

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, APRIL 26, 2016  
6:30 PM**

**COMMISSIONERS PRESENT**

Sine Adams, Chair  
Shaun Lowcock, Vice Chair  
Shane Abma  
Adam Argo  
Greg Hemer

**STAFF PRESENT**

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Keith Liden, Temporary Planner  
Dan Olsen, City Attorney

**COMMISSIONERS ABSENT**

Shannah Anderson  
Scott Barbur

**1.0 Call to Order – Procedural Matters**

**Chair Adams** called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.*

**2.0 Planning Commission Minutes** – There were none.

**3.0 Information Items**

**Denny Egner, Planning Director**, noted City Council had adopted a No Cause Eviction regulation and declared a housing emergency based on the increasing difficulty to find affordable housing in Milwaukie. The No Cause Eviction regulation required landlords to provide a 90-day notice to evict a tenant without cause.

**Mr. Egner** first introduced the new Senior Planner, David Levitan.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Public Hearings**

- 5.1 Summary: 55<sup>th</sup> Ave Partition  
Applicant/Owner: Trisha Clark, NW Planning/Joseph Taylor, Wildcard Investments LLC  
Address: 10722 SE 55<sup>th</sup> Ave  
File: MLP-2015-004, VR-2016-001  
Staff: Keith Liden

**Chair Adams** called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

**Commissioner Hemer** declared that he had assisted at the Linwood Neighborhood District Association (NDA) meeting with reading the proposal and answered questions for the group.

**Keith Liden, Temporary Planner**, presented the staff report via PowerPoint. He reviewed the proposal that involved dividing the existing lot into two parcels; the variance request was for the minimum rear yard setback and minimum lot size for Parcel 1 with the setback within the subject property. Staff recommendation was for approval for both the partition and variance, with a condition for a minimum 7,000 sq ft lot size and allow for a further reduction of the rear yard setback to 5 ft. He reviewed the decision-making options and comments received.

**Chair Adams** called for the applicant's testimony.

**Trisha Clark, PO Box 230121 Portland OR 97281**, represented the property owner. She summarized the changes that have occurred with the application including the parcel orientation and roadway access, and noted that the need for a variance was not indicated at the preapplication conference. She described other details regarding stormwater management and easements.

**Chair Adams** closed the public testimony.

**It was moved by Commissioner Hemer and seconded by Commissioner Argo to approve MLP-2015-004, VR-2016-001 for 10722 SE 55th Ave with the findings and conditions as amended. The motion passed unanimously.**

## **6.0 Worksession Items**

- 6.1 Summary: Comprehensive Plan Visioning Update  
Staff: David Levitan

**David Levitan, Senior Planner**, introduced himself and gave an overview of the project to update the Comprehensive Plan (Comp Plan). The current Comp Plan was adopted in 1989 and has had minor revision since. Conditions have changed in the city and City Council directed staff to begin a 3-year process to update the Comp Plan. Currently, several technical studies were being done, an Economic Opportunities Analysis, Housing Needs Analysis, and a Buildable Lands Inventory, to guide the process. He described the intent and process of each study, and the advisory groups involved. The next step would be to develop a Community Vision and Action Plan. A Request for Proposals was currently posted.

**Mr. Levitan** noted that Council directed staff to develop a Community Vision and Action Plan over the next year. The Vision would be an aspirational document and the Action Plan would detail how the City would achieve the vision. There would be extensive community outreach and involvement, including an advisory group. He described the relationship between the Vision and the Comp Plan.

**Mr. Egner** noted that the Action Plan was broader than only a land use document; it included direction such as neighborhood outreach, public safety, resilience-related issues, etc., that would involve different departments as well. He added the City had received a grant for the North Milwaukie Industrial Area project, a project that would also feed back into the Comp Plan process.

**Mr. Levitan** asked for direction from the Commission on if the Vision Project Advisory Group should transition into the Comprehensive Plan Review Committee, as the current Comp Plan called for creating the latter group during a major update. He also asked if the Commissioners had suggestions on potential outreach methods for the visioning process. He noted that it was important to establish a diverse and representative public outreach program for the community.

Staff answered questions from the Commission and the group discussed the advisory groups, the project's timeline, review of the RFP, and previous visioning work through other projects.

6.2 Summary: Marijuana Business Code Amendments  
Staff: Denny Egner

**Mr. Egner** noted the hearing for the code amendments was scheduled for May 24. He reviewed the draft amendments which included regulations for the different types of marijuana businesses that the Oregon Liquor Control Commission (OLCC) regulates as well as home recreational and medicinal grow sites. The regulation that required medicinal marijuana dispensaries to be located 1,000 ft apart would apply to recreational retail outlets as well. The proposal allowed for testing labs and research facilities in office and industrial zoned areas. An addition to be made was regarding odor control. Any production or processing facilities and warehousing would be allowed in the industrial and manufacturing zones. He reviewed other items included in the amendments such as energy use for lighting for grow sites, colocation of production and retail, and home occupation standards for home medical grow sites.

**Mr. Egner** answered questions from the Commission about warehousing, production, and processing.

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Updates and Discussion Items

**Commissioner Hemer** noted that May 7<sup>th</sup> was the Milwaukie plant sale day, with plant sales at the Ledding Library Pond House, Annie Ross House, Oak Lodge and Oak Grove garden clubs, and at the Milwaukie Historic Museum. There also would be a book sale at the museum.

9.0 Forecast for Future Meetings:

- |              |  |
|--------------|--|
| May 10, 2016 | 1. Cancelled   |
| May 24, 2016 | 1. Public Hearing: WG-2016-001 11906 SE 19 <sup>th</sup> AVE |
|              | 2. Public Hearing: Marijuana Business Code Amendments        |

Meeting adjourned at approximately 8:33 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



Shane Abma, Chair for  
Sine Bone, Chair



**AGENDA**  
**REVISED**

**MILWAUKIE PLANNING COMMISSION**  
**Tuesday, April 26, 2016, 6:30 PM**

**MILWAUKIE CITY HALL**  
**10722 SE MAIN STREET**

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
  - 5.1 Summary: 55th Ave Partition  
Applicant/Owner: Trisha Clark, NW Land Planning/Joseph Taylor, Wildcard Investments, LLC  
Address: 10722 SE 55th Ave  
File: MLP-2015-004, VR-2016-001  
Staff: Keith Liden
- 6.0 Worksession Items**
  - 6.1 Summary: Comprehensive Plan Visioning Update  
Staff: David Levitan
  - 6.2 Summary: Marijuana Businesses Code Amendments**  
**Staff: Denny Egner**
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
  - May 10, 2016
    - 1. Cancelled
  - May 24, 2016
    - 1. Public Hearing: WG-2016-001 11906 SE 19th Ave
    - 2. Public Hearing: Recreational Marijuana Code Amendments



### Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us). Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

#### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

#### Milwaukie Planning Commission:

Sine Adams, Chair  
Shaun Lowcock, Vice Chair  
Shane Abma  
Shannah Anderson  
Adam Argo  
Scott Barbur  
Greg Hemer

#### Planning Department Staff:

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Brett Kelter, Associate Planner  
Vera Kolias, Associate Planner  
Keith Liden, Temporary Planner  
Alicia Martin, Administrative Specialist II



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Keith Liden, Temporary Planner

**Date:** April 18, 2016, for April 26, 2016, Public Hearing

**Subject:** **File:** MLP-2015-004, VR-2016-001  
**Applicant:** Trisha Clark, NW Land Planning  
**Owner(s):** Joseph Taylor, Wildcard Investments, LLC  
**Address:** 10722 SE 55<sup>th</sup> Ave  
**Legal Description (Map & Tax Lot):** 1S2E31AB 01700  
**NDA:** Linwood

---

## **ACTION REQUESTED**

Approve application MLP-2015-004, VR-2016-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a 2-parcel partition and a variance to the minimum rear yard setback for the existing residence.

## **BACKGROUND INFORMATION**

The subject 0.42-acre (18,270 sq. ft.) property is located on the northeast corner of SE 55<sup>th</sup> Ave and SE Monroe Street (see Figure 1). The applicant proposes to divide the existing rectangular lot into 2 parcels (see Figure 2). The property is developed with one residence, which is on the southern portion of the site (see Figure 3).

**Figure 1. Subject site**



[illegible]

The site is located in a residential neighborhood with lots sizes ranging from approximately 6,500 sq ft to 1 acre. The subject property and neighboring parcels immediately to the east represent some of the larger properties in the immediate area. Both SE 55<sup>th</sup> Ave and SE Monroe are paved without curb or sidewalk.

## R-7 Residential Zone

LD Low Density Residential

**D. Land Use History**

There are no previous land use applications for this property.

**E. Proposal**

The applicant is seeking land use approval for the following:

1. Partition of the existing lot into 2 parcels of approximately 7,353 sq ft (Parcel 1) and 9,505 sq ft (Parcel 2). Parcel 1 would have frontage on SE 55<sup>th</sup> Ave and Parcel 2 would have frontage on both SE 55<sup>th</sup> Ave and SE Monroe Street. The house on Parcel 2 currently has driveway access on SE Monroe. This request is subject to Type II review.
2. Variance to reduce the minimum rear yard setback for Parcel 2 from 20 ft to 5.5 ft. This request exceeds the 10% variance permitted through Type II review, and is subject to Type III review.

The project requires approval of the following applications:

1. Type II Minor Land Partition
2. Type III Variance

**KEY ISSUES****Summary**

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

- A. Is the proposed variance reasonable and appropriate?

**Analysis****A. Is the proposed variance reasonable and appropriate?**

The existing house on Parcel 2 will have a rear yard setback of 5.5 ft. The applicant has provided an alternatives analysis (see application narrative) evaluating the impacts and benefits of the proposed 5.5-foot setback for Parcel 2.

As noted in Attachment 1 Findings, the dimensions of the property and the location of the existing house create a situation where at least one variance is necessary. If the rear yard requirement of 20 ft is met, then the lot width of Parcel 1 would need to be less than the code standard of 60 ft.

## CONCLUSIONS

### A. Staff recommendation to the Planning Commission is as follows:

1. Approve the 2-parcel land division.
2. Approve the variance to the minimum rear yard setback of the R-7 Zone. This will result in a reduction of the minimum rear yard setback for Parcel 2 from 20 ft to 5.5 ft.
3. Adopt the attached Findings and Conditions of Approval.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.911.4 Variance Approval Criteria
- MMC Chapter 19.700 Public Facility Improvements
- MMC Chapter Solar Access Protection
- MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
- MMC Section 17.28 Design Standards
- MMC Section 17.32 Improvements

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by July 20, 2016, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development and Engineering Departments, Linwood Neighborhood District Association (NDA), Clackamas County, and Clackamas Fire District #1. As of April 18,



2016, comments had been received from the Milwaukie Engineering Director and Clackamas Fire District #1.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	E-Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation dated March 14, 2016.				
a. Narrative	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Vicinity map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Exhibit A Setbacks for Parcel 1	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Exhibit B Reduced Preliminary Plat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Exhibit C Preapplication Notes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Exhibit D Assessor's Tax Map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g. Exhibit E City Utility Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
h. Exhibit F Deed/Ownership Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i. Exhibit G Site Photos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
j. Stormwater Simplified Approach Form	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
k. Exhibit H Letter of Authorization	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**Key:**

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-140>.

**Recommended Findings in Support of Approval  
File #MLP-2015-004, VR-2016-001, Trisha Clark**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Trisha Clark NW Land Planning on behalf of Joseph Taylor, Wildcard Investments, LLC, has applied for approval to partition the property at 10722 SE 55<sup>th</sup> Ave (TLID 1S2E31AB 01700) and has requested a variance to the minimum rear yard setback requirements. This site is in the R-7 Zone. The land use application file numbers are MLP-2015-004 and VR-2016-001.
2. The applicant is proposing to divide the existing rectangular lot into 2 parcels. The property is developed with one residence, which is on the southern portion of the site. The applicant is requesting relief from the R-7 Zone minimum rear yard setback of 20 ft to allow a 5.5-ft rear yard setback for the existing house on proposed Parcel 2. The request for relief from the minimum rear yard setback standards of the R-7 Zone is subject to Type III Variance review, which is being reviewed concurrently with the Type II Minor Land Partition application.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.301 Low Density Residential Zones
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.911 Variances
  - MMC Chapter 19.1200 Solar Access Protection
  - MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
  - MMC Section 17.28 Design Standards
  - MMC Section 17.32 Improvements
4. Per MMC 17.12.020.D.1, applications for a preliminary partition plat (the first phase of a minor land partition, or MLP) shall be processed in accordance with MMC Section 19.1005 Type II Review unless an associated application subject to Type III review is submitted in conjunction with the partition. The requested Variance is subject to Type III review, and the application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on April 26, 2016, as required by law.
5. MMC Section 19.301 Low Density Residential Zones
  - a. MMC 19.301.2 establishes uses allowed in the R-7 zone. Development on the parcels will be subject to the uses allowed in this subsection.
  - b. MMC 19.301.4 establishes development standards for newly created lots. The standards are met as shown in Table 1.

**Table 1. Overview of Compliance with Development Standards**

<b>Residential Zone R-7 Development Standards</b>			
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Staff Comment</b>
1. Minimum Lot Size	7,000 sq. ft.	Parcel 1: 7,353 sq. ft. Parcel 2: 9,505 sq. ft.	Complies with standard.
2. Minimum Lot Width	60 ft.	Parcel 1: 66 ft. Parcel 2: 105 ft.	Complies with standard.
3. Minimum Lot Depth	80 ft.	Parcel 1: 105 ft. Parcel 2: 90.5 ft.	Complies with standard.
4. Minimum Street Frontage (std. lot)	35 ft.	Parcel 1: 65.8 ft. Parcels 2: 105 ft. along Monroe St.	Complies with standard.
5. Minimum Yard Requirements for Primary Structures	Front: 20 ft. Side: 5 ft. Street side: 20 ft. Rear: 20 ft.	Parcel 1: NA Parcel 2: front (40'). Side ( 5.5'), street side (42') & rear (5.5')	Complies with standards except for rear yard.
6. Density	5.0-6.2 units/net acre	2 parcels	The site is 0.42 acres and approximately 0.38 net acres with the proposed ROW dedication of 5 ft. Minimum density is 2 dwelling units. Complies with standard.
7. Transportation Requirements	Yes, per MMC 19.700	Right-of-way dedication in lieu of improvements	As conditioned, complies with standard. See Finding 6.

The Planning Commission finds that, as conditioned, these standards are met with the exception of the rear yard setback for which a variance is sought.

6. MMC Chapter 19.700 Public Facility Improvements

- a. MMC Section 19.702 establishes the applicability of this chapter to new development.

MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to partition the existing parcel into two new lots. The partition triggers the requirements of MMC Chapter 19.700.*

*This chapter is applicable to the proposed development.*

- b. MMC Section 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.

*The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.*

*This section is not applicable to the proposed development.*

- c. MMC Section 19.705 requires that transportation impacts of the proposed development be mitigated.

*The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.*

*As conditioned, this standard is met.*

- d. MMC Section 19.708 contains the City's requirements and standards for improvements to public streets.

- (1) MMC Subsection 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

*The applicant shall construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line.*

*The applicant shall remove all signs, structures, or vegetation in excess of three ft in height from "vision clearance areas" at intersections of streets, driveways, and alleys.*

*The proposed development, as conditioned, is consistent with MMC 19.708.1.*

- (2) MMC Subsection 19.708.2 establishes standards for street design and improvement.

