter to myself requesting City Council consideration of a salary increase for next fiscal year.

Your letter was brought to the attention of the full Budget Committee within the past month. At this time the Council has not acted upon it due to the fact that the city has not held its Public Hearing on the budget.

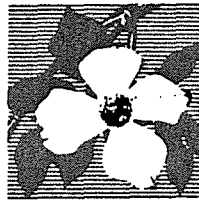
You will be notified of Council action on this matter upon completion of the adoption of the budget as it pertains to salary increases for the next fiscal year.

Sincerely yours,

Joy Burgess, Mayor
City of Milwaukie

JB/kmg

CITY OF MILWAUKIE



CITY ATTORNEY
in the City Hall • phone 659-5171

VII
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March 29, 1983

Mark Greenfield
1000 Friends of Oregon
400 Dekum Building
519 SW 3rd Avenue
Portland, Oregon 97204

Subject: 1000 Friends v. City of Milwaukie & LCDC

Dear Mark:

This will confirm our agreement to extend the schedule of planning and zoning activities necessary to settle this case to August 31, 1983 due to staff reductions in the Milwaukie Planning Department. Mike Huston will contact you regarding any necessary amendments to the order issued last fall.

Very truly yours,


Greg Eades
City Attorney

cc: Michael Huston
GE/vk

MEMORANDUM

VII
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TO: ALL EMPLOYEES
FROM: HUGH (BROWN) *Hugh Brown*
SUBJECT: WITHDRAWAL FROM THE SOCIAL SECURITY SYSTEM
DATE: MARCH 15, 1983

I have received the results from the survey conducted regarding withdrawal from the Social Security System. While the survey did not indicate overwhelming support for withdrawal, it did show significant interest in having PERS conduct an informational meeting. The level of interest in this meeting was not so high, however, that it guaranteed the 75% participation required by PERS. Moreover, based on their current information more than the 25% of employees needed to prevent withdrawal indicate that they do not favor withdrawing. While some may change their minds as a result of gaining more information, experience in other jurisdictions has been that the number who do not favor withdrawal increases rather than decreases throughout the process.

In the meantime we have been in communication with members of the Oregon Congressional Delegation regarding Social Security legislation. The House of Representatives passed HR1900, the so-called Social Security "Rescue Bill", on March 9, 1983 by a large margin, 282-148. Early Senate passage of this bill is predicted. This Bill does contain a provision which prohibits local governments from withdrawing from the Social Security System if the termination process is not complete prior to passage of the Bill.

As a result of both the survey data and the proposed federal legislation I do not believe it would be a good use of city employees' time or PERS' time to schedule informational meetings until after Congress has completed its work on this issue. I do appreciate the time you have taken to consider this matter and the information you have given me. I will keep you informed regarding Congressional action and other developments.

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SURVEY RESULTS

Total Employees under Social Security as of 3/15/83: 128

Total Employees responding to survey: 107 or 84%

Total Employees indicating they would attend informational meeting: 86

67% of total employees 80% of survey respondents

Total Employees favoring withdrawal based on their information at this point: 50

39% of total employees 46% of survey respondents

Total Employees not favoring withdrawal based on their information at this point: 34

27% of total employees 31% of survey respondents

8266 S. E. 32nd Avenue
Portland, OR 97202
March 15, 1983

VII h

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The Honorable Joy Burgess
Mayor of the City of Milwaukie
10722 S. E. Main Street
Milwaukie, OR 97222

Dear Mayor Burgess:

Thank you for clarifying the situation regarding the overpass at McLoughlin for us at the meeting on March 8.

We hope that you will do what you can to stop this proposed project. We are opposed to it because it will increase the traffic, both car and truck, on Tacoma-Johnson Creek Blvd. The street is not designed to take this kind of use. The increased traffic, and particularly with an overpass where there is no stoplight to interrupt the flow of traffic, would make it very difficult and dangerous for us to enter this street from our home. The traffic noise has already lessened the livability of our home--it seems to have increased threefold in the 22 years that we have resided here.

We strongly feel that these monies should be used to develop light rail to Milwaukie and even to Oregon City, and also consideration should be given to extending that on the old Bellrose line to Gresham. We also strongly feel that lights on McLoughlin and Highway 224 should be synchronized so that the traffic can flow smoothly. Trucks should be encouraged to use the Highway 224 route to get from McLoughlin to 82nd Avenue. If possible, provision should be made for bus stops near Tacoma and McLoughlin to be made outside the lanes of traffic as a way of keeping traffic moving smoothly at that intersection, and certainly the traffic light there should be synchronized with the railroad signals.

