

ORDINANCE NUMBER 1701

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1438, BY REZONING CERTAIN PROPERTY FROM RESIDENTIAL-TEN (R-10) TO RESIDENTIAL-SEVEN (R-7) ZONES (ZC-91-01).

WHEREAS, a Zoning Map Amendment was considered at a public hearing before the Planning Commission on February 12, 1991, and City Council on March 19, 1991, and

WHEREAS, the City Council finds the application should be approved based on the findings listed below,

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

Section 1. Findings. The following findings of fact and conclusions are adopted:

FINDINGS:

1. The current zoning for subject property is R-10.
2. Subject property is designated by the Comprehensive Plan as Low Density Residential.
3. The area involved is identified on Map Exhibit "1".
4. Findings for approval as recommended by the Planning Commission include Zoning Map Amendment criteria and Comprehensive Plan conformity and are addressed in Exhibit "2".

CONCLUSIONS:

1. Zoning Map Amendment criteria have been met.
2. Comprehensive Plan conformity has been shown.

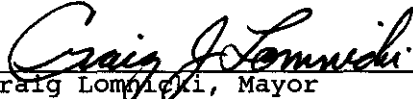
Section 2. Zoning Map Amendment. The Zoning Map of Ordinance 1438 is amended by rezoning subject property as depicted on Map Exhibit "1: (attached) from R-10 to R-7.

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Read the first time on March 19, 1991, and moved to second reading by
March 19 vote of the City Council.

Read the second time and adopted by the City Council on March 19,
1991.

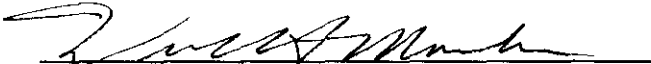
Signed by the Mayor on March 19, 1991.


Craig Lomnicki, Mayor

ATTEST:


Jerri Widner, City Recorder

Approved as to Form:


Tim Ramis, City Attorney

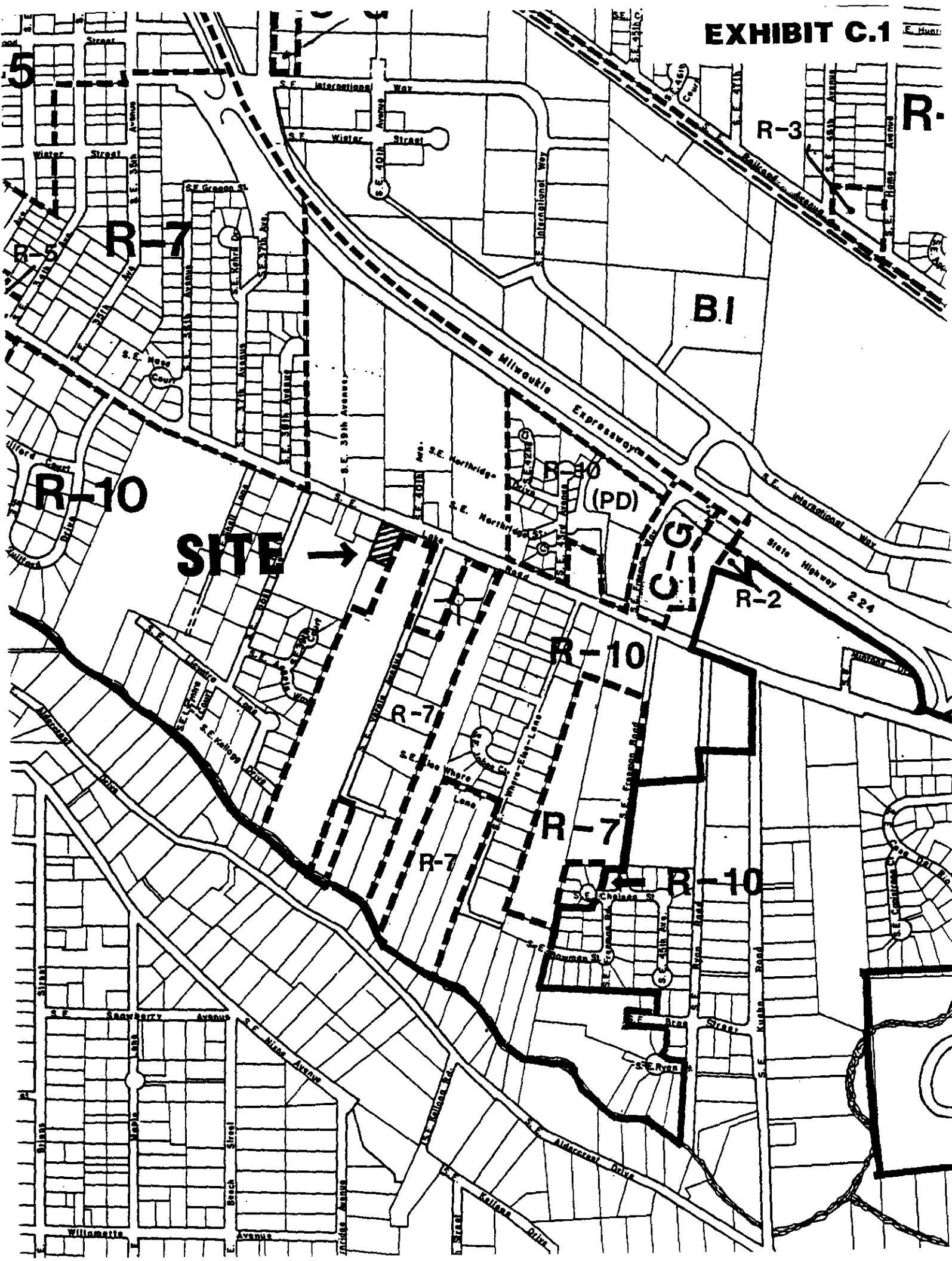


EXHIBIT 2**FINDINGS FOR APPROVAL**

1. The Applicant proposes to divide a 21,632 square foot lot into two parcels of 9,660 square feet and 11,972 square feet respectively. The Applicant has filed a separate Minor Land Partition application contingent upon the approval of this rezone (MLP-90-06).
2. The subject property is not large enough to meet R-10 zone standards with a flag lot configuration for Parcel 2. This is because Section 7.04.6 of the City Subdivision Ordinance specifies that access strip and turnaround areas cannot be included as part of the minimum buildable lot portion as required by each zone. This parcel would need approximately 14,000 square feet in area in order to meet these requirements. However, total parcel area proposed is 11,972 square feet.
3. The Applicant is proposing a rezone from R-10 to R-7 (ZC-91-01). This requires a Major Quasi-Judicial review process as per Section 10.11.D. of the Zoning Ordinance.
4. Rezoning criteria are those of Section 900 of the Zoning Ordinance as adopted by Ordinance 1686, and are discussed as follows:

903.01

Proposals for Zoning Map amendments must provide evidence that all requirements of this Ordinance relative to the proposed use of ruses are satisfied, in addition to addressing the following:

A. Applicable requirements of Section 10.03

This section pertains to the submission of application materials and a site plan. The Applicant has completed and submitted a City supplied application form. A detailed site plan has also been provided.

B. Reasons for requesting the Zoning Map amendment.

The Applicant desires to divide this property with the intent of constructing a second dwelling. Currently a small rental house sits on the north end of this property and in order to meet City flag lot provisions, a rezone to R-7 is requested. Both the Applicant and City Staff feel the rezone more feasible than a request for a lot size variance.

C. Description of existing site conditions, including but not limited to, topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site, and current zoning of the subject site.

Referencing Page 1 of the Applicant's Narrative, this site contains a single family residence fronting Lake Road. Behind the house is a hedge separating the house/yard area from an old orchard area in the rear of the lot.

This property slopes gently downwards away from Lake Road to the south. Access for the property is currently off Lake Road with separate access proposed for the existing house and new parcel.

This site is currently zoned R-10, is fully served by City public facilities, and is not designated or identified as containing hazards, natural or historic resources.

D. Description of the intended use or uses.

The intended use is to divide the subject property in order to create a second buildable lot. A new single family detached dwelling could then be constructed.

E. Identification on a detailed site plan of public facilities both existing and proposed, existing and proposed structures and site development details including display of setback and other zoning standards compliance information, and an indication of mitigation or other measures proposed for purposes of health, safety, or welfare within the community.

The Applicant has provided a site plan detailing site characteristics. This is referenced in Finding 4.C. above.

F. The approval criteria of Section 905.

1) 905.01A.

The proposed amendment must conform to applicable Comprehensive Plan goals, policies, and objectives, and be consistent with the provisions of City ordinances.

a. Residential Land Use and Housing Element, Objective 2, Policy 1

This policy identifies densities for Residential Designated properties. In this case, the proposal is to allow two units on a total of 21,632 square feet of property. This calculates at 4.03 units per acre, well within the 0 to 6.7 range for Low Density. The site is designated Low Density Residential by the Plan Map.

b. Residential Land Use and Housing Element, Objective 2, Policy 2

Low Density Residential characteristics are described by this policy. The proposal complies in that single family detached housing is proposed.

c. Residential Land Use and Housing Element, Objective 4, Policy 4

Policy 4 discusses changes proposed for Low Density Residential areas. In this case, Policy 4 is met because single family detached housing is proposed and a public hearing will be held as part of the rezone process.