*The applicant shall construct a half street improvement on the east side of SE 55<sup>th</sup> Ave along the newly created lot's frontage. The street improvements include, beginning from the fronting property line, a 5 ft setback sidewalk, 5 ft planter strip, curb and gutter. The applicant agrees that the proposed development will impact SE 55<sup>th</sup> Ave, and that the ultimate improvement of SE 55<sup>th</sup> Ave to city standards, including stormwater planter facilities and sidewalks will benefit the subject property. The applicant has requested to dedicate Right-of-Way in lieu of constructing public improvements on SE 55<sup>th</sup> Ave along the newly created lot. The proposed dedication includes a width of 5 ft on SE 55<sup>th</sup> Ave and 10 ft in width on SE Monroe Street adjacent to parcel 1. The City has calculated the value of the proposed land dedication and finds it to be roughly proportional to the cost of street improvement construction and, due to the anticipation of improvements constructed as part of the Monroe Street Neighborhood Greenway project which is currently in a planning phase; the City of Milwaukie finds this alternative to be approvable.*

*The existing right-of-way width of SE 55<sup>th</sup> Ave fronting the newly created lot is 40 ft. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE 55<sup>th</sup> Ave a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 ft and 68 ft depending on the required street improvements. The right-of-way width required to accommodate the required improvements on SE 55<sup>th</sup> Ave is 50 ft. The applicant is responsible for a right-of-way dedication of 5 ft in width fronting the newly created lot.*

*The proposed development, as conditioned, is consistent with MMC Section 19.708.2.*

- (3) MMC Subsection 19.708.3 establishes sidewalks shall be provided on the public street frontage of all development.

*The construction of sidewalks along the proposed development property abutting SE 55<sup>th</sup> Ave is included in the street frontage requirements. MMC Section 19.708 states that “The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character”. The proposed development fronts a local road which currently does not contain sidewalks on either side, providing no opportunity for sidewalk connectivity. The City finds that the applicant’s proposal to dedicate right-of-way in lieu of constructing sidewalk along the frontage of the newly created lot provides a greater benefit for future pedestrian connectivity through contribution of needed right-of-way acquisition for the Monroe Street Greenway Project.*

*The proposed development, as conditioned, is consistent with MMC Section 19.708.3.*

- (4) MMC Section 19.708.4 establishes standards for bicycle facilities.

*The portion of SE 55<sup>th</sup> Ave fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements are not required for the proposed development.*

*MMC 19.708.4 does not apply to the proposed development.*

- (5) MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

*The proposed development property is surrounded by single family residences. The proposed development does not present an opportunity to provide a pedestrian or bicycle path and is not required to provide one.*

*MMC 19.708.5 does not apply to the proposed development.*

- (6) MMC Section 19.708.6 establishes standards for transit facilities.

*The portion of SE 55<sup>th</sup> Ave fronting the proposed development is not classified as a transit route in the Milwaukie Transportation System Plan. As a result, transit facility improvements are not required for the proposed development.*

*MMC 19.708.6 does not apply to the proposed development.*

The Planning Commission finds that, as conditioned, these standards are met.

## 7. MMC Chapter 19.911 Variances

- a. MMC 19.911.3 establishes the appropriate review process for variance applications.

*The applicant proposes to reduce the rear yard setback on Parcel 2 from the minimum R-7 Zone requirement of 20 ft to 5.5 ft. This request would reduce the rear yard setback by over 70%, which exceeds the maximum 25% reduction to lot width standards permitted through Type II Variance review.*

*The Planning Commission finds that the request is subject to a Type III Variance review.*

- b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

- (1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

*The applicant indicates that the existing house has a 5.5-ft setback between the garage and eastern property line. This setback condition will not be affected by the partition. The front entrance to the house faces SE 55<sup>th</sup> Ave, making a reasonable argument for this to be considered as the rear yard and the setback from the northern side of the house to the new boundary with Parcel 1 as a side yard. Figure 19.201-6 Yards in MMC 19.201 Definitions supports this interpretation.*

*Given the minimum lot width standard of 60 ft, the existing property may not be partitioned without a variance to at least one code standard. Creating a lot that meets the city's dimensional standards will create a new buildable lot which should be fully capable of satisfying applicable building setback requirements for the new home. This will enable the new home on Parcel 1 to be compatible with surrounding development.*

*This criterion is met.*

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

- (i) The proposed variance avoids or minimizes impacts to surrounding properties.

*The proposed variance avoids creating adverse impacts for surrounding properties. Development on the newly created lot will be subject to the same setback and lot coverage requirements of the R-7 Zone. The building setback variance will be internal to the site and will not pose any discernible adverse impacts on surrounding properties. As noted above, some type of variance would be necessary to divide this property, and the proposed variance will allow for a new lot, which can satisfy all city standards.*

*This criterion is met.*

- (ii) The proposed variance has desirable public benefits.



*The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone.*

- (iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

*As noted above, the location of the existing house is driving the need for the variance. Without it, the lot could easily be partitioned in a manner that meets all dimensional requirements. However, the house has significant value, and it is not feasible to remove it and begin anew.*

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

*The potential impact of the variance on neighboring properties will be mitigated by having the setback reduction located in the middle of the site and not adjacent to adjoining properties. In addition, the new buildable lot will meet all applicable dimensional standards, enabling construction of a new home that also complies with code requirements.*

The Planning Commission finds that these criteria are met.

#### 8. MMC Chapter 19.1200 Solar Access Protection

- a. MMC 19.1203 contains the standards for solar access protection for new development.

- (1) MMC 19.1203.2 establishes applicability for this chapter for a partition, unless an adjustment as provided in MMC 19.1203.5 is justified.

*The applicant proposes an adjustment. This chapter is not applicable as noted in the findings relating to MMC 19.1203.5 below.*

- (2) MMC 19.1203.5 allows the Director (in this case, the Planning Commission) to reduce the percentage of lots that must comply with the design standards in MMC 19.1203.3.

MMC 19.1203.5 A. allows for adjustments to the design standards when compliance would reduce density or increase on-site development costs. Subsection MMC 19.1203.5 A 2 allows consideration of “significant development amenities.”

*In this case, the significant development amenity is the existing house, which cannot be reasonably be moved or removed due to the value of this improvement. The house location dictates dividing the property in the manner proposed. In addition, with an east-west dimension of 110 ft (105 ft following right-of-way dedication) removing the house and creating two long parcels with frontage on SE Monroe Street would require a variance to the minimum lot width standard of 60 ft.*

The Planning Commission finds that the criteria for granting an adjustment are met.

#### 9. MMC Section 17.12 Application Procedure and Approval Criteria

- a. MMC 17.12.040.A establishes criteria for approving a preliminary plat.

- (1) The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

*See Finding 5 for an analysis of the proposal against the standards of MMC 19.301 Low Density Residential Zones.*

- (2) The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

*The applicant has requested a variance to the minimum rear yard setback of the R-7 Zone for Parcel 2. See Finding 7 for an analysis of this request.*

- (3) The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

*The proposed partition is not a subdivision, and this section is not applicable.*

- (4) The streets and roads are laid out so as to conform to subdivision plats, which are already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

*No new streets or amended street alignments area proposed, and this section is not applicable.*

- (5) A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

*The applicant has provided this information in the materials submitted for the land use application.*

The Planning Commission finds that, as conditioned, these criteria are met.

#### 10. MMC Section 17.20 Preliminary Plat

MMC 17.20 contains the information required for a preliminary plat application.

*The materials submitted by the applicant satisfy the requirements of this chapter.*

The Planning Commission finds that these requirements are met.

#### 11. MMC Section 17.28 Design Standards

- a. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

*As demonstrated by these findings, the partition conforms with all applicable City criteria and standards with the exception of the variance request for the rear yard of the existing house.*

- b. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

*As described in finding 6, the proposed partition complies with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukee Engineering Department for conformance with Public Works Standards.*

## c. MMC 17.28.040 contains standards for lot design.

- (1) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

*As approved by this action, the proposed parcels have adequate size and dimensions for development and uses allowed in the R7 zone, and conform to the standards of Title 19 as described in these findings.*

- (2) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

*The proposed parcels are rectilinear in shape, with side lot lines at right angles and the rear lot lines parallel to the street.*

- (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines.

*There are no compound lot lines proposed for side or rear lot lines of either parcel.*

- (4) MMC 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

*The applicant has requested a variance to the minimum rear yard setback standard of the R-7 Zone, which is being processed pursuant to MMC 19.911.*

- (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations.

*None of the parcels in the proposed partition have a double or reversed frontage on more than one public right-of-way.*

- (6) MMC 17.28.040.F requires that pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

*The minimum street frontage standard for the R-7 Zone is 35 ft (MMC 19.301.4, Table 19.301.4). Parcel 1 only has street frontage along SE 55<sup>th</sup> Ave with over 60 ft of frontage. Parcel 2 contains the existing house, which has access via SE Monroe Street, where it has over 100 ft of street frontage. As established in Finding 5.b, these frontages meet the minimum required street frontage in the R-7 zone.*

## d. MMC 17.28.080 contains criteria for public open spaces.

*The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.*

## e. MMC 17.28.070 prohibits flag lots in new subdivisions and subdivisions platted after August 20, 2002.

*The proposed land division would create 2 lots and is not a subdivision.*

The Planning Commission finds that these standards are met.

12. MMC Section 17.32 Improvements

- a. MMC 17.32 described required public improvements.

*The applicant proposes to dedicate right-of-way of constructing street and sidewalk improvements.*

The Planning Commission finds that these standards are met.

13. The application was referred to the following departments and agencies on March 31, 2016:

- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Linwood Neighborhood District Association Chairpersons and Land Use Committees
- Clackamas County
- Metro

The comments received are summarized as follows:

- Clackamas County Fire District #1 indicated it had no comments or concerns (via email from Matt Amos, Fire Inspector).
- The Milwaukie engineering Department submitted recommended findings and conditions of approval in a memorandum dated April 14, 2016.

**Recommended Conditions of Approval**  
**File #MLP-2015-004, VR-2016-001, Trisha Clark**

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
  - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
  - b. A final plat that substantially conforms to the plans received by the Planning Department and deemed complete on March 22, 2016, and approved by this action, except as modified by these conditions of approval.
  - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications MLP-2015-004 and VR-2016-001.
3. Prior to approval of the final plat, the following shall be resolved.
  - a. Dedicate 5 ft of Right-of-Way along the frontage of both lots on SE 55<sup>th</sup> Ave, and 10 ft of Right-of-Way along the frontage of the existing lot on SE Monroe Street.
  - b. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.
4. Prior to final inspection for any building on the proposed development, the following shall be resolved:
  - a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.
  - b. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot on SE 55<sup>th</sup> Ave. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line, and shall be constructed in conformance with Milwaukie Public Works Standards.

**Additional Requirements**

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed partition.
  - a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.

*Staff note: approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.*

- b. MMC 17.04.050.B: Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted if the criteria in MMC 17.04.050.B are satisfied.
2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
- a. MMC 17.24.040: Within 6 months of City approval the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.
  - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
  - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
3. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
4. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



**LAND USE APPLICATION for  
PRELIMINARY PARTITION PLAT APPROVAL  
and  
VARIANCE (Rear Yard Setback- Existing House)  
10722 S.E. 55<sup>th</sup> AVENUE  
2 PARCEL LAND PARTITION**

---

Submitted to:  
**City of Milwaukie, Oregon**  
October, 2015  
Resubmitted: March 15, 2016

---

**SITE ADDRESS**

10722 SE 55<sup>th</sup> Avenue  
Located on the northeast corner of the  
intersection of SE 55<sup>th</sup> Avenue and  
SE Monroe Street

**ASSESSOR'S INFO**

Tax Lot 01700  
Assessor's Map 1 2E 31AB  
City of Milwaukie,  
Clackamas County, Oregon

**ZONING**

R 7 – Low Density Residential Zone

**CIVIL ENGINEER**

TRT Engineering  
Tim Turner, PE  
2636 SE Market St.  
Portland, OR 97214  
Phone: 503.235.7592  
trteng@q.com

**PROPERTY OWNER / APPLICANT**

Wildcard Investments LLC  
Joseph Taylor  
PO Box 66406  
Portland, Oregon 97290  
jtaylor@pdxrenovations.com

**REPRESENTATIVE**

NW Land Planning  
Trisha Clark  
PO Box 230121  
Portland, Oregon 97281  
Phone: 503.330.2019  
trisha\_clark@hotmail.com

**SURVEYOR**

Ferguson Land Surveying  
Joe Ferguson, PLS  
646 SE 106<sup>th</sup> Avenue  
Portland, Oregon 97216  
Phone: 503.408.0602

## TABLE OF CONTENTS

---

SITE DESCRIPTION / SUMMARY OF PROPOSAL	3
<b><u>TITLE 17 – LAND DIVISIONS</u></b>	
17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT	5
17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION	6
17.20.030 GENERAL INFORMATION...ON THE PRELIMINARY PLAT	6
<b><u>TITLE 19 ZONING - DEVELOPMENT STANDARDS</u></b>	
19.301 LOW DENSITY RESIDENTIAL ZONES	8
19.504 SITE DESIGN STANDARDS	14
19.604 GENERAL PARKING STANDARDS	17
19.605 VEHICLE PARKING QUANTITY REQUIREMENTS	19
19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS	19
19.700 PUBLIC FACILITY IMPROVEMENTS	21
19.704 TRANSPORTATION IMPACT EVALUATION	22
19.706 FEE IN LIEU OF CONSTRUCTION	23
19.708 TRANSPORTATION FACILITY REQUIREMENTS	24
19.709 PUBLIC UTILITY REQUIREMENTS	25
19.1203 SOLAR ACCESS PROTECTION	25
VARIANCE 19.911	26
<b><u>APPENDIX</u></b>	
EXHIBIT "A" – SETBACKS PARCEL 1	
EXHIBIT "B" - REDUCED PRELIMINARY SITE PLAN	
EXHIBIT "C" - PRE-APPLICATION NOTES	
EXHIBIT "D" - ASSESSOR'S TAX MAP	
EXHIBIT "E" - CITY UTILITY INFORMATION	
EXHIBIT "F" - DEED – OWNERSHIP INFORMATION	
EXHIBIT "G" -SITE PHOTOS	
EXHIBIT "H" – LETTER OF AUTHORIZATION	
STORMWATER SIMPLIFIED APPROACH FORM	

**SITE DESCRIPTION**

---

*The subject site is identified on tax map 1 2E 31AB, Tax Lot 01700, in the city of Milwaukie, in Clackamas County, Oregon and is addressed as 10722 SE 55<sup>th</sup> Avenue. The parcel contains approximately 18,270 square feet and is within the city's R-7 land use zone.*

*There is an existing house on the site located upon the south side of the parent parcel, which will be retained on Parcel 2; the existing driveway from SE Monroe Street to this home will be retained. The new parcel will have a driveway access at the northwest corner of the new parcel; the intent is to preserve all of the trees along SE 55<sup>th</sup> Avenue and the new driveway will be placed within the "Gap" between the trees along the frontage of SE 55<sup>th</sup> Avenue. The large trees were planted by the original property owners, the Ostermans, each time they traveled as a commemorative. It is the intent of the applicant to minimize impact and any removal of the trees for the driveway for the new home for Parcel 1.*

*The site is fairly flat, being gently sloped from northeast to southwest, with a high elevation of approximately 185 feet at the northeast corner of the site and a low elevation of approximately 182 feet at the southwest corner of the site, near the intersection of SE 55<sup>th</sup> Avenue and SE Monroe Street.*

*The parcel has a number of large and small trees, and other vegetation related to landscaping for the existing houses, as shown on the Existing Conditions Plan included with this request. All of the trees along SE 55<sup>th</sup> Avenue will be retained. Trees within the yard area of the existing house will also be retained and incorporated into the landscaping as a part of re-modeling that house and Parcel 2.*

**SUMMARY OF PROPOSAL**

---

*The applicant is requesting approval of a two (2) parcel partition of the site, which is within the R-7 zoning. The site contains approximately .42 acres or 18,270 square feet, allowing the existing house to be retained on a parcel of approximately 8,925 square feet and the creation of a new parcel of approximately 7,455 square feet for the placement of one single family detached dwelling unit.*

*The proposed development will retain the existing single-family house and associated driveway to SE Monroe Street on Parcel 1. The driveway location for the new parcel will be at the northwest corner of the lot, between the existing gap in the large trees along SE 55<sup>th</sup> Avenue at the northwest corner of the site, which is where the previous residents accessed the back of the lot where they parked a large RV.*