We are unhappy about the idea of having an interchange at Lester Road with the possibility of a four lane road on Johnson Creek Blvd. as far as 45th Avenue. If that happens, signs should be posted on the curving section of Johnson Creek Blvd. and Tacoma Streets between 45th Avenue and McLoughlin limiting or restricting truck traffic and directing trucks back out to 82nd Avenue or I-205 via Johnson Creek Blvd. east of 45th.

To put an interchange there, without limiting truck traffic on the section mentioned, and then put an overpass on McLoughlin would absolutely ruin this neighborhood. It is a residential neighborhood with a curving, narrow collector street and should remain so.

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Because it is a collector street and because many of us have to walk and bike to McLoughlin, we have tried for almost four years to have a sidewalk built on the south side of Tacoma from 32nd Avenue down to at least as far as R. Hoe and Company that could be used by both pedestrians and bicyclists (coming uphill). All the affected neighbors had signed a petition asking for that and at one point Multnomah County, after doing a study and determining our need, agreed to do it, then they backed out and said they didn't have funds. That would be a very useful way to improve our street with monies that may be available and would certainly make for safety and less frustration for pedestrians, bicyclists, and motorists.

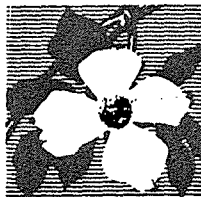
We appreciate whatever you can do to improve our situation, not to ruin it by allowing the overpass at McLoughlin.

Sincerely yours,

Mr. and Mrs. Wayne Gingerich

Mr. and Mrs. Wayne Gingerich

CITY OF MILWAUKIE



VII h (3)

OFFICE OF THE CITY MANAGER
in the City Hall • phone 659-5171

March 21, 1983

Mr. and Mrs. Gingerich
8266 SE 32nd Avenue
Portland, OR 97202

Dear Mr. and Mrs. Gingerich:

Thank you for your recent letter and for the views you expressed regarding the Tacoma Overpass at McLoughlin.

Having attended your Fair Share meeting on March 8, I more clearly understand your sincere concerns about the severe impact that added heavy traffic flow on Johnson Creek Boulevard would create for you and other residents in your area, if the Tacoma Overpass were built.

I am providing a copy of your letter to all members of the Milwaukie City Council, and also it will be placed in a separate file for future reference for me when the time arrives for more negotiations with Portland, Multnomah County, and other involved jurisdictions. It will be helpful to me.

I appreciate your input very much.

Sincerely,

Joy Burgess, Mayor
City of Milwaukie

kmc

Oregonian
March 29, 1983

Depot plan ignores interests of public

By ALOHA SCHADE

THE CITY of Portland needs \$3 million or \$4 million to bridge its budget gap. Multnomah County is looking for \$12 million to \$20 million to make up this year's budget shortfall. Tri-Met has delayed important capital projects such as the Milwaukie Transit Center because of shrinking revenues, and it plans to raise fares and cut service.

Yet Tri-Met is asking taxpayers to provide upward of \$1 million in direct and indirect subsidies to an Arizona-based corporation that had net profits of \$138 million last year.

Mayor Frank Ivancie, the Portland Development Commission and Tri-Met want to get the sound bus depot off the Transit Mall and out of the main downtown retail-business district by moving it north of Burnside to a two-block parcel straddling Northwest Hoyt Street and bounded by Northwest 5th and Northwest 6th avenues.

Do Portlanders really need to pay to move the Greyhound station in the first place? To convince the public that an urgent move is needed, Tri-Met claims that Greyhound buses delayed Tri-Met buses at an annual cost of \$280,000. When pressed to explain this figure, Tri-Met management asserts that each of the 494 rush-hour trips was delayed an average of 4 minutes at a cost of \$33 per hour. With 160 peak hour buses and six Greyhound buses travelling one direction on the mall, one would expect to see more than 27 Tri-Met buses stacked up behind each Greyhound.

Tri-Met's claims are contrary to the common experience of bus riders and are not supported by simple observation. A five-day tally by Citizens for Better Transit indicated Greyhound

buses caused no measurable delays on the mall during the peak hours observed. This \$280,000 figure is not even supported by Tri-Met's own December 1982 Portland Mall Impact Study that was conducted in cooperation with the Metropolitan Service District and Portland State University's Center for Urban Studies.