d. Residential Land Use and Housing Element, Objective 4, Policy 5

Single family building bulk, scale, and height are required by this policy. Only one single family detached residence is proposed for construction as part of this proposal. A specific house type has not been identified for this property as yet. However, residences on neighboring properties are variable in size, ranging from approximately 800 to 2000 square feet in floor area, both in one to two story types. For purposes of marketability and compatibility, the Applicant will provide a new residence within that range.

e. Neighborhood Element, Objective 1, Policy 4

This policy requires new residences to be consistent in type, style, and density to that in the neighborhood area. As described above, a specific house type has not been suggested for the new parcel proposed. Without a specific proposal, Staff can only assume the new unit will be comparable to others in the area for purposes of marketability and compatibility. As mentioned previously, a wide range of housing styles and sizes are already within the immediate area. Therefore considerable flexibility is available to the Applicant regarding the configuration of the new house proposed.

f. Neighborhood Element-Neighborhood Area 1, Guideline 1

This guideline encourages the maintenance of single family character and improving the quality of new residential development. The proposal would result in the construction of an additional new single family residence. As previously discussed, the type of new construction could fall within the wide range of types and sizes. Quality of style or construction will depend upon the Applicant's desires for marketability of the unit.

g. Neighborhood Element-Neighborhood Area 1, Guideline 8

This guideline promotes the installation and maintenance of walkways. Currently, most of the Lake Road frontage does not contain sidewalks. In the case of this property, since the existing house onsite already fronts Lake Road, City Public Works will require a developer's agreement for future street or sidewalk improvements.

h. Transportation Element - Goal Statement

This goal promotes safe transportation systems and easy access. While the existing house doesn't have a garage or carport, it has an access off Lake Road at the northwest corner of the property. The proposal would create a second access onto Lake Road at the northeast corner of the property. The City Engineer has not identified problems as yet with these separate access points so close to each other. There is a possibility of reconfiguring the separate accesses into a single shared access in order to reduce access concerns onto Lake Road. This is more appropriately addressed as part of the Minor Land Partition Review (MLP-90-06) which would follow a rezoning approval for ZC-91-01.

i. Public Facilities and Services Element, Objective 3, Policy 2

This policy requires public facility improvements be made as properties develop. In this case, the Applicant would be required to provide street access and utility hook-ups. Future improvements to Lake Road (including sidewalks) are not required at this time according to the Office Engineer.

j. Public Facilities and Service Element, Objective 6, Policy 3

This policy requires storm drainage measures. The Office Engineer states drywells will be required for storm drainage for this property. Sizing will be determined by Public Works prior to site construction.

k. Energy Conservation Element, Objective 1, Policy 1

Policy 1 promotes infilling of developable lands and utilization of mass transit. A new residence on this lot would constitute an infill since the lot (if rezoned to R-7) would have adequate area for creation of a second parcel. Also, Tri-Met provides bus service down Lake Road, which fronts this property.

l. Energy Conservation Element, Objective 4, Policy 2

Site design that allows solar energy potential is encouraged. In this case, the configuration of the flag lot proposed will allow flexibility in placing a new house to benefit from solar access. In addition, since this property is higher sloping ground, a new house on this site will be impacted to a lesser degree by nearby housing regarding solar access.

2) 905.01.B.

The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

The Applicant states this property is adjacent to a site which will be developing shortly under R-7 (Asti property - Kellogg Creek Acres). This area in particular is transitioning from a larger lot "rural" setting to a more suburban configuration. Several large R-10 lots in the area are being slowly converted by residential subdivision. The conversion of this one property from R-10 to R-7 will not impact the character of the area. After this property is partitioned, average size of both parcels will be larger than the minimum lots size required in an R-7 Zone.

3) 905.01.C.

The proposed amendment will meet or can be determined to reasonably meet, applicable regional, state, or federal regulations.

Staff is unaware of other regulations applicable to the development of this site other than development permit requirements. Currently, Milwaukie reviews structural and mechanical permits whereas Clackamas County reviews plumbing and electrical permits. These are concurrent review processes and all have to be completed prior to unit occupancy.

4) 905.01.D.

The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

Adequate utilities are available to this site according to the City Office Engineer. No service capacity concerns have been identified for the one additional unit proposed.

5. The City Office Engineer has provided public facility comments indicating the availability of public utilities. These were originally provided as part of the Applicant's prior variance request (VR-90-05). the variance was subsequently withdrawn and a rezone requested, however, public facility issues are still the same.
6. The Building Official has provided comments relative to the proposed Minor Land Partition (MLP-90-05), reminding the Applicant of the need to provide an unobstructed emergency turnaround for the proposed flag lot.
7. This application is following the review and notice requirements of Section 10.11(D), Major Quasi-Judicial review.
8. A pre-application conference was held with the Applicant on September 20, 1990, to discuss the application process. Staff has also met with the Applicant since that date for questions and process support.
9. City Police and Fire have expressed no conflicts relative to this proposal.