*The applicant met with the city for a pre-application conference, where it was determined that the applicant will dedicate right of way in lieu of construction of public improvements along the frontage of the parcel for the new house fronting onto SE 55<sup>th</sup> Avenue. Right of way to be dedicated includes 5.00 feet on SE 55<sup>th</sup> Avenue and 10.00 feet in width on SE Monroe Street adjacent to Parcel 2 and is shown on the Preliminary Partition Plat. The Pre-Application Notes are included as Exhibit "C" within the Appendices of this application package and includes the discussion with staff regarding dedication in lieu of improvements for the frontage for Parcel 1 for the new house.*

## PROPOSAL SUMMARY CONTINUED...

*As demonstrated within the Preliminary Plans, the new parcels will be served with all public services, described as follows:*

- **Public Water:** *Public water is available from the City of Milwaukie by an 8" water mainline within the right of way of SE 55<sup>th</sup> Avenue. The existing house is already provided water service by individual meter, which will be retained and the new parcel will be serviced by a new individual meter connected to the existing line within SE 55<sup>th</sup> Avenue, as shown on the Preliminary Utility Plan.*
- **Sanitary Sewer:** *Sanitary sewer from the City of Milwaukie is available to the site from an 8" mainline within the right of way of SE 55<sup>th</sup> Avenue. The new parcel will be connected to the public sanitary sewer for individual service by a 4" lateral from this public line, the existing house is already connected to the public sewer and that connection will be retained.*
- **Storm Drainage:** *Storm drainage from the City of Milwaukie is available within the right of way of SE 55<sup>th</sup> Avenue and will be utilized for run off from the roof drains and foundation drains for the new house. The specific plans for the conveyance will be submitted to city engineering for permitting and approval before any on-site construction will begin.*
- **Fire Protection:** *The site is provided service from Clackamas County Fire District No. 1, Milwaukie Station No. 2.*

*The applicant is also requesting a Variance for the rear yard setback for the existing house. The existing house has the front door facing toward SE 55<sup>th</sup> Avenue, technically making the front yard toward SE 55<sup>th</sup> to the west and the rear yard to the east. All of the setbacks for the existing house (and the future home on the new parcel) will exceed the required setbacks.*

*The two parcels will be developed with the required and appropriate utilities in compliance with the requirements of the City of Milwaukie, as demonstrated within the Preliminary Site Plan and within the appropriate sections of this narrative. Within this application, the applicant's representative has addressed the appropriate code sections of the City of Milwaukie's Development Code for the R-7 zone, along with all other applicable code sections of the Development Code.*

*The applicant will dedicate right of way in lieu of construction of public improvements along the frontage of the parcel for the new house fronting onto SE 55<sup>th</sup> Avenue as discussed with staff at the Pre-Application meeting at the beginning of this project; section 19.706 Fee in Lieu of Construction is addressed on page 23 of this narrative.*

## TITLE 17 LAND DIVISIONS

### 17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT

---

#### A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

**Response:** *The included Preliminary Plat was prepared per the requirements of Title 19 and the required design standards for the R7 zoning.*

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

**Response:** *The proposed land division meets all of the lot size requirements for the R7 zone, with each lot actually exceeding all of the dimensional requirements for the required parcel sizes, the new parcels are described in detail later in this text under section 19.301.4 - Development Standards.*

*A Variance is needed for the rear yard for the existing house, which is less than the required 20 feet at 5 feet. The applicant wants to retain the existing house and in order to do so, a variance is needed from this one requirement for the existing house.*

3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

**Response:** *This proposal is for a Land Partition, which is recorded and tracked by Partition Number, this standard is not applicable to this request.*

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

**Response:** *No new streets or road are required. Additional right of way will be dedicated to SE 55<sup>th</sup> Avenue (5.00 feet) and to SE Monroe Street (10.00 feet), as shown on the Preliminary Plat.*

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

**Response:** *This document addresses each applicable criterion for the review and approval of a two parcel partition of the subject property.*

#### B. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. (Ord. 1965 §§ 6, 7, 2006; Ord. 1907 (Attach. 1), 2002)

### **17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION**

---

The following shall accompany applications for partition:

- A. Completed application form signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Completed and signed "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- D. All information specified on the "submission requirements" and "partition checklist" or "subdivision checklist" forms as appropriate;
- E. Requirements and information specified in Chapter 17.20; and
- F. Any additional information as may be needed to demonstrate compliance with approval criteria.

**Response:** *The applicant's representative has prepared an application package, which includes the application form - signed by the owner, the application fee, the "submission requirements" and "partition checklist" and the information specified, and information specified in Chapter 17.20. Also included is a Letter of Authorization from the owner for the consultant working on the project.*

### **17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT**

---

- A. Preliminary plats shall be prepared by an Oregon registered land surveyor.

**Response:** *The Preliminary Plat was prepared by Joe Ferguson, PLS.*

- B. The following general information shall be submitted with the preliminary plat:



2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;
2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;
9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

**Response:** *The applicant's surveyor has prepared the Preliminary Plat, which includes the items required by 1. – 10, above. The plan shows the Existing Conditions on the site, including the location of trees, the dimensions of the existing house and the existing driveway.*

C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets, and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 feet of the subject property. (Ord. 1907 (Attach. 1), 2002)

**Response:** *The applicant's surveyor has provided a Vicinity Map showing the site in relation to existing surrounding streets and neighborhoods. An Assessor's Tax Map is also included in the application package.*

## TITLE 19 ZONING - DEVELOPMENT STANDARDS

### 19.301 LOW DENSITY RESIDENTIAL ZONES

#### 19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

**Response:** *The applicant is proposing the new parcel for the placement of a Single-family detached dwelling, which is an allowed Use in the Low Density Residential Zone, therefore this standard is met.*

#### 19.301.4 Development Standards

In the low density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

Table 19.301.4 Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/Additional Provisions
A. Lot Standards				
1. Minimum lot size (sq ft)	10,000	7,000	5,000	Subsection 19.501.1 Lot Size Exceptions
a. Single-family detached				
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100	80		
4. Minimum street frontage requirements (ft)	35			
a. Standard lot				

2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				Subsection 19.301.5.A Side Yards
a. Front yard	20	20	20	Subsection 19.501.2 Yard Exceptions Subsection 19.504.8 Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit	20  45			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)				
b. Slope of plane (degrees)				
4. Maximum lot coverage (percent of total lot area)	30%		35%	Section 19.201 “Lot coverage” definition Subsection 19.301.5.B Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre)				Subsection 19.301.5.D Residential Densities
a. minimum	3.5	5.0	7.0	Subsection 19.501.4 Density Exceptions
b. maximum	4.4	6.2	8.7	

**Response:** Per Table 19.301.4 - Low Density Residential Development Standards:

**A. R-7 Lot Standards:**

Minimum lot size for single-family detached homes is 7,000 square feet; Parcel 1 contains 7,353 square feet; Parcel 2 contains 9,505 square feet, exceeding the required amount of square feet per lot in the R7 zone.

Width: The minimum lot width is 60.00 feet, the minimum lot depth is 80.00 feet and the minimum street frontage requirements 35.00 feet; Parcel 1 is 66.63 feet wide by 105 feet deep, Parcel 2 is 90.51 x 105 feet, therefore both parcels exceed the minimum requirements for lot dimensions in the R7 zone.

- B. Minimum yard requirements for primary structures:** front yard - 20.00 feet; the new house will be at least 20 feet from the front property line and is anticipated to be 25 feet, due to lot coverage requirements. The front yard for the existing house will be toward SE 55<sup>th</sup> Avenue, where the front porch and front door entry has historically been located on the existing house. There is an existing pathway to a gate along SE 55<sup>th</sup> Avenue, which will remain. The front yard for the existing house on Parcel 2 is 39.98 feet to SE Monroe Street.

Maximum building height for primary structures: 2.5 stories or 35 feet, whichever is less; the new house for Parcel 1 is yet to be designed, but will not exceed the required building height or side yard height plane limit for the R7 zone.

Maximum lot coverage: 30% with an allowed increase of 10% for a portion of the structure no more than one-story in height. As shown on the Exhibit "A", the building footprint for the new home for Parcel 1 will be contained within the up to 40% allowed area for the R7 zone. The existing house on Parcel 2 covers approximately 2090 square feet which is approximately 22%, less than the 30% maximum.

Landscaping and required vegetation: 30%. Landscaping and vegetation will be retained on the site and only one tree will need to be removed for the placement of the new house on Parcel 1; additional landscaping will be provided with the development of Parcel 1, and will be included with the Building Permit for the new house for that parcel.

The front porch entry to the existing house on Parcel 2 is toward SE Monroe Street; there are existing trees along both right of ways adjacent to the site that will remain. There are trees, bushes, lawn grass, vegetation along the existing driveway near the east boundary, and older established landscaping in association to the existing house that has not been properly maintained but is salvageable; this will remain in the front and side yard areas of Parcel 2 and will be enhanced with the remodeling and fixing up of the existing house; the existing landscaping covers approximately 6000 square feet of the proposed parcel, which is approximately 63% of the parcel covered with landscaping, exceeding the required 30%.

- C. Density:** Density for the site was calculated as follows: Minimum -  $0.42 \text{ acres} \times 5 = 2.1$  or 2 units; Maximum  $0.42 \times 6.2 = 2.60$  or 3 units. The site contains 18,295.2 square feet, allowing for retention of the existing house on Parcel 2 and the comfortable placement on an additional home on Parcel 1.

### 19.301.5 Additional Development Standards

#### A. Side Yards

In the R-7 Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

**Response:** *As shown on Exhibit “A”, the setbacks for Parcel 1 will be 10.00 feet from the north line, adjacent to neighboring property to the north along SE 55<sup>th</sup> Avenue, and will be as much as 10.00 feet from the new common property line between Parcels 1 and 2 to meet lot coverage requirements. The standard will be met with the placement of the future house for Parcel 1.*

*The setbacks and location of the existing house to be retained on Parcel 2 are shown on the Preliminary Plat and are as follows: side yards – 5.5 feet to the north (the new common property line) and 42.13 to the south to SE Monroe Street (after 10.00 feet of right of way dedication to SE Monroe Street), exceeding side yard and street side yard requirements; front yard – 39.98 feet to SE 55<sup>th</sup> Avenue to the west (after 5.00 feet of right of way dedication to SE 55<sup>th</sup> Avenue). The rear yard is 5.52 feet from the east line, which is non-conforming. Because the house is existing in the current location, with the historical front door entry to the east to SE 55<sup>th</sup> Avenue, the “front yard” is perceived to be the east portion of the proposed parcel and the side yards being on the north and south sides of the existing house.*

#### B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

##### 1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

**Response:** *Parcel 1 will be 7,353 square feet, which is less than 2.5 the minimum lot size in the R7 zone, therefore this standard is not applicable to this request.*

##### 2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an

existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

**Response:** *The applicant will incorporate this lot coverage increase option with the new house for Parcel 1; if this option is used, the applicant will design a house that meets the standards of this section and other applicable requirements of the building code.*

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Response:** *The applicant has adequate land area for the building footprint for the new home for Parcel 1, as shown on Exhibit "A", a variance is not needed to increase the lot coverage allowed.*

#### C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Response:** *As shown in the photographs within the appendices and also on the Existing Conditions Plan, there is existing vegetation on the site. Landscaping around the existing house, which is to remain on Parcel 2, will be retained and cleaned up. There are several small trees and bushes on Parcel 2 and existing trees along both right of ways adjacent to the site in addition to vegetation along the east boundary along the existing driveway that will also remain and be enhanced with the remodeling and fixing up of the existing house.*

*The applicant will comply with the front yard vegetation standards for the remodel of the existing home on Parcel 2 and will show needed landscaping with the submittal for building permits for the new house for Parcel 1.*

#### D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density

requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

**Response:** *The subject site contains a gross acreage of 0.42 acres. The applicant is proposing division the site into two parcels, which is the minimum density for the site. Density is further addressed in this narrative in subsection 19.301.4.*

#### E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

**Response:** *No Accessory Structures are proposed with this partition; this standard is not applicable to this request.*

#### F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

**Response:** *The applicant is proposing the new parcel for the placement of one single-family detached dwelling; the existing house will be retained on its own parcel, which is the reason for this request.*

#### G. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

**Response:** *Section 19.604.1 - Parking Provided with Development Activity, has been addressed later within this narrative, please see that section for more information.*

#### H. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

**Response:** *The applicant met with the city for a pre-application conference, where it was determined that the applicant will dedicate right of way in lieu of construction of public improvements along the frontage of proposed Parcel 2. Right of way to be dedicated includes 5.00 feet on SE 55th Avenue and 10.00 feet on SE Monroe Street along the entire boundary of the subject site.*

## I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
4. Subsection 19.505.2 Garage and Carport Standards
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards.

**Response:** *The applicant will comply with the requirements of the city standards and codes with the design and construction of the new home for Parcel 1. Compliance with the standards will be demonstrated with Building Permits for that parcel.*

## 19.504 SITE DESIGN STANDARDS

---

### 19.504.1 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

**Response:** *Parcel 2 is a corner lot at the intersection of SE 55<sup>th</sup> Avenue and SE Monroe Street; the existing house will be retained on that lot and is placed on the eastern portion of the site, the existing driveway is approximately 83 feet from the intersection after the right of way dedication to both public streets. The front entry to the existing house faces to SE Monroe Street and will be maintained.*

### 19.504.2 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

**Response:** *The needed right of way for SE 55<sup>th</sup> Avenue and SE Monroe Street will be dedicated with the final partition plat.*

### 19.504.3 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in Subsection 19.605.4.



**Response:** *No public open space is required or proposed with this development. Private open space will be available to the future residents of each lot within the yard areas of the parcels. Each lot will have adequate off street parking provided on the lots.*

#### **19.504.4 Buildings on the Same Lot**

A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.

B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

**Response:** *No Accessory buildings are proposed with the development of this site.*

#### **19.504.5 Distance from Property Line**

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 ft from the property line.

**Response:** *No structures, such as a shed or deck, are proposed at this time.*

#### **19.504.6 Transition Area Measures**

Where commercial or industrial development is proposed adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses. The downtown zones are exempt from this subsection.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.
- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

**Response:** *The site is located within and adjacent to R7 Residential Zoning, this standard is not applicable to this request.*

**19.504.7 Minimum Vegetation**

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

**Response:** *The applicant will retain all of the existing trees along the right of ways of SE 55<sup>th</sup> Avenue and SE Monroe Street. Areas of required landscaping (front yards) will be landscaped by the future homeowners and will be designed to meet the standards for landscaping in the R7 zone; plans for landscaping will be addressed with the Building Permits.*

**19.504.8 Flag Lot Design and Development Standards****A. Applicability**

Flag lots in all zones are subject to the development standards of this subsection.

**Response:** *No flag lots are proposed with this partition.*

**F. Tree Mitigation**

All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.

**Response:** *The only tree anticipated to be removed is the 12" deciduous tree within the building footprint for the future house for Parcel 1 (see photo in Appendices); this tree will be replaced with a new deciduous tree of a regional species within the front yard landscaping area for Parcel 1.*

**G. Landscaping Plan Required**

A landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.

5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

**Response:** *A Landscape Plan for the front yard of the new home for Parcel 1 will be prepared and submitted with the Building Permit for the new home for that parcel.*

#### **19.504.9 On-Site Walkways and Circulation**

##### **A. Requirement**

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

**Response:** *This proposal is for single family residential development; this standard is not applicable to this request.*

#### **19.504.10 Setbacks Adjacent to Transit**

The following requirement applies to all new commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

**Response:** *The subject site is located in a Residential Zone; this standard is not applicable to this request.*

### **19.604 GENERAL PARKING STANDARDS**

---

#### **19.604.1 Parking Provided with Development Activity**

All required off-street parking areas shall be provided at the time the structure is built; at the time a structure or site is enlarged; or when there is change in use or an increase in density or intensity. All required off-street parking areas shall be provided in conformance with the standards of Chapter 19.600 prior to issuance of a certificate of occupancy, or final development permit approval, or as otherwise specified in any applicable land use decision.