The Portland Development Commission plans to turn over to Greyhound Corp. 2.3 blocks of privately and county-owned land in exchange for \$1.5 million. A 2.3-block package in the downtown district is worth much more than what Greyhound is offering, and this is where the public subsidy comes in.

But there are more public expenses. The development commission has agreed to pay for the costs of condemning the privately owned block and relocating the businesses situated there.

Then there is site preparation — again the development commission and the taxpayers will pay the bill. The cost of removing and reinstalling utilities? The development commission would like to shift these substantial costs to a local private utility.

No one at Tri-Met has been talking publicly about costs that will rest on its doorstep. The agency will have to relocate its handy layover spaces on Northwest Fifth and Northwest Sixth avenues by either purchasing off-street parking spaces nearby or grabbing curbsides in an out-of-the-way location for the buses that must pause to meet southbound and westbound schedules. Either way, costs will be incurred for land purchases or additional operating time if these buses are driven to another, more distant site. To solve the problem, Tri-Met has considered purchasing a lot from the U.S. Postal Service and building a parking structure. Postal Service representatives estimate the cost for land alone at up to \$1 million.

Burnside merchants, developers and the big property holders have been saying that putting the Greyhound depot in the middle of their dis-

trict will drive away their customers in this newly emerging commercial hub. More importantly, the developers quietly but persistently are saying that if a bus depot goes in, plans for turning the Union Station plaza into a historical redevelopment project like San Francisco's Ghirardelli Square will be stillborn, and so will the tax revenues that could be generated by a coordinated restoration of the area.

What is the public getting for its money? We do not know, and that is what concerns us. We do know, however, that Greyhound wangled a prime downtown site for its own exclusive use as a bus and freight depot.

It is clear that even the old 1979 Port of Portland plan gave the public a better deal. At least both of the major bus companies would have been in the same building. In 1983, the Greyhound depot indeed will be closer physically to the Amtrak and Trailways stations, but heavy cross-traffic between these facilities will pose serious hazards to baggage-laden pedestrians.

Greyhound's unwillingness to fit into a bigger transportation picture also is evident in the building design. The depot would face away from Union Station, and the public would have a jumble of depots, not a transportation center designed for public convenience.

The proposed Greyhound depot would not connect well with the Transit Mall, which is six blocks to the south; it would be a half-dozen blocks away from the light rail track; the depot would not connect well to the freeways; and it would not have good connections to the airport.

What is the public getting for this money? We do not know, and that is what concerns us

Planning for a regional transportation terminal presents intriguing funding challenges

This plan would not relieve any problems on the mall. It would compound them.

Not so apparent is what Greyhound could do with its new terminal. Greyhound would be the big kid on the block, not merely because it is more than twice as big as its nearest competitor, but because the 1982 Federal Bus Reform Act permits it to cut service at will. Service already has been cut from Portland to Seaside and Tillamook. While boosting its highly profitable package freight business, Greyhound plans to cut 38 more runs in Oregon, completely eliminating service to many small towns.

You and I would be paying for Greyhound's aggressive entry into an expanding and lucrative freight market, since nearly one-third of the new bus facility would be dedicated to package handling and parking for its freight express fleet and customers. The taxpayers would be paying a higher price for less passenger service.

But this deal's biggest impact on the Portland region comes from the failure to look at ways to get the most value for every local tax dollar spent on transportation projects.

There are ways to do this.

First, by insisting that any facility built with public funds makes it easier for urban and regional travel by light rail, Tri-Met, Amtrak and private bus carriers. Oregonians would be getting a substantial return for public funds. The convenience of through-ticketing and through-baggage handling to connecting service and easy access to all modes of travel are features commonly designed into airports and should be used in surface terminals, too.

Second, by locating the terminal where it offers more than convenience for the traveling public using mass transportation, the terminal should tie into activities favored by Portland-area citizens, such as popular cultural and sports events.

If the terminal were situated directly to the west of the coliseum-convention center, it could serve an enormous cross section of the Portland-Vancouver metropolitan area because there would be easy Tri-Met, light rail and bus access to games, concerts and trade shows. Residents living outside the Portland metro area could come to events by Amtrak, intercity bus, airport limousine and light rail.

A convention-transportation center showpiece is the kind of development project that elegantly would settle the question of which Northwest city will gain the lion's share of the profitable large-scale convention and tourism markets.

Normally, business attracts business. A solitary Greyhound project employing some construction workers in the short-term and about 30 Oregonians long-term — in its restaurant, freight, passenger and baggage handling and information systems operations — simply will not fit the bill.