**Response:** *Off street parking will be provided with the new home for Parcel 1 within the garage and associated driveway for the new house.*

*The existing house to remain on Parcel 2 has an existing driveway, to remain. The existing house will be remodeled, it is not determined if there will be a new garage at this time, regardless, the existing driveway is approximately 54 feet long (after right of way dedication to SW Monroe Street) and varying in width from 10 to 20 feet, allowing parking for at least four vehicles in the driveway.*

#### **19.604.2 Parking Area Location**

Accessory parking shall be located in one or more of the following areas:

- A. On the same site as the primary use for which the parking is accessory.
- B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.
- C. Where shared parking is approved in conformance with Subsection 19.605.4.

**Response:** *No accessory uses or parking are proposed with this request.*

#### **19.604.3 Use of Parking Areas**

All required off-street parking areas shall continually be available for the parking of operable vehicles of intended users of the site. Required parking shall not be rented, leased, sold, or otherwise used for parking that is unrelated to the primary or accessory use of the site, except where a shared parking agreement per Subsection 19.605.4 has been recorded. Subsection 19.604.3 does not prohibit charging fees for parking when the parking serves the primary or accessory uses on site.

**Response:** *The driveway areas for the parcels will be intended for the use of parking for operable vehicles for the future residents.*

#### **19.604.4 Storage Prohibited**

No required off-street parking area shall be used for storage of equipment or materials, except as specifically authorized by Subsection 19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking. (Ord. 2025 § 2, 2011)

**Response:** *The driveway areas for the parcels will not be used for storage for the future homes; this will have to be enforced by the future residents.*

## 19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratio for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

The Downtown Storefront (DS) Zone and the portion of the Downtown Office (DO) Zone north of Washington Street and east of McLoughlin Boulevard are exempt from the requirements of Section 19.605.

### 19.605.1 Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1. Modifications to the standards in Table 19.605.1 may be made as per Section 19.605. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.

**Response:** *Per Table 19.605.1, Single-family detached dwellings require one parking space per dwelling unit. Each parcel will provide for at least 4 off street parking spaces either within driveway areas, a carport or a garage (Parcel 1), exceeding the required parking. There no maximum parking requirement within the R7 zone.*

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per dwelling unit.	No maximum.

## 19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

### 19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for rowhouses, cottage clusters, duplexes, single-family detached dwellings, and residential homes in all zones, unless specifically stated otherwise.

#### A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

**Response:** *The driveway areas for the parcels will exceed the minimum of 9' x 18'; the exact size will be determined with the Building Permit for Parcel 1, but is anticipated to be 25 feet deep and 20 feet wide. The intent of the applicant is to place the new driveway in the existing gap between the existing trees along the west boundary of the site.*

#### B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
  - a. Within the required front yard or within 15 ft of the front lot line, whichever is greater.
  - b. Within a required street side yard.

**Response:** *The driveway areas for the parcels will be located on the same lot as the associated dwelling. The existing driveway for the existing house is to remain and is approximately 54 feet from SE Monroe Street after right of way dedication.*

#### C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
  - a. Required parking space(s).
  - b. All vehicle parking spaces and maneuvering areas located within a required front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
  - c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

**Response:** *The driveway areas for the parcels will be constructed of a durable and dust-free hard surface and to the required standards; the driveway for the new house is anticipated to be made of concrete.*

#### D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

**Response:** *No uncovered parking spaces are proposed with this request.*

#### E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 10 ft of the right-of-way boundary.
2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

**Response:** *The driveway areas for the parcels will be aligned at right angle to the street right of ways. The existing driveway on SW Monroe Street is to remain.*

## CHAPTER 19.700 - PUBLIC FACILITY IMPROVEMENTS

### 19.702 APPLICABILITY

---

#### 19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.

**Response:** *The applicant is requesting approval for a Partition, therefore 19.702 applies to this request.*

### 19.703 REVIEW PROCESS

---

#### 19.703.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.700 per Section 19.702, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

**Response:** *The applicant attended a Pre-Application Conference with city staff on April 16, 2015, a copy of the Pre-Application notes is included within the appendices of this application package.*

**19.703.2 Application Submittal**

For all proposed development that is subject to Chapter 19.700 per Section 19.702, one of the following types of applications is required.

A. Development Permit Application

If the proposed development does not require a land use application, compliance with Chapter 19.700 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application

If the proposed development triggers a transportation impact study (TIS) per Section 19.704, a TFR land use application shall be required. Compliance with Chapter 19.700 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Section 19.1005. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

If the proposed development does not trigger a TIS per Section 19.704, but does require the submittal of other land use applications, compliance with Chapter 19.700 will be reviewed during the review of the other land use applications.

**Response:** *Per 19.704, this request does not trigger a TIS; this partition requires a Non-TFR Land Use Application because this type of development does not trigger a Transportation Impact Study.*

**19.703.3 Approval Criteria**

For all proposed development that is subject to Chapter 19.700 per Section 19.702, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submittal.

A. Procedures, Requirements, and Standards

Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.700 and the Public Works Standards.

**Response:** *The applicant has addressed 19.700 in this narrative. The applicant met with the city for a pre-application conference, where it was determined that the applicant will dedicate right of way to both SE 55<sup>th</sup> Avenue and SE Monroe Street in lieu of construction of public improvements along the frontage of Parcel 2. The applicant will provide a fee in lieu of construction per 19.706.*

**19.704 TRANSPORTATION IMPACT EVALUATION**

---

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed



development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

#### **19.704.1 TIS Determination**

- A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.
1. Changes in land use designation, zoning designation, or development standard.
  2. Changes in use or intensity of use.
  3. Projected increase in trip generation.
  4. Potential impacts to residential areas and local streets.
  5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
  6. Potential impacts to intersection level of service (LOS).

**Response:** *Per 19.703.2, a TIS is not required for a two parcel partition. There is no proposed change in land use or zoning designation or no change of use. The impact of one additional house will be minimal to traffic in the area.*

#### **19.706 FEE IN LIEU OF CONSTRUCTION**

---

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

**Response:** *The applicant met with the city for a pre-application conference, where it was determined that the applicant will dedicate right of way to both SE 55<sup>th</sup> Avenue and SE Monroe Street in lieu of construction of public improvements along the frontage of Parcel 2. Right of way to be dedicated includes 5.00 feet on SE 55th Avenue and 10.00 feet to SE Monroe Street adjacent to Parcel 2. The city calculated the value of the area to be dedicated to the public and found that it was roughly proportional to the cost of street improvement construction and, due to other anticipated improvements constructed as part of the Monroe Street Neighborhood Greenway project, which is currently in a planning phase, the city of Milwaukie is willing to consider this alternative. The area to be dedicated is shown on the Preliminary Plat.*

**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

---

**19.708.1 General Street Requirements and Standards****19.708.2 Street Design Standards****19.708.3 Sidewalk Requirements and Standards**

***Response:** The applicant met with the city for a pre-application conference on April 16, 2015, where it was determined that the applicant had the option to dedicate public right of way to SE 55<sup>th</sup> Avenue and SE Monroe Streets as a Fee in Lieu of construction of the public improvements along the frontage of Parcel 2. Public right of way to be dedicated will be 5.00 feet along SE 55<sup>th</sup> Avenue and 10.00 feet along SE Monroe Street, adjacent to Parcel 2. This right of way will be dedicated to the public with the recording of the final partition plat at the Clackamas County Surveyor's Office.*

**19.708.4 Bicycle Facility Requirements and Standards**

***Response:** SE 55<sup>th</sup> Avenue is not located within TSP as a bike boulevard, therefore the requirements of this section do not apply.*

**19.708.5 Pedestrian/Bicycle Path Requirements and Standards****A. General Provisions**

Pedestrian/bicycle paths are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers, and commercial districts to adjacent and nearby residential areas, transit stops, and neighborhood activity centers.

Pedestrian/bicycle paths may be in addition to, or in lieu of, a public street. Paths that are in addition to a public street shall generally run parallel to that street. These types of paths are not subject to the provisions of this subsection and shall be designed in accordance with the Public Works Standards or as specified by the Engineering Director. Paths that are in lieu of a public street shall be considered in areas only where no other public street connection options are feasible. These types of paths are subject to the provisions of this subsection.

***Response:** The proposed development of the site with a partition for a total of two parcels, retaining the existing house and creating a parcel for the placement of one additional home does not trigger the requirements of this section.*

**19.708.6 Transit Requirements and Standards****A. General Provisions**

1. Transit facilities include bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement.

2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

***Response:** The proposed development is not located on a transit route listed in the TSP, therefore the requirements of this section do not apply to this request.*

## **19.709 PUBLIC UTILITY REQUIREMENTS**

---

### **19.709.1 Review Process**

The Engineering Director shall review all proposed development subject to Chapter 19.700 per Section 19.702 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

***Response:** The applicant has submitted a Preliminary Storm Water Management Plan with this application request.*

## **19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT**

---

### **19.1203.2 Applicability**

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in single-family zones, except to the extent the Director finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

### **19.1203.3 Design Standard**

At least 80% of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in Subsections 19.1203.3.B or C below to comply with Section 19.1203.

#### **A. Basic Requirement**

A lot complies with Subsection 19.1203.3 if it:

1. Has a north-south dimension of 90 ft or more; and
2. Has a front lot line that is oriented within 30 degrees of a true east-west axis (see Figure 19.1203.3).

***Response:** The lots do not meet the Basic Requirement, the applicant requests Adjustment for the standard as addressed below:*

### **19.1203.5 Adjustment to Design Standard**

The Director shall reduce the percentage of lots that must comply with Subsection 19.1203.3, to the minimum extent necessary, if he or she finds the applicant has shown it would cause or is subject to one or more of the following conditions.

#### A. Adverse Impacts on Density, Cost, or Amenities

1. If the design standard in Subsection 19.1203.3.A is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g., grading, water, storm drainage, sanitary systems, and road) and solar-related off-site site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Subsection 19.1203.3.A would reduce density or increase costs per lot in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for a development:
  - a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10% or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor, USGS, or other officially recognized topographic information;
  - b. There is a significant natural feature on the site, identified as such in the Comprehensive Plan or Development Ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed;
  - c. Existing road patterns must be continued through the site or must terminate on the site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access;
  - d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

**Response:** *Based on the existing street system and the size and orientation of the parent lot, the parcels cannot meet the design requirements of this section. It is not possible for Parcels 1 and 2 to meet these standards without reducing the total number of lots below the minimum density required, which would render the project economically infeasible. Density is addressed in Section 19.301.4.C on page 10 of this narrative. In addition, keeping the existing home brings value to the development and the neighborhood and having to demolish it and construct a new home would increase the costs of the development and change the existing character of the neighborhood, require the removal of trees and existing landscaping that is proposed to be retained and enhanced with the existing house.*

### **VARIANCE 19.911**

---

#### **19.911.4 Approval Criteria**

##### **B. Type III Variances**

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

#### 1. Discretionary Relief Criteria

- a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
- b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
  - (1) The proposed variance avoids or minimizes impacts to surrounding properties.

**Response:** *There will be no impact from the approval of a variance for the rear yard for the existing house, as the existing structure has always been located in the current position. The existing house has the front door facing toward SE 55<sup>th</sup> Avenue, technically making the front yard toward SE 55<sup>th</sup> to the west and the rear yard to the east. All of the setbacks for the existing house (and the future home on the new parcel) will exceed the required setbacks. The existing house, including the garage area, will be remodeled and fixed up and improved from its current condition, which will enhance the existing house.*

- (2) The proposed variance has desirable public benefits.

- (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

**Response:** *The proposed variance is a direct response to the existing built environment of the site, and is needed to retain the existing garage in the current location. The property directly to the east contains an existing house, and immediately to the east of the area of the setback variance is adjacent to the existing driveway for the next door property. The rear yard setback has no effect on natural resource areas, public health, safety, or welfare.*

- c. Impacts from the proposed variance will be mitigated to the extent practicable.

**Response:** *There will be no impact from the approval of a variance for the rear yard for the existing house, as it has always been located in the current position. The variance will not be detrimental to the adjacent property because it is an existing condition that has been as it is now for many years.*

#### CONCLUSION

---

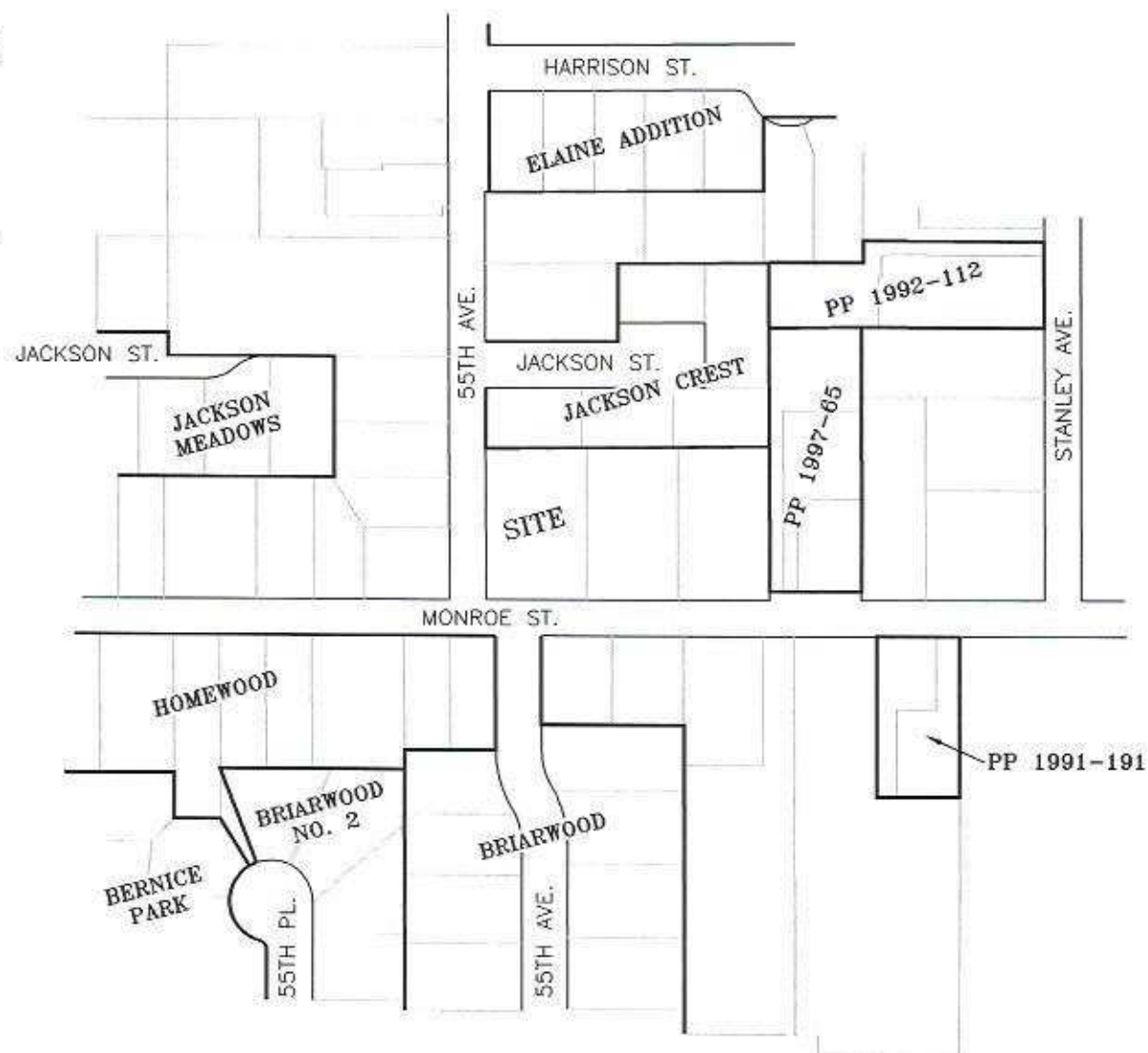
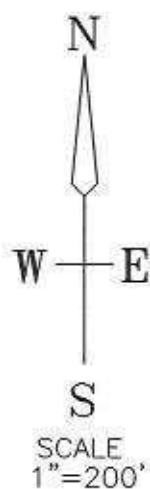
*The applicant has requested that the subject parcel be divided into two parcels. The existing house and driveway on the site will be retained on its own parcel and the house will be fixed up. The new parcel will be for the placement of a new single family detached dwelling unit. The applicant will dedicate right of way along both SE 55<sup>th</sup> Avenue and SE Monroe Street in lieu of construction improvements, as outlined within this request. Existing trees and vegetation will be retained, one tree will be removed and mitigated on-site with a native species of tree.*

###



## VICINITY MAP

DOCUMENT NO. 2015-029965, CLACKAMAS COUNTY DEED RECORDS  
 LOCATED IN THE NE 1/4 OF SECTION 31, T.1.S., R2.E., W.M.  
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON



CLIENT:  
 WILDCARD INVESTMENTS LLC  
 P.O. BOX 66406  
 PORTLAND, OR 97290

*Ferguson Land Surveying, Inc.*  
 646 SE 106TH AVE. PORTLAND, OR 97216  
 Phone (503) 408-0601 Fax (503) 408-0602

SHEET NO. 1 OF 1  
 JOB NO. 15-111  
 DRAFTED: 12/1/15





# APPENDIX & SUPPORT INFORMATION



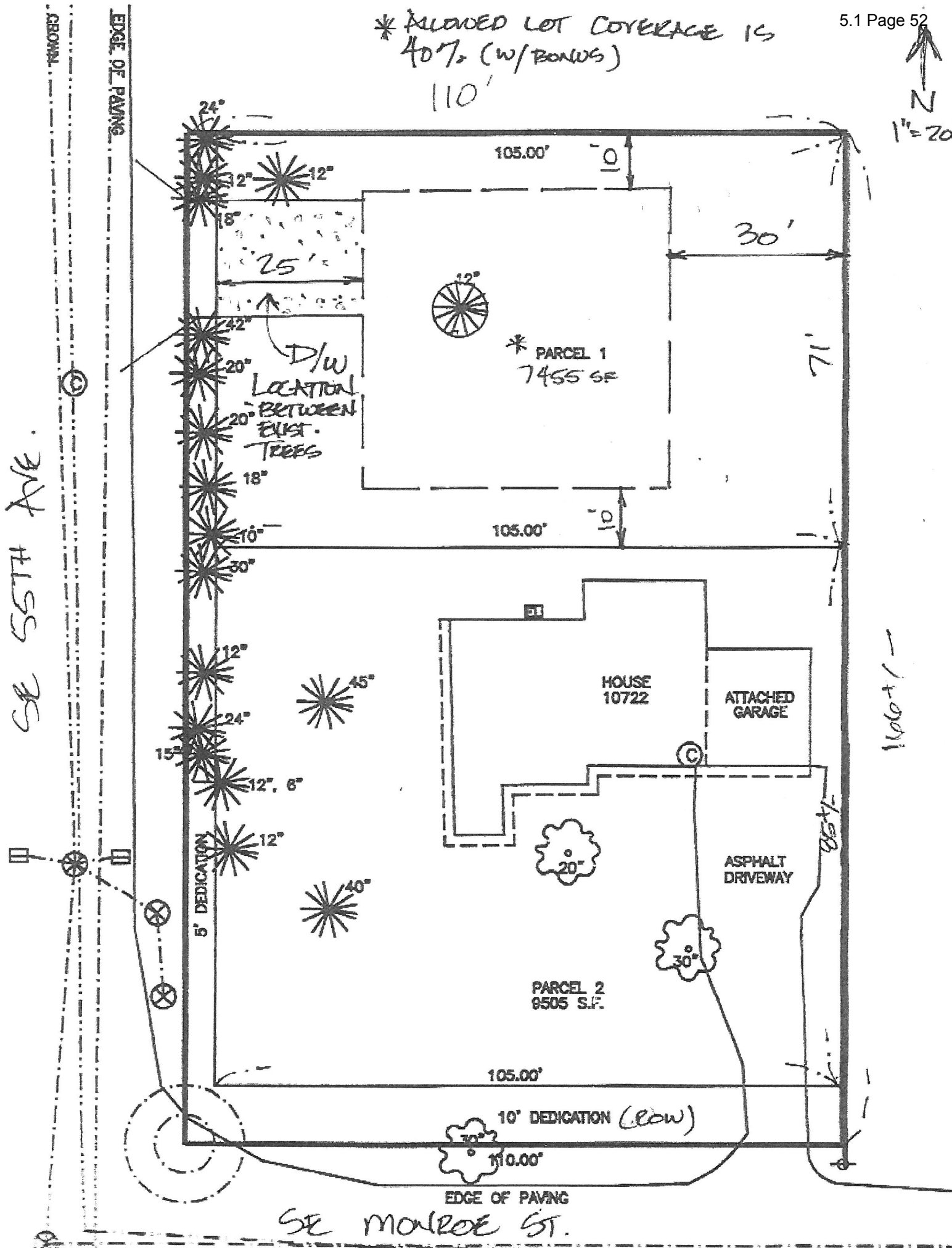
## **EXHIBIT “A”**

---

### **SETBACKS for PARCEL 1**



110





2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

## **EXHIBIT “B”**

---

### **REDUCED PRELIMINARY PLAT**





**PROPERTY OWNER**  
 WILDCARD INVESTMENTS LLC  
 P.O. BOX 66406  
 PORTLAND, OR 97290

**ASSESSOR REFERENCE NUMBER**  
 152E31AB TAXLOT 1700

**LEGAL DESCRIPTION**

PART OF THE DANIEL HATHAWAY DONATION LAND CLAIM IN TOWNSHIP 1 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF MILWAUKIE, COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WESTERLY 110 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A POINT 10 FEET WEST OF THE SOUTHWEST CORNER OF LOT 25 IN BLOCK 50, IN MINTHORN ADDITION TO THE CITY OF PORTLAND SITUATED IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, RUNNING THENCE EAST 310 FEET TO THE DIVIDING LINE BETWEEN LOTS 36 AND 37 OF SAID BLOCK 50; THENCE SOUTH TO THE SOUTHWEST CORNER OF LOT 12, IN BLOCK 63; THENCEWEST TO A POINT 10 FEET WEST OF THE SOUTHWEST CORNER OF LOT 24 OF THE SAID BLOCK 63, A DISTANCE OF 310 FEET DISTANT; THENCE NORTH TO THE PLACE OF BEGINNING.

- SITE CONTAINS 0.42 ACRES.

- ALL STRUCTURES AND THE DRIVEWAY ARE TO REMAIN ON PARCEL 2.

NOTE: ELEVATION DATUM IS ASSUMED.

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 JULY 26, 1980  
 JOE H. FERGUSON  
 2445  
 RENEWAL DATE 12/24/15

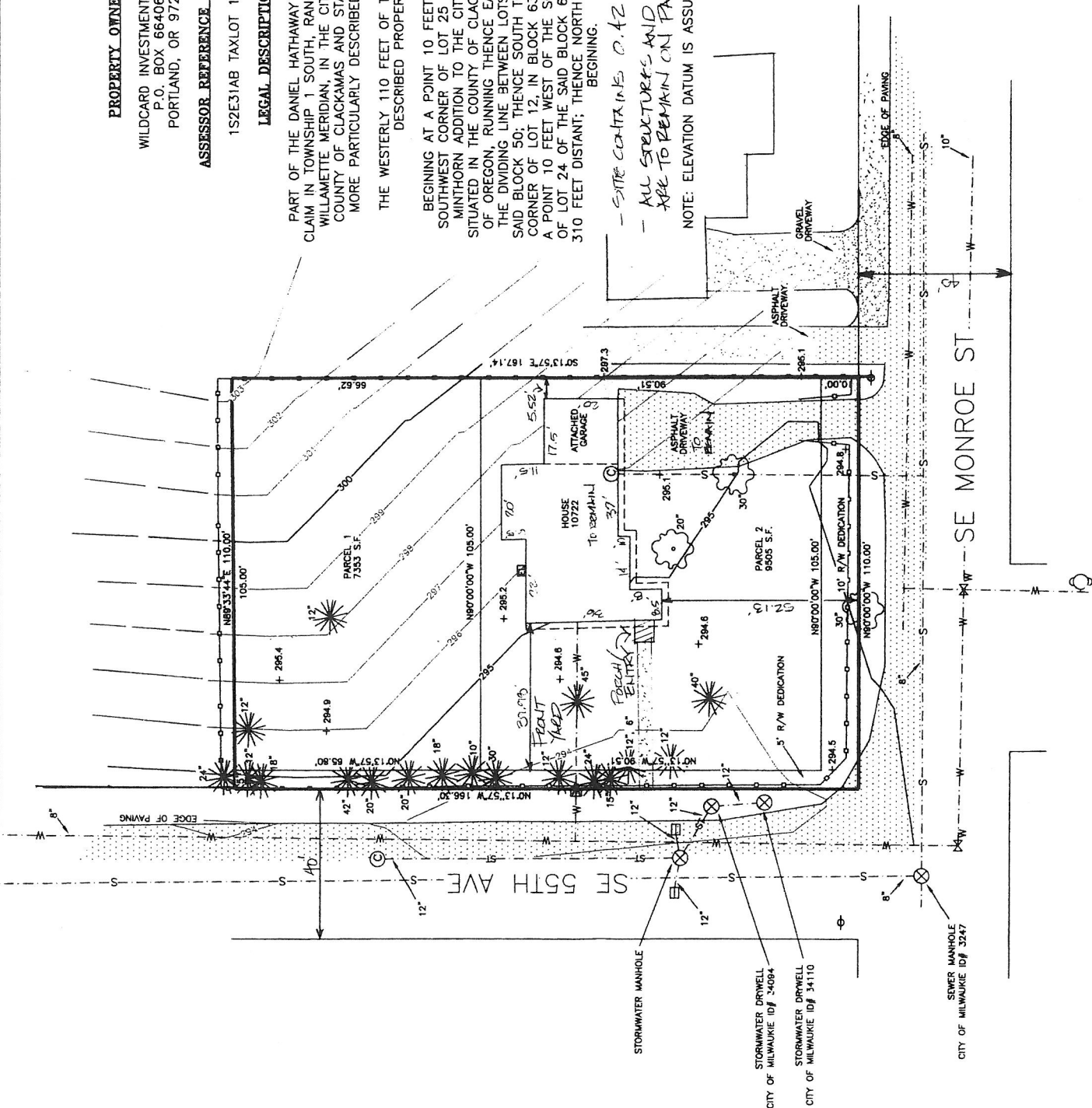
JOB NO. 15-11  
 DRAFTED 8/11/15  
 REVISED 11/15/15  
 SHEET 1 OF 1

DATE: JUNE 11, 2015  
 WILDCARD INVESTMENTS LLC  
 CLIENT: JOE TAYLOR  
 PO BOX 66406  
 PORTLAND, OR 97290

**PRELIMINARY PLAT**  
 IN THE NE 1/4, SECTION 31, T.15N., R.2E., W.M.  
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

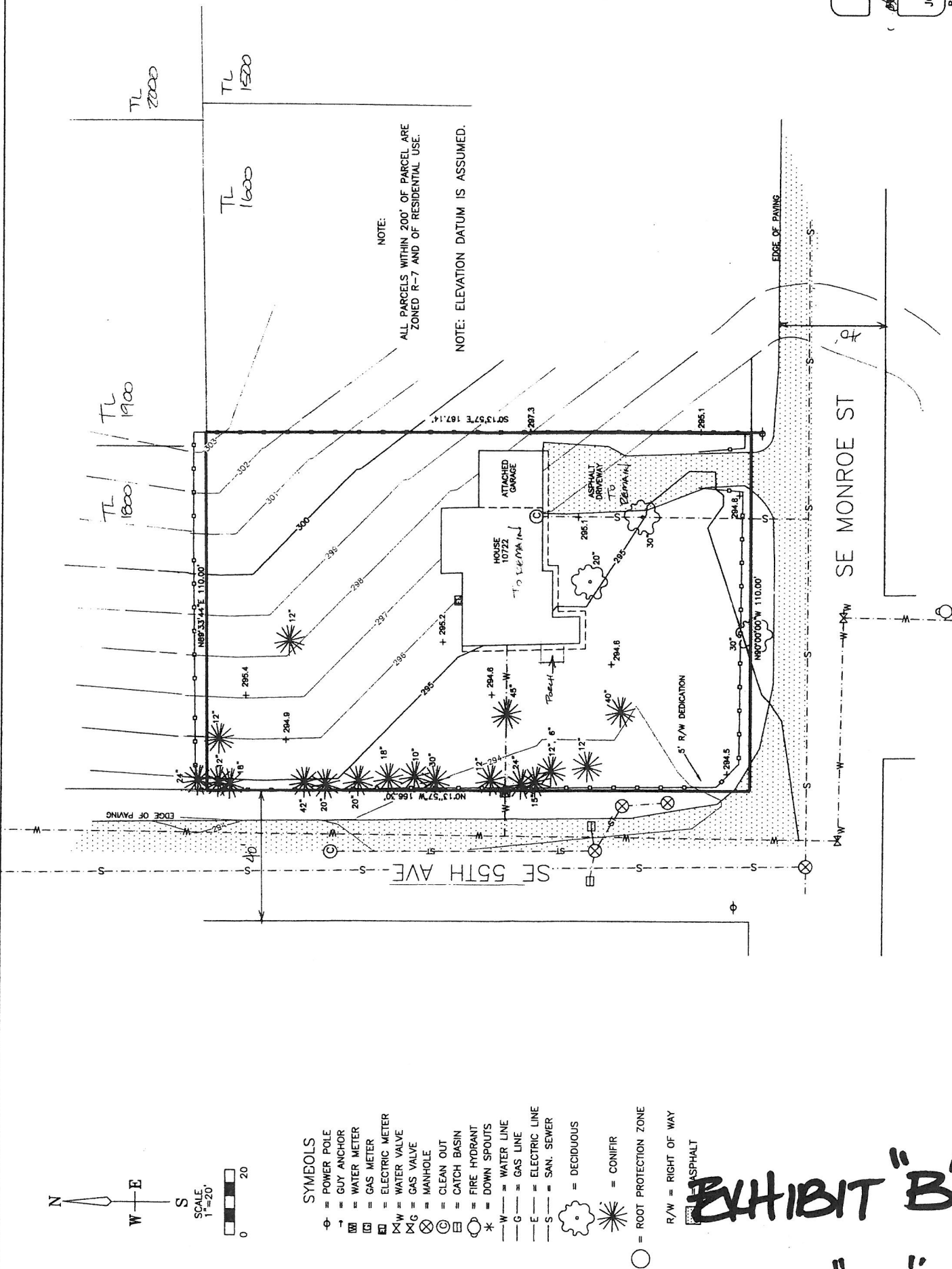
**Ferguson Land Surveying, Inc.**  
 646 SE 106TH AVE., PORTLAND, OR 97216  
 Phone (503) 408-0601 Fax (503) 408-0602  
 www.FergusonLandSurveying.com

**EXHIBIT "B"**



**SYMBOLS**

- ⊕ = POWER POLE
- ⊕ = GUY ANCHOR
- ⊕ = WATER METER
- ⊕ = GAS METER
- ⊕ = ELECTRIC METER
- ⊕ = WATER VALVE
- ⊕ = GAS VALVE
- ⊕ = MANHOLE
- ⊕ = CLEAN OUT
- ⊕ = CATCH BASIN
- ⊕ = FIRE HYDRANT
- ⊕ = DOWN SPOUTS
- W — = WATER LINE
- G — = GAS LINE
- E — = ELECTRIC LINE
- ST — = STORM SEWER
- S — = SAN. SEWER
- ⊕ = DECIDUOUS
- ⊕ = CONIFER
- ⊕ = ROOT PROTECTION ZONE
- R/W = RIGHT OF WAY
- ⊕ = ASPHALT
- ⊕ = GRAVEL



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 25, 1980  
JOE H. FERGUSON  
2445  
RENEWAL DATE 12/31/15