What we need now is a project to set in motion a large number of construction jobs and create long-term employment opportunities.

A regional transportation terminal would accelerate much needed private investment and, therefore, job opportunity in Portland. Large-scale development projects for the convention center already have jumped through the political hoops, so much of the speculation about whether the Portland region could envision a joint public-private project of this magnitude on the east side is now academic.

Planning for a regional transportation terminal presents intriguing funding challenges.

Local public lands to the west of the coliseum could be marshaled as a matching resource for newly available Section 9 funds from the Federal Gas Tax Act. Perhaps \$9 million is there to be tapped this year if regional agencies will do the groundwork it takes to put together a local match. Revenues from terminal user fees could be projected, and these could be calculated into the kitty as a resource for retiring revenue bonds. Tax-increment financing of urban renewal property, as has been done in Denver, also should be considered.

But the most exciting possibilities are those

specifically encouraged by

Section 9 gas tax provisions:

Public-private financing

mechanisms, such as the

lease of air rights for office-

hotel-retail complexes, as

was done in Miami, could be

structured. Leasing space to

the bus companies, all under

one roof, was the plan successfully effected in Fargo, N.D. New York City came up with a negotiated amenity package that captured funds for improving streets, creating parks and a waterfront esplanade in exchange for zoning clearances needed for commercial buildings, parking space and high-rise housing units convenient to public transportation. When a regional, publicly owned terminal is built, the existing Trailways depot site, which is owned by the city of Portland, as well as the adjacent block owned by Multnomah County, could be sold for their highest development potential with the proceeds available for inclusion in the terminal financing.

The choice is clear.

Area taxpayers can go along with a straight subsidy to Greyhound and a move that Tri-Met management claims is an urgent necessity but cannot support with factual data.

Or citizens can demand that regional governments begin the challenging task of siting, designing, funding and building a publicly owned regional transportation terminal that accommodates the traveler, provides easy access to a new convention center from points throughout the four-county area, creates short- and long-term jobs in the public sector and accelerates private development that in turn generates more jobs.

The biggest public and commercial development opportunities for Oregonians are waiting in our own backyard.

Alpha L. Schade is a Portland lawyer and member of the Portland chapter of the Oregon Association of Railway Passengers.



METROPOLITAN SERVICE DISTRICT

Providing Zoo, Transportation, Solid Waste and
other Regional Services

VII
J
①

March 23, 1983

Rick Gustafson
Executive Officer

Metro Council

Cindy Banzer
Presiding Officer
District 9

Bob Oleson
Deputy Presiding
Officer
District 1

Richard Waker
District 2

Charlie Williamson
District 3

Corky Kirkpatrick
District 4

Jack Deines
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Ernie Bonner
District 8

Bruce Etlinger
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

527 SW Hall St.
Portland, OR
97201
503/221-1646

Dear Local Official: *Jay*

The House Revenue Committee will be holding hearings in five cities to assess support for the various revenue proposals currently before the Legislature. Representative Tom Throop, Committee Chairman, has urged local officials to represent their interests to the Committee at its Portland meeting. That meeting will be held Monday, March 28, 7:30 p.m., in the Portland Building, 1120 S. W. 5th Avenue.

Representative Throop's request for local input was made during a recent meeting with local officials held at Metro as part of our local government forum. Speaking to elected officials and key staff members, he outlined the Revenue Committee's role this session as twofold: first, it must balance the State's budget in a manner which is responsive to the message carried by Ballot Measure 3; and second, it must restructure the State's tax system.

Representative Throop noted that the Governor's proposed budget called for a 28.7 percent increase in State agency budgets, but only a 3.4 percent increase in aid to local governments. This represents a dramatic break with traditional allocation between these two items. In absolute terms, it represents a shift of \$183 million which would normally be allocated in local aid, directed instead to State agency budgets. Based on conversations with his colleagues, Throop feels that two-thirds of the House favors redirecting those funds back to local government.

This does not mean, however, that local aid will escape the ax completely. According to Representative Throop, it appears likely that the final fiscal package will reflect a combination of approximately \$205 million in budget reductions and approximately \$350 million in increased revenues. It is also assumed that the four one-time-only measures enacted in the 1981 session and scheduled to sunset this year, will be continued through the 1982 to 1984 biennium (cigarette, liquor taxes; disconnection from the federal code; and delay in indexing exemptions). The \$205 million in cuts will likely break down to \$140 million

March 23, 1983
Page 2

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in reduced general fund budgets and approximately \$65 million in reductions and transfers to local government.