<p>DATE: JUNE 11, 2015</p> <p>REVISIONS</p> <p>NOVEMBER 30, 2015</p> <p>REVISIONS</p> <p>REVISIONS</p>	<p>WILDCARD INVESTMENTS LLC</p> <p>CLIENT: JOE TAYLOR</p> <p>PO BOX 68406</p> <p>PORTLAND, OR 97290</p>	<p><b>EXISTING CONDITIONS</b></p> <p>IN THE NE 1/4, SECTION 31, T.1S., R.2E., W.M.</p> <p>CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON</p>	<p><b>Ferguson Land Surveying, Inc.</b></p> <p>646 SE 106TH AVE. PORTLAND, OR 97216</p> <p>Phone (503) 408-0601 Fax (503) 408-0602</p> <p>www.FergusonLandSurveying.com</p>
<p>JOB NO. 15-111</p> <p>DRAFTED 6/11/15</p>			
<p>SHEET 1 OF 1</p>			

**EXHIBIT "B"**

## **EXHIBIT “C”**

---

### **PRE-APPLICATION NOTES**





April 30, 2015

Trisha Clark  
NW Land Planning  
3101 SW 1<sup>st</sup> Avenue  
Portland, OR 97201

**Re: Preapplication Report**

Dear Trisha:

Enclosed is the Preapplication Report Summary from your meeting with the City on April 16, 2015, concerning your proposal for action on property located at 10722 SE 55<sup>th</sup> Avenue.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Director may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Director may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

Blanca Marston  
Administrative Specialist II

Enclosure

cc: File

# CITY OF MILWAUKIE

PreApp Project ID #: 15-007PA

## PRE-APPLICATION CONFERENCE REPORT

---

This report is provided as a follow-up to a meeting that was held on **4/16/2015** at **10:00 AM**

**Applicant Name:** TRISHA CLARK  
**Company:** T. CLARK CONSULTING  
**Applicant 'Role':** Legal Rep  
**Address Line 1:** 9479 SW MAPLEWOOD DR # B15  
**Address Line 2:**  
**City, State Zip:** TIGARD OR 97223  
**Project Name:**  
**Description:**  
**ProjectAddress:** 10722 SE 55th AVE  
**Zone:** Residential R-7  
**Occupancy Group:**  
**ConstructionType:**  
**Use:** Low Density Residential (LD)  
**Occupant Load:**  
**AppsPresent:** Trisha Clark  
**Staff Attendance:** Brett Kelter

### BUILDING ISSUES

**ADA:**  
**Structural:**  
**Mechanical:**  
**Plumbing:**  
**Plumb Site Utilities:**  
**Electrical:**  
**Notes:** No comments at this time.

Please note all drawings must be individually rolled. If the drawings are small enough to fold they must be individually folded.

### **FIRE MARSHAL ISSUES**

**Fire Sprinklers:**

**Fire Alarms:**

**Fire Hydrants:**

**Turn Arouds:**

**Addressing:**

**Fire Protection:**

**Fire Access:**

**Hazardous Mat.:**

**Fire Marshal Notes:** See attached

### **PUBLIC WORKS ISSUES**

**Water:** A City of Milwaukie 8-inch water main on SE 55th Avenue is available to serve the proposed development. The water System Development Charge (SDC) is based on the size of water meter serving the property. The corresponding water SDC will be assessed with installation of each water meter. Water SDC credit will be provided based on the size of any existing water meter serving the property removed from service. The water SDC will be assessed and collected at the time the building permits are issued.

**Sewer:** A City of Milwaukie 8-inch wastewater main on SE 55th Avenue is available to serve the proposed development. The current wastewater System Development Charge (SDC) is comprised of two components. The first component is the City's SDC charge of \$893.00 and the second component is the County's SDC for treatment of \$5,670 that the City collects and forwards to the County. Both SDC charges are per connection unit. The wastewater SDC is assessed using a plumbing fixture count from Table 7-3 of the Uniform Plumbing Code. The wastewater SDC connection units are calculated by dividing the fixture count of new plumbing fixtures by sixteen. The wastewater SDC will be assessed and collected at the time the building permits are issued.

**Storm:** Submission of a storm water management plan by a qualified professional engineer is required as part of the proposed development. The plan shall conform to Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards.  
The storm water management plan shall demonstrate that the post-development runoff does not exceed the pre-development, including any existing storm water management facilities serving the development property. Also, the plan shall demonstrate compliance with water quality standards. The City of Milwaukie has adopted the City of Portland 2008 Stormwater Management Manual for design of water quality facilities.  
All new impervious surfaces, including replacement of impervious surface with new impervious surfaces, are subject to the water quality standards. See City of Milwaukie Public Works Standards for design and construction standards and detailed drawings.

The storm SDC is based on the amount of new impervious surface constructed at the site. One storm SDC unit is the equivalent of 2,706 square feet of impervious surface. The storm SDC is currently \$823 per unit. The storm SDC will be assessed and collected at the time the building permits are issued.

**Street:**

The southern property line of proposed partition fronts SE Monroe Street, a collector road. The portion of SE Monroe Street fronting the proposed partition has a right-of-way width of 45 feet and a paved width of 22 feet.

The western property line of the proposed partition fronts SE 55th Avenue, a local road. The portion of SE 55th Avenue fronting the proposed partition has a right-of-way width of 40 feet and a paved width of 22 feet.

**Frontage:**

Chapter 19.700 of the Milwaukie Municipal Code, hereafter referred to as “Code”, applies to partitions, subdivisions, and new construction.

Transportation Facility Requirements, Code Section 19.708, states that all rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities located in the public right-of-way and abutting the development site shall be adequate at the time of development or shall be made adequate in a timely manner

According to Code Table 19.708.2 and the Transportation Design Manual, the local street cross section includes the following:

- 10-foot travel lanes
- 6-foot parking strips with curb
- 4-foot landscape strips
- 5-foot setback sidewalks

Improvements along the property line of the proposed development adjacent to SE 55th Avenue include, from the fronting property line, a 5 foot setback sidewalk, 5 foot planter strip, curb and gutter.

**Right of Way:**

The existing right-of-way width on SE 55th Avenue fronting the proposed development is 40 feet. According to Code Table 19.708.2, the required right-of-way width for a local street is 50 feet. The applicant is responsible for right-of-way dedication 5 feet in width on SE 55th Avenue fronting the proposed development.

**Driveways:**

Code Section 12.16.040.A states that access to private property shall be permitted with the use of driveway curb cuts and driveways shall meet all applicable guidelines of the Americans with Disabilities Act (ADA). Driveway approaches shall be improved to meet the requirements of Milwaukie’s Public Works Standards.

**Erosion Control:**

Per Code Section 16.28.020(C), an erosion control permit is required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils exceeding five hundred square feet.

Code Section 16.28.020(E) states that an erosion control permit is required prior to issuance of building permits or approval of construction plans. Also, Section 16.28.020(B) states that an erosion control plan that meets the requirements of Section 16.28.030 is required prior to any approval of an erosion control permit.

**Traffic Impact Study:** N/A



**PW Notes:****TRANSPORTATION SDC**

The Transportation SDC will be based on the increase in trips generated by the new use per the Trip Generation Handbook from the Institute of Transportation Engineers. The SDC for transportation is \$1,873 per trip generated. Credits will be given for any demolished structures, which shall be based upon the existing use of the structures.

**PARKS & RECREATION SDC**

The parks & recreation System Development Charge (SDC) is triggered when application for a building permit on a new dwelling is received. Currently, the parks and recreation SDC for each Single-Family Residence is \$3,985.00. Credit is applied to any demolished structures and is based upon the existing use of the structures. The parks and recreation SDC will be assessed and collected at the time the building permits are issued.

**REQUIREMENTS AT FINAL PLAT**

- Engineered plans for public improvements (street, sidewalk, and utility) are to be submitted and approved prior to start of construction. Full-engineered design is required along the frontage of the proposed development.
- The applicant shall pay an inspection fee of 5.5% of the cost of public improvements prior to start of construction.
- The applicant shall provide a payment and performance bond for 100% of the cost of the public improvements prior to the start of construction.
- The applicant shall provide a final approved set of Mylar “As Constructed” drawings to the City of Milwaukie prior to the final inspection.
- The applicant shall provide a maintenance bond for 100% of the cost of the public improvements prior to the final inspection

**RIGHT OF WAY DEDICATION IN LIEU OF CONSTRUCTION**

The applicant has proposed dedicating to the City additional Right of Way along parcel 1 in lieu of constructing public improvements on SE 55th Avenue along parcel 2. The proposed dedication includes a width of 5 feet on SE 55th Avenue and 10 feet in width on SE Monroe Street adjacent to parcel 2. The City has calculated the value of the proposed land dedication and finds it to be roughly proportional to the cost of street improvement construction and, due to the anticipation of improvements constructed as part of the Monroe Street Neighborhood Greenway project which is currently in a planning phase, the City of Milwaukie is willing to consider this alternative.

**PLANNING ISSUES****Setbacks:**

Yard setbacks for standard lots in the Residential R-7 zone are 20 ft front and rear, 20 ft street-side, and 5 ft and 10 ft for interior side yards. Maximum allowed building height is 35 ft or 2.5 stories, whichever is less, with a 20-ft maximum height at the side-yard setback, with a slope of plane of 45°. A hub & tack survey or other form of property line verification will be required where the minimum setback will be approached within 1-2 ft.

**Landscape:**

The minimum required vegetation for the R-7 zone is 30% of total lot area. Vegetated areas can be planted in trees, grass, shrubs, or bark dust for planting beds. Maximum allowed lot coverage (of the foundation footprint of structures, not including eaves and overhangs) is 30% of total lot area.

**Parking:**

As per the off-street parking standards of Milwaukie Municipal Code (MMC) Chapter 19.600, the parent lot (i.e., new parcel with the existing house) will have to establish or maintain a conforming off-street parking situation, or at least not increase an existing nonconforming situation. Single-family

residential uses require a minimum of 1 off-street parking space per dwelling unit (minimum 9 ft by 18 ft). Required spaces cannot be located in a required front or street-side yard. Parking and maneuvering areas must be paved or otherwise be hard, durable, dust-free surfaces---pervious materials are allowed and encouraged. See MMC 19.607 for more details.

**Transportation Review:** Partitions trigger the applicability of MMC 19.700 Public Facility Improvements. Please see the Public Works notes for more information about any required right-of-way dedication and street improvements.

**Application Procedures:** Land use applications required:  
\* Minor Land Partition (MLP)

The Minor Land Partition (MLP) process includes 2 steps: (1) preparation and approval of a preliminary plat and (2) preparation and approval of a final plat. The preliminary plat requires Type II review, which does not involve a public hearing---notice of the tentative decision will be sent to properties within 300 ft of the site, with an opportunity to comment. The current application fee for the preliminary plat process is \$2,000. Following approval of the preliminary plat, a Type I application for final plat (an administrative review) is required---the current application fee for Type I review is \$200.

Application requirements for preliminary plat are outlined in MMC 17.16.060 and MMC 17.20. In addition, the application narrative should address the development standards of the R-7 zone (MMC 19.301).

For the City's initial review, the applicant should submit 5 complete copies of the application, including all required forms and checklists. A determination of the application's completeness will be issued within 30 days. If deemed incomplete, additional information will be requested. If deemed complete, additional copies of the application may be required for referral to other departments, the Neighborhood District Association (NDA), and other relevant parties and agencies. City staff will inform the applicant of the total number of copies needed.

Once the application is deemed complete, notice of the application will be mailed to property owners and residents within 300 ft of the subject property, with 14 days allowed for them to respond with comments. Within 7 days of being deemed complete, a sign giving notice of the application must be posted on the subject property, to remain until the decision is issued. A decision will not be issued before the end of the 14-day comment period.

Issuance of a decision starts a 15-day appeal period, during which the City can review any permits or applications associated with or required by the preliminary plat approval; however, none will be approved until the appeal period has ended. The final plat must be approved and recorded with the County before a building permit can be issued for new construction on the new, vacant parcel.

Prior to submitting the application, the applicant is encouraged to present the project at a regular meeting of the appropriate NDA. Once annexed, the subject property will be within the boundaries of the Linwood NDA, which meets at 7:00 p.m. on the second Thursday of every month at Linwood Elementary (11909 SE Linwood Ave)

**Natural Resource Review:** The subject property does not include any designated natural resources.

**Lot Geography:** The property is rectilinear, approximately 166 ft wide along 55th Ave and 110 ft deep along Monroe St (approximately 18,270 sq ft in area). The property is bounded by 55th Ave to the west and Monroe St to the south, with residential properties on all sides.

**Planning Notes:** In the R-7 zone, the minimum required lot width is 60 ft and minimum lot depth is 80 ft. The subject property is wide enough to create two parcels with 55th Ave along their front property lines.

Any partition must be done in a way that does not create a new nonconforming situation with respect to existing structures. In this case, for example, a new lot boundary would have to be done in such a way that allows the existing house facing 55th Ave to meet the side yard setback of 5 ft, or else the structure must be modified or a variance requested to adjust the standard.

#### **ADDITIONAL NOTES AND ISSUES**

**County Health Notes:**

**Other Notes:**

**This is only preliminary preapplication conference information based on the applicant's proposal and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.**

**Sincerely,**

**City of Milwaukie Development Review Team**

---

**BUILDING DEPARTMENT**

**Samantha Vandagriff - Building Official - 503-786-7611**

**Bonnie Lanz - Permit Specialist - 503-786-7613**

**ENGINEERING DEPARTMENT**

**Chuck Eaton - Engineering Director - 503-786-7605**

**Geoff Nettleton - Civil Engineer - 503-786-760**

**Chrissy Dawson - Engineering Tech II - 503-786-7610**

**Alex Roller - Engineering Tech I - 503-786-7695**

**COMMUNITY DEVELOPMENT DEPARTMENT**

**Alma Flores - Comm. Dev. Director - 503-786-7652**

**Shauna Large - Admin Specialist - 503-786-7656**

**Alicia Martin -Admin Specialist - 503-786-7600**

**Joyce Stahly -Admin Specialist - 503-786-7600**

**PLANNING DEPARTMENT**

**Dennis Egner - Planning Director - 503-786-7654**

**Vacant - Senior Planner - 503-786-7627**

**Brett Kelter - Associate Planner - 503-786-7657**

**Vera Kolias - Associate Planner - 503-786-7653**

**CLACKAMAS FIRE DISTRICT**

**Mike Boumann - Lieutenant Deputy Fire Marshal - 503-742-2673**

**Matt Amos - Fire Inspector - 503-742-2661**

# Clackamas County Fire District #1

## Fire Prevention Office



### E-mail Memorandum

**To:** City of Milwaukie Planning Department  
**From:** Matt Amos, Fire Inspector, Clackamas Fire District #1  
**Date:** 4/8/2015  
**Re:** Two lot partition 10722 SE 55<sup>th</sup> Ave. 15-007PA

---

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the fire code official. The following items should be addressed by the applicant:

#### COMMENTS:

1. The Fire District has no comments for this proposal.



2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

---

## **EXHIBIT “D”**

### **ASSESSOR’S TAX MAP**



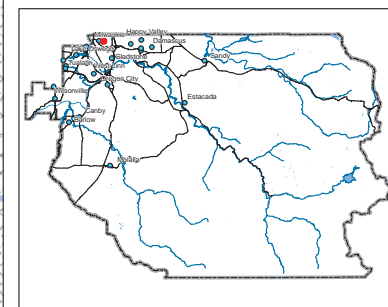
N.W. 1/4 N.E. 1/4 SEC. 31 T.1S. R.2E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
J. D. GARRETT NO. 38  
D. HATHAWAY NO. 40

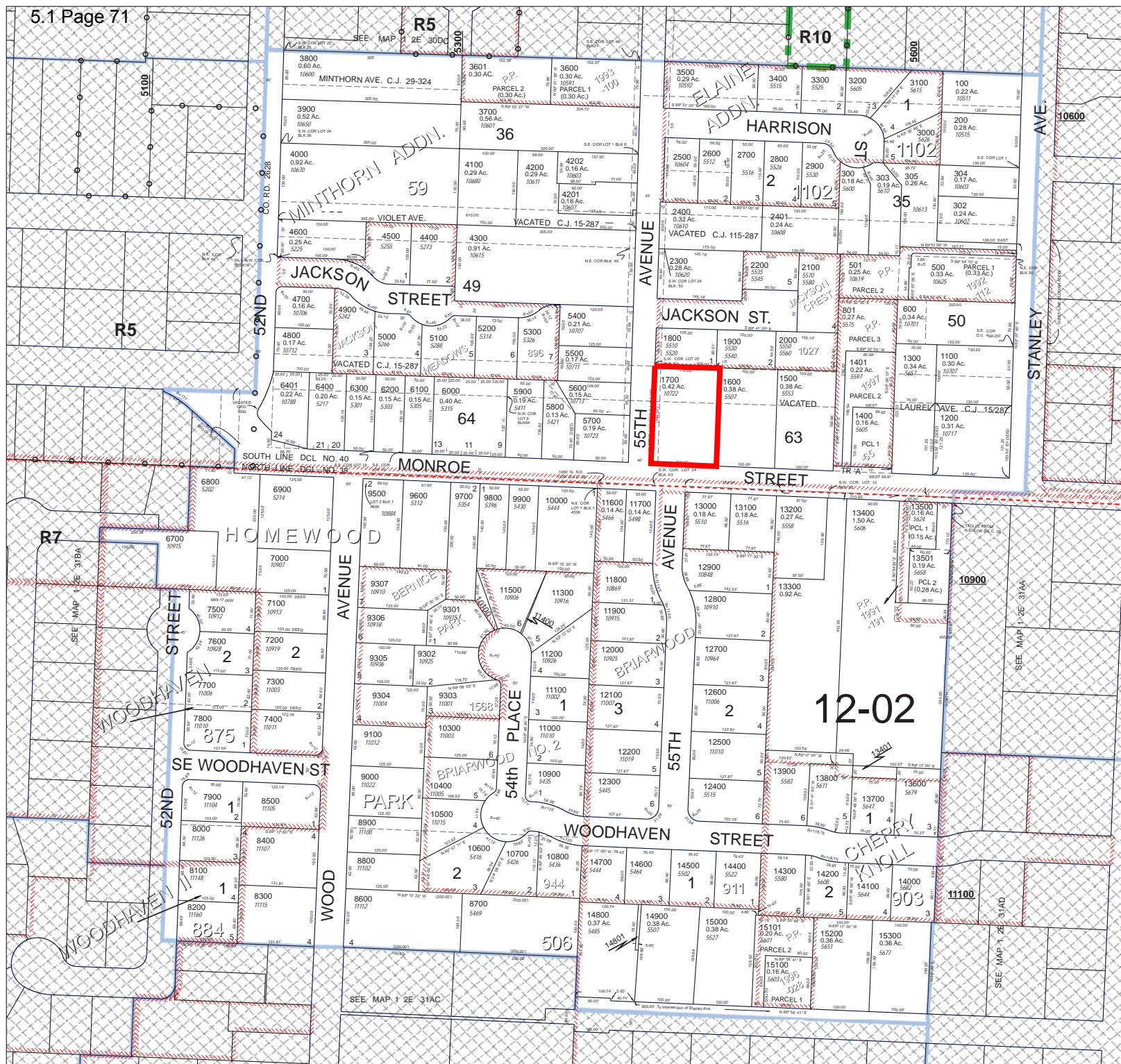
## Cancelled Taxlots

3401  
301  
400  
700  
800  
900  
1000  
6500  
6501  
6600  
9200  
9300  
9400  
10200

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT  
PURPOSES ONLY

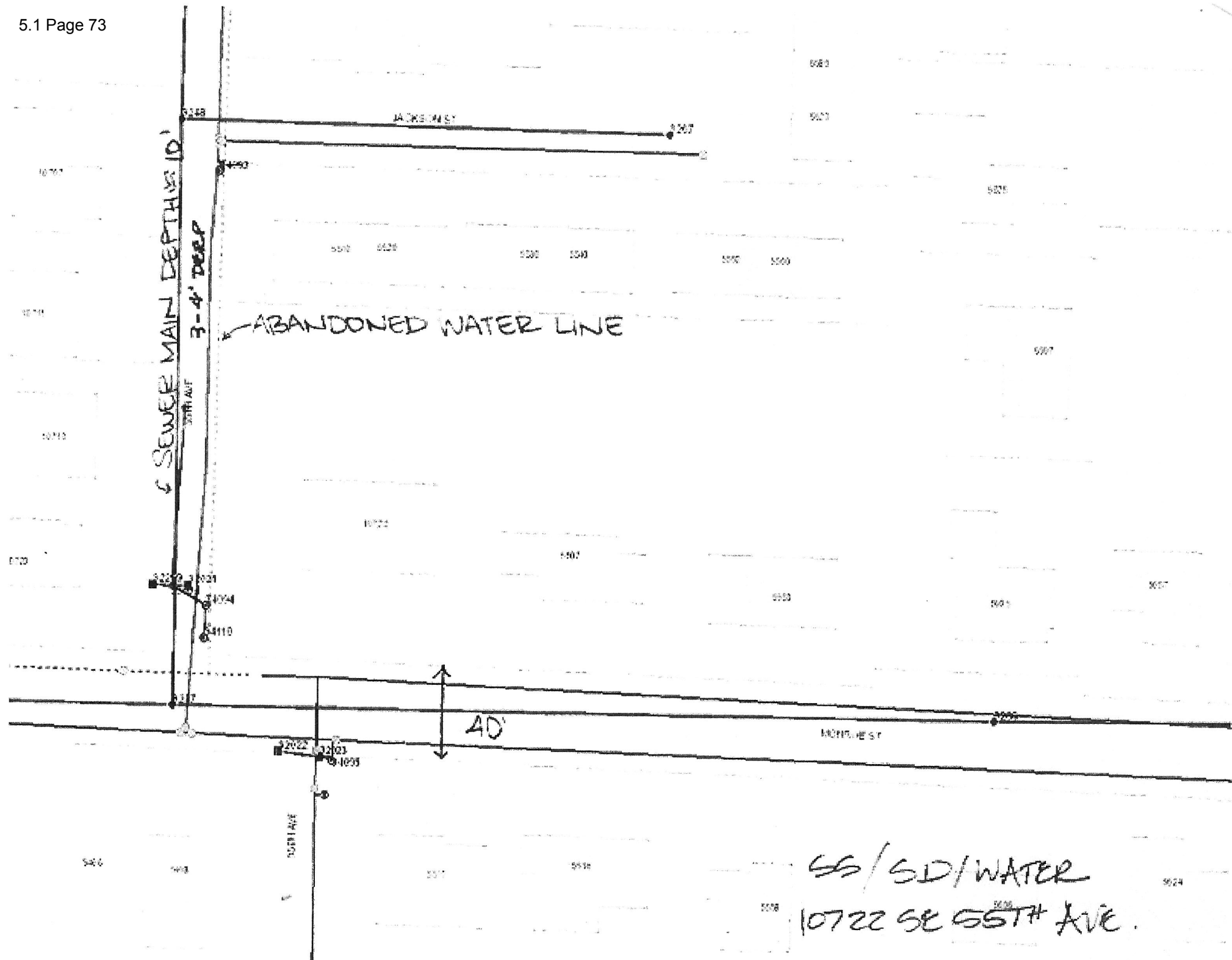




## **EXHIBIT “E”**

---

### **CITY UTILITY INFORMATION**



2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

## **EXHIBIT “F”**

---

### **DEED – OWNERSHIP INFORMATION**

**RECORDING COVER SHEET****ALL TRANSACTIONS, PER ORS 205.234**

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON  
PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING  
ANY ERRORS IN THIS COVER SHEET DO NOT AFFECT THE  
TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.

This Space For County recording Use Only

**AFTER RECORDING RETURN TO**

(Name and address of the person authorized to receive the  
Instrument after recording, as required by ORS 205.180(4)  
and ORS 205.238)

Wildcard Investments, LLC  
P.O. Box 66406  
Portland, OR 97290

Clackamas County Official Records  
Sherry Hall, County Clerk

**2015-029965**

05/20/2015 03:02:33 PM

D-CON                      Cnt=1   Stn=5   KANNA  
\$25.00 \$16.00 \$10.00 \$22.00

**\$73.00**

1. **NAME(S) OF THE TRANSACTION(S)**, described in the attached instrument and required by ORS 205.234(a). (i.e Warranty Deed)

*Note: Transaction as defined by ORS 205.010 " means any action required or permitted by state law or rule or federal law or regulation to be recorded including, but not limited to, any transfer, encumbrance or release affecting title to or an interest in real property."*

Land Sale Contract

2. **DIRECT PARTY**, name(s) of the person(s) described in ORS 205.125(l)(b) or **GRANTOR**, as described in ORS 205.160.

Patricia F. Billingsley

3. **INDIRECT PARTY**, name(s) of the person(s) described in ORS 205.125(l)(a) or **GRANTEE**, as described in ORS 205.160.

Wildcard Investments, LLC

4. **TRUE AND ACTUAL CONSIDERATION PAID** for instruments conveying or contracting to convey fee title to any real-estate and all memoranda of such instruments, reference ORS 93.030.

\$160,000.00

5. **UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS** for instruments conveying or contracting to convey fee title to any real estate, reference ORS 93.260.

Wildcard Investments, LLC  
P.O. Box 66406  
Portland, OR 97290

After recording return to:  
 Wildcard Investments, LLC  
 P.O. Box 66406  
 Portland, OR 97290

# LAND SALE CONTRACT

THIS CONTRACT, made the 20<sup>th</sup> day of May, 2015 between Patricia F. Billingsley residing at **10603 Se Stanley Ave Milwaukie OR 97222**, later referred to in this contract as "Seller," and Wild Card Investments LLC, later referred to in this contract as "Buyer," state that because Seller is the owner of real property located at: **10722 Se 55th Ave Milwaukie OR 97222**, and Seller wishes to sell and Buyer wishes to purchase the property, Seller and Buyer agree as follows:

## 1. Sale of Property:

Seller agrees to sell and does by this contract sell, and Buyer agrees to purchase and does by this contract purchase a parcel of real estate located at: **10722 Se 55th Ave Milwaukie OR 97222**

Legally described as: See Exhibit "A" Attached for full legal

## 2. Sales Price and Terms:

The sales price is One Hundred Sixty Thousand dollars & 00/100's (\$160,000.00) payable as follows: (1) an initial down/reinstatement deposit of Twenty thousand Dollars & 00/100's (\$20,000.00) on or before the date of the signing of this contract; (2) the balance of One Hundred Forty thousand dollars & 00/100's (\$140,000.00) to be paid in monthly payments of (\$839.57), the first payment is to be made on the 1st day of June 2015 and subsequent payments of are to be made on or before the fifth (5th) day of each succeeding month, the payments to be credited first toward the payment of accrued interest at (6%) interest per year and the balance to the reduction of principal. Payments shall be made for period of 36 months, or 3 years, beginning June, 2015 and ending July, 2018.

## 3. Right to Prepay:

Buyer has the right to prepay this debt or any additional sums to reduce the principal at any time without penalty.

## 4. Possession:

Possession of the subject premises shall be given to Buyer on the date of this agreement unless otherwise agreed by the parties. Seller has no right to re-enter or remain on premises upon the execution of this agreement. The Buyer's purpose in executing this agreement is to buy and hold, rent to a new tenant or re-sell the property and make a profit, and has no intention of leasing said property to Seller. Seller has no right to re-enter or remain on premises upon execution of this agreement unless the buyer is in default of this agreement per section 11 herein.

## 5. Real Estate Taxes and Water Bills:

The real estate taxes and water bills shall be prorated as of the date of signing of this contract. Seller agrees to pay all the real estate taxes and water bills that come due prior to the date of the signing of this contract. Seller agrees to provide proof of payment to Buyer for all real estate taxes and water bills. Buyer agrees to pay all the real estate taxes and assessments, and water rents that shall be taxed or assessed upon the premises from the date of the signing of this contract.

## 6. Fire and Other Insurances:

Buyer agrees to insure the premises through its existing policy and to keep the premises insured pursuant to said policy against loss by fire and damage by other dangers, commonly referred to as Homeowner's Insurance, together with liability coverage in the standard form. Buyer shall pay for the existing homeowner's policy.

## 7. Condemnation:

In the event of the condemnation or taking by eminent domain of any interest that is the subject of this contract, Buyer shall be made a party to any related proceedings, and Buyer alone shall decide the amount of any award to be accepted or whether the amount of such award shall be determined by trial in the courts. The amount of such award by agreement, or after trial or otherwise, shall be paid to seller, but the amount shall be applied as an additional payment toward the remaining principal. If the amount of the award is greater than the remaining principal, Seller shall pay to Buyer the difference between the amount of the award and the remaining principal.

## 8. Challenging of Taxes:

Buyer shall have the right to contest or review by legal proceedings or in any other manner that Buyer may deem suitable, free of expense to seller, but if necessary, in the name of Seller, any increase in real estate taxes or assessment with respect to any fiscal period ending after the date of this contract. In any such proceedings, Seller agrees to execute the documents as may be necessary for the purpose of the contest, and Buyer shall have the right to bring such proceedings in his or her own name or in the name of the seller.

## 9. Inspection:

Buyer agrees that a full inspection of the premises has been made and that the Seller shall not be held to any promise respecting the condition of any improvements on the premises other than what is written in this agreement. The premises are sold to Buyer "as is" unless Seller otherwise agrees in this contract to make repairs and/or improvements by specific dates.

**10. Existing Conditions:**

Seller shall convey the premises subject to all covenants; conditions; restrictions; easements of record; fire and building codes; land use, zoning, and environmental protection regulations; and any state of facts which any inspection and/or accurate survey may show, provided that title is not made unmarketable by any of the above. At the time of execution seller is not aware of any un-recorded easements and/or any unknown state facts that would not arise from an inspection or accurate survey.

**11. Buyer Default:**

Buyer is in default in the event the monthly payment is not made within sixty (60) days of the monthly due date or in the event insurance or taxes are not paid within sixty (60) days after notice to Buyer to pay the insurance or taxes.

**12. Seller's Remedy:**

If Buyer defaults, Seller shall have the right to proceed to protect his or her legal interest using any and all available legal means.

**13. Seller Default:**

Seller is in default if Seller does not provide Buyer with warranty deed within thirty (30) days of final payment. If Buyer must take legal action to enforce this contract and the court decision is made in favor of Buyer, Seller shall be liable for Buyer's attorney fees and court costs.

**14. Transfer of Deed:**

Seller agrees to complete, sign and hold in escrow in his/her attorney's office, a Warranty Deed conveying a good and marketable title to the premises described in this contract, except for encumbrances that may be caused by the acts or omissions of Buyer after the parties sign this contract. Seller agrees to complete and sign the following documents at the time of the signing of this contract if required by the buyer:

(a) An Affidavit testifying that Seller will physically leave possession of property to Buyer, and that Seller acknowledges that the property is being sold as is with no warranties made, or guaranteed by seller.

Seller agrees to present these documents to Buyer at the time of the signing of this contract. Seller agrees to deliver the Warranty Deed to Buyer within thirty (30) days of the receipt of the final payment pursuant to this contract. The deed shall be the usual warranty deed and in proper statutory short form for recording. It shall be duly executed and acknowledged by Seller at Seller's expense, so as to convey to Buyer the fee simple interest of the premises, free of all liens and encumbrances. An escrow agreement naming the agent and assigning custody of the signed documents will be signed by both parties. Seller agrees to obtain at Seller's expense an abstract of title covering forty (40) years showing clear and marketable title and to provide this abstract of title to Buyer at or before the signing of this contract. Seller further agrees to carry out a ten-year real property tax search and to provide the results of this search to the buyer at or before the signing of this contract. Both parties are to pay for their own fees including but not limited to: closing fees, escrow fees, conveyances, recording, etc.