The cuts and transfers payments will be deepest in basic school support (\$20 million) and property tax relief (\$20 million). The HARRP program will not be affected. Revenues from gasoline, cigarette and alcohol sales as well as city revenue-sharing will also be reduced. The amount of the reduction, however, is not clear. Throop speculated that as a percentage of the total programs, the cuts may be large; although, in absolute dollar terms the cuts will not significantly reduce the State deficit.

In response to questions about the State's revenue projections, Throop noted that recent data suggests that the slump has bottomed out for the wood products industry, although high technology and the public sector have not yet reached bottom.

The second task facing the House Revenue Committee this session is a restructuring of Oregon's tax system, i.e., a sales tax. As Throop see it, any sales tax proposal must have the following characteristics if it is to have any chance of passage. It must: be constitutional rather than statutory; minimize any shifts of the tax burden between business and individuals; and be used solely for replacement of existing taxes. In addition, there must be no revenue gain to the State; and it should include a rebate program for low-income individuals, an exemption package which eliminates the worst elements of regressivity and a limitation on property taxes. The three major interest groups--business, education and local government--must all be satisfied with the proposal if it is to have any chance of passage concluded Throop.

Those officials attending our meeting with Representative Throop agreed that it was important to be well represented when the Revenue Committee arrived in Portland. As an elected official, I hope you will take the opportunity of the Committee's Portland meeting on March 28 to express your views about the financial needs of local governments.

Sincerely,



Rick Gustafson
Executive Officer

RG/PF/gl/8083B/D4



METROPOLITAN SERVICE DISTRICT

Providing Zoo, Transportation, Solid Waste, and
other Regional Services

VII
K ①

March 23, 1983

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Executive Officer

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Gary Hansen
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527 SW Hall St.
Portland, OR
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503/221-1646

Dear Local Official: *Hugh*

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Sincerely,



Rick Gustafson
Executive Officer

RG/PF/gl/8083B/D4

ROBERT J. MORGAN, P.C.
ATTORNEY AT LAW
11097 S.E. 21ST AVENUE
MILWAUKIE, OREGON 97222-7669

TELEPHONE
(503) 659-9966

April 4, 1983

Ms. Joy Burgess
Mayor of Milwaukie, Oregon
City Hall
Milwaukie OR 97222

Re: Delbert S. Landis

Dear Mayor Burgess:

I have received a copy of the March 25, 1983, letter of Mr. Delbert S. Landis that he sent to Councilman Ron Kinsella.

I thought it would be appropriate to respond to the letter in view of its content.

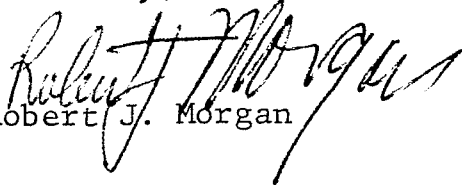
Mr. Landis was charged with a traffic infraction of failure to sign an automobile registration. We routinely dismiss these if the motorist signs the registration by the time of a court appearance.

I did offer to dismiss this one but Mr. Landis I suspect had absolutely no interest in the charge and resolving it. It would appear that his primary interest and motivation was to find a forum to articulate his views on government and the Constitution.

Mr. Landis sought to challenge the jurisdiction of the Court. Frankly, there was absolutely no merit for his legal papers or his position concerning the jurisdiction of the Court. He is asking for justice "without prejudice or malace or disrespect," but gives very little in return.

If the City Council wants to review this matter with me, I will, of course, appear.

Sincerely,


Robert J. Morgan

RJM:tf
cc: Ron Kinsella
Greg Eades

AFFIDAVIT

1 RE: Case # 72189 City of Milwaukie vs. Delbert Scott Landis

2 Municipal Court in the City of Milwaukie, March 9, 1983.

3 Judge Robert J. Morgan called my name and I then turned on my tape re-
4 corder and went to the clerk and submitted documents for the court to read
5 and respond to. (Copies attached). Judge Morgan then asked me to take a
6 seat to the left of Officer Voelz and raise my right hand in order to take
7 an oath.

8 Hereafter is what transpired between Judge Morgan and myself as trans-
9 cribed from my tape recording, witnessed also in person by the clerk,
10 Jeannie Marie Rieke, and five other witnesses. Four whose names and aff-
11 idavits I can secure; the fifth is at this time unidentified. However,
12 Judge Morgan can identify him due to the fact that they left the court-
13 house together in each others company in a car.

14 DELBERT: You'd better read what I gave to you first.

15 JUDGE: OK (long pause while judge is reading) Have you um? Is your
16 car registered now?

17 DELBERT: Uh, will you please state your jurisdiction as I have demanded?

18 JUDGE: OK, I will. I will deny your motion.

19 DELBERT: That's not a motion, your honor. That's a, uh, demand.

20 JUDGE: Well your, your motion to dismiss is for lack of jurisdiction.

21 DELBERT: There is no motion there, your honor, it says notice of demand.

22 JUDGE: Well the court does have jurisdiction over traffic matters that
23 occur within the, the city limits.

24 DELBERT: Please state what kind of jurisdiction that is.

25 JUDGE: Well, the jurisdiction referred by law under appropriate state
26 statutes.

27 DELBERT: Uh, under Article I, Section 10 of the, uh, Oregon Constitution
28 it says "No court shall be secret". What kind of court is this?

1 DELBERT: Please state your jurisdiction, your honor.
2 JUDGE: This is not a secret court.
3 DELBERT: It is
4 JUDGE: It is open to the public.
5 DELBERT: Uh, it is not being held in secret. However, it is a secret
6 court if you do not declare what kind of jurisdiction this court
7 has.
8 JUDGE: Well, I decline to do so and
9 DELBERT Uh, are you ready to dismiss this case then for lack of jurisdic-
10 tion?
11 JUDGE: Is your registration now signed? If it is, I will dismiss it.
12 DELBERT: I can't go into that until you declare the jurisdiction of this
13 court, your honor. You have to declare what kind of jurisdiction
14 this court is under Article 1 Section 10 of the Constitution.
15 JUDGE: I make the rules in this court.
16 I decline to do so and if you want to appeal that issue, you can
17 appeal it to the circuit court.
18 DELBERT: Uh, you are oath bound to uphold the Constitution. Are you deny-
19 ing the Oregon Constitution which says "No court shall be secret"?
20 JUDGE: I am not going to argue with you, I am not going to argue with
21 you. I've, I've answered your question.
22 DELBERT: No you haven't, your honor, you haven't told me what kind of jurisdic-
23 tion this
24 JUDGE: Well, in my opinion I have.
25 DELBERT: Is it civil?
26 JUDGE: In my opinion I have.
27 DELBERT: Is it criminal?
28 JUDGE: No. It is quasi-criminal.

1 DELBERT: What is crazi, quasi-criminal? What kind of jurisdiction is that?
2 JUDGE: Do you want to be held in contempt?
3 DELBERT: How can I be held in contempt if you haven't declared what kind of
4 court this is?
5 JUDGE: Well, I'm declining your demand and I'm declining your, uh, quasi-
6 motion.
7 DELBERT: It's not a motion.
8 JUDGE: Well, I interpret it as such, I am not going to argue with you.
9 Do you want to proceed?
10 DELBERT: Will I have to get a Writ of Mandamus in order to get you to de-
11 clare your jurisdiction?
12 JUDGE: Yes, I think you'll have to.
13 DELBERT: Alright, you give me no other choice then. I'll have to get a
14 Writ of Mandamus then.
15 JUDGE: OK, I'll give you 2 weeks to file it then we'll reset your cita-
16 tion.
17 Next case is.....

18
19
20 I, Delbert Scott Landis, do swear that the above is true and correct.
21 I believe that the judge, Robert J. Morgan, for the city of Milwaukie did
22 violate his oath of office by disregarding the Oregon Constitution after
23 it was brought to his attention and he continued to interrupt due process
24 of law and tried to act under colour of statute by not declaring or identi-
25 fying the court and its jurisdiction.

26 I also believe that by not standing up and making some kind of objec-
27 tion to the judges attempt to act outside the law, that the other two oath
28 bound public servants (the police officer and the court clerk) did join

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the judge in conspiracy to defame, injure, obstruct justice, and deny all
due process in every meaning of the law. I believe these individuals
should be held responsible for their actions or lack thereof in a court
of law.

Signed *Delbert Scott Landis*

DELBERT SCOTT LANDIS

Citizen At Law Without Recourse

State of Oregon, County of Multnomah
The foregoing instrument was acknowledged before
me this 11th day of March, 1983, by Delbert Scott
Landis.

Loretta J. Matthews
LORETTA J. MATTHEWS
NOTARY PUBLIC - OREGON
My Commission Expires 11-17-84

Witnesses in court 3/09/83