**15. Notices**

Notices, demands, or requests made between Buyer and Seller must be in writing and may be delivered in person or sent by first class mail to the addresses set forth on page one (1) of this contract unless notice of an address change has been provided to the other party in writing. If Seller provides written notice of a change of address to Buyer, or Buyer provides written notice of a change of address to seller, the updated address must be used.

**16. Parties Bound by this Contract:**

This contract shall apply to and bind the heirs, executors, administrators, legal representatives, successors, and assigns of the respective parties to this contract.

**17. Assignment:**

Buyer shall have the right to assign this or convey any of the rights in this contract without prior written consent of Seller. Upon assignment buyer to notify seller within 45 days that assignment has been sold and give seller all new information for new assignee.

**18. Interpretation of Contract:**

This contract shall be governed by, construed, and endorsed in accordance with the laws of the State of Oregon. If any provision of this contract is held invalid, illegal, void or unenforceable by any rule, law, administrative order, or judicial decision, all other provisions of the contract shall remain in full force.

**19. Modification:** This contract may not be changed by simply talking about desired changes. Changes can only occur upon written agreement signed by both parties.

**20. Entire Agreement:**

This contract contains all agreements of the parties to this contract. There are no promises, agreements, terms, conditions, warranties, representations, or statements, other than those contained in this contract.

**21. Consent:**

Where consent of seller is required, Seller must respond within thirty (30) days to any request by Buyer for such consent. If Seller fails to respond within thirty (30) days to Buyer's request, Buyer may understand that seller's consent has been granted.

**22. Late Charge:**

If any payment is overdue more than fifteen (15) days, an additional charge will be due to Seller to cover the cost of delay. This late charge will be Five dollars per day (\$5.00) for every day over up to a maximum of \$150.00 per month.

**23. Seller's Affirmation:** Seller knows of no other party who has an interest in the property that has not been disclosed to Buyer in this contract. Seller has not been known by any other name in the last ten (10) years except Patricia F. Billingsley.

Seller affirms that no proceedings in bankruptcy or receivership have been instituted by or against Seller within the last ten (10) years and seller has not made an assignment for the benefit of creditors, nor has any security interest that secured payment or the performance of any obligation been given by Seller, or been granted, in any personal property or fixtures placed or installed on the premises.

Seller agrees not to declare bankruptcy until after the deed has been transferred to Buyer. Seller affirms there is no action pending in any state or federal court in the United States nor is there any state or federal court judgment, tax lien of any kind against Seller that would constitute a lien or charge upon the real estate.

Seller affirms there are no delinquent real estate taxes, or water charges owing.

Seller affirms that no labor, service, or materials have been furnished for the improvement of the real estate during the last eight months, or if such labor, service, or materials have been furnished, payment for the improvements has been made in full. Seller agrees not to borrow any money against the property.

Seller agrees to take all actions to prevent any other liens being placed against the property. Seller agrees not to use property as collateral for any transaction. Seller agrees that if any lien or judgment is placed on the property pursuant to any action brought against Seller, Seller shall discharge the lien or judgment before final payment is made or reduce the purchase price by the amount of the lien or judgment.

**24. Mortgage Payments:**

Buyer shall make mortgage payments to the current holder of Seller's mortgage if any exist. Seller to provide proof with payment coupons and any other needed mortgage info should this apply.

**25. Recording:**

The parties agree that this contract shall be recorded in the County Clerk's Office along with all other required documents. Parties further agree to take whatever steps necessary to complete the documents required for filing.

**26. Remodeling/Repairs:**

Seller hereby understands that the subject property needs drastic repairs and or remodeling. Buyer has the legal right to either perform or hire out all work done on subject property and is responsible for all charges, fees, and costs associated with these repairs. Seller will not be liable for any repairs done by buyer.

**27. Arbitration** All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in the state of Oregon or another location mutually agreeable to the parties. An award of arbitration may be confirmed in a court of competent jurisdiction.

**28. STATUTORY DISCLAIMER:** The following disclaimer is made pursuant to ORS 93.040(2). THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930. IN ALL ZONES, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 200

The parties have duly executed this land sale contract.

Patricia F. Billingsley  
Patricia F. Billingsley, Seller

23  
Wild Card Investments, LLC

State of Oregon )

County of Clark

On the 18 day of May 2015 in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for the State of Oregon, personally appeared Patricia F. Billingsley, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual (s), or the person on behalf of which the individual(s) acted, executed the instrument.

Shirley A Guy  
Signature of Notary Public



State of Oregon )

County of Clark

On the 20 day of May in the year 2015, before me, the undersigned, a notary public in and for the State of Oregon, personally appeared Joann Taylor as President of JPT Enterprises as member \*, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual (s), or the person on behalf of which the individual(s) acted, executed the instrument.

\* of Wildcard Investments LLC

Shirley A Guy  
Signature of Notary Public





## **EXHIBIT “G”**

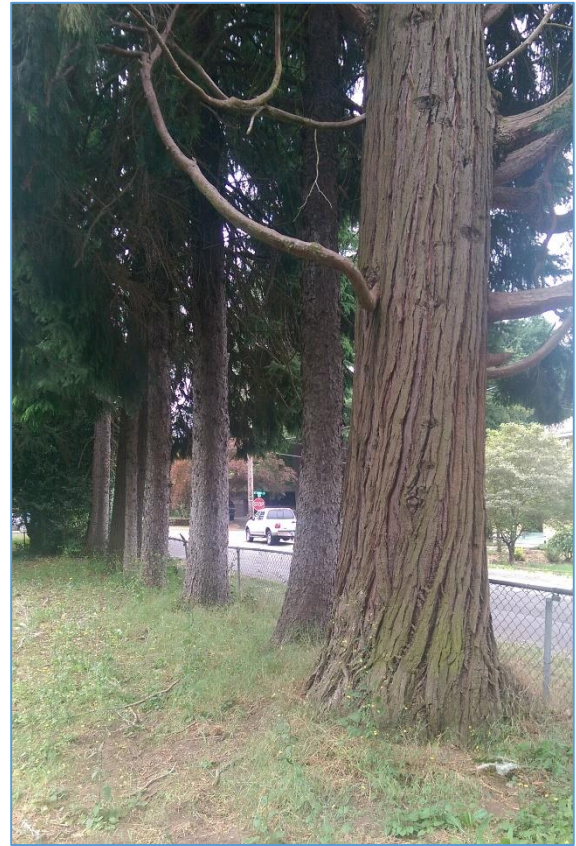
---

### **SITE PHOTOGRAPHS**

2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon



*Figure 1: Tree in Future Building Area of Parcel 1.  
The only tree proposed to be removed.*



*Figure 2: Trees to remain along SE 55<sup>th</sup> Avenue. These trees  
are located within the right of way dedication to SE 55<sup>th</sup>  
Avenue.*



*Figure 3: Looking Northeast at the site frontage along SE 55<sup>th</sup> Avenue, from the intersection of SE 55<sup>th</sup> Avenue and  
SE Monroe Street.*



2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon



Figure 4: Looking north from SE Monroe Street toward the existing house (Parcel 2).



Figure 5: Looking west toward SE 55th Avenue, this is the gap in the trees where the new driveway will be located.



2 PARCEL PRELIMINARY PARTITION PLAT & VARIANCE-EXISTING REAR YARD SETBACK  
10722 SE 55<sup>th</sup> Ave., Assessor Map 1 2E 31AB, TL 1700, City of Milwaukie, Clackamas Co., Oregon

## **STORMWATER SIMPLIFIED APPROACH FORM**

---





CITY OF PORTLAND  
Stormwater  
Management  
Manual

**FORM 1**

# SIMPLIFIED APPROACH FORM

## PROJECT INFORMATION WORKSHEET

### PROJECT INFORMATION

Submittal Date: \_\_\_\_\_ Permit Application Number: \_\_\_\_\_  
 Owner Name: Joe Taylor (Wildcard Investments, LLC)  
 Owner Phone: 503.317.3969 Owner Email: \_\_\_\_\_  
 Designer Name: TRT Engineering Designer Firm: TRT Engineering  
 Designer Phone: 503.235.7592 Designer Email: trteng@q.com  
 Designer License Number: 14494 License Type: Civil  
 Applicant Name (if different from owner or designer) \_\_\_\_\_  
 Applicant Phone: \_\_\_\_\_ Applicant Email: \_\_\_\_\_

### SITE INFORMATION

Site Address: 10722 SE 55th Ave  
Milwaukie, OR 97222

State Property ID (six-digit R number) for all parcels included in development proposal:

12E31AB01700

Brief Description of Proposed Development:

#### Site Characteristics:

S.1 Do slopes exceed 20% anywhere within the project area?

☐ yes ☒ no

S.2 Are there springs, seeps, or a high groundwater table within the project area? ☐ yes ☒ no

If the answer to either S.1 or S.2 is **YES**, then a flow-through or partial infiltration facility with an overflow to an approvable discharge point is required.

Soil Classifications: NRCS Wetted Drainage Class: Moderately Well Drained

NRCS Hydrologic Soil Group: B

#### Required Infiltration Testing

Date of Test: 10/9/2015 Depth of Excavation (ft): 2.67

	TEST 1	TEST 2	TEST 3
A. Time (of day)	3:19PM	4:35PM	5:35PM
B. Duration (hours) (1 hour minimum)	1	1	1
C. Initial Water Depth (inches)	52	27	28
D. Final Water Depth (inches)	23	11	8.5
E. Infiltration Rate* (inches/hour)	19	16	19.5
Final Infiltration Rate			

I acknowledge the accuracy of these infiltration testing results.

Randy Goode  
Signature of tester (required)

Randy Goode  
Print Name

10/16/2015  
Date

\*Infiltration Rate = Initial Depth (in) – Final Depth (in) / Duration of Test (hours)

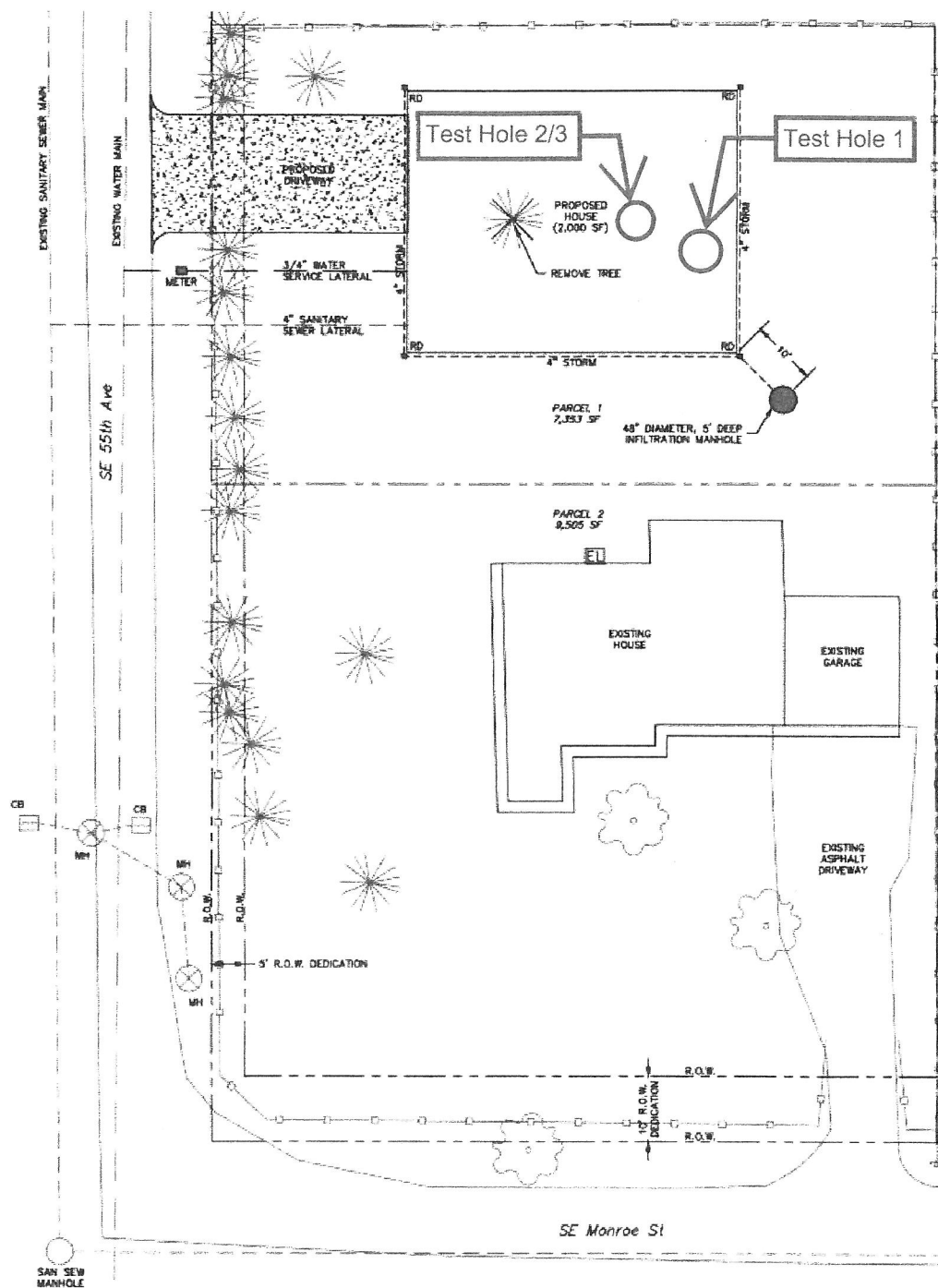


# SIMPLIFIED APPROACH FORM

## REQUIRED INFILTRATION TESTING SITE PLAN

### TEST PIT LOCATION (SITE PLAN SKETCH)

Key information to include: 1) Site or parcel, 2) Adjacent road(s) or cross street(s), 3) Test pit location with dimensions





# SIMPLIFIED APPROACH FORM

## TREE CREDIT WORKSHEET

Not all sites are eligible for tree credit. See 2.3.3 for specific applicability.

### 1 New Coniferous Trees

Enter number of NEW coniferous trees that meet qualifying requirements .....  BOX A

Multiply Box A by **200** and enter results in Box B .....  BOX B

### 2 New Broadleaf Trees

Enter number of NEW broadleaf trees that meet qualifying requirements .....  BOX C

Multiply Box C by **100** and enter results in Box D .....  BOX D

### 3 Existing Tree Canopy

Enter number of EXISTING trees with caliper of 1.5 to 6 inches .....  BOX E1

Multiply Box E1 by **200** and enter results in Box E2 .....  BOX E2

For each tree larger than 6.1 caliper inches, there is **400** square feet of credit **per each 6 caliper inches**.

List each tree (on a separate page, if necessary) larger than 6 caliper inches, include the actual caliper size, and determine the stormwater credit allowed per tree. Do not round up.

Trees (include only trees larger than 6 caliper inches)	Caliper Size (in inches)	Credit Units (divide by 6 to get units to calculate credit)	Credit	Stormwater Credit
		/6 =	x 400 sf	sf
		/6 =	x 400 sf	sf
		/6 =	x 400 sf	sf
		/6 =	x 400 sf	sf
		/6 =	x 400 sf	sf
		/6 =	x 400 sf	sf
TOTAL				sf

BOX F

### 4 TOTAL TREE CREDIT

Add boxes B, D, E2 and F2, enter the TOTAL in Box G .....  BOX G

For sites with **LESS than 1,000 SF** of new or redeveloped impervious area:

The amount in Box G is to be entered on Page 4, 1 Tree Credit.

For sites with **MORE than 1,000 SF** of new or redeveloped impervious area:

Multiply Box 1 on Page 4 by 0.1 and enter result in Box H .....  BOX H

Enter the LESSER of Box G and Box H in Box I .....  BOX I

The amount in Box G is to be entered on Page 4, 1 Tree Credit.

# SIMPLIFIED APPROACH FORM

## FACILITY SIZING WORKSHEET

**1 Total impervious area being developed or redeveloped** .....   BOX 1

Tree Credit: Enter total from Page 3, Box G or Box I \_\_\_\_\_ SF

Impervious Area Reduction Techniques Proposed:

A. Ecoroof \_\_\_\_\_ SF

B. Pervious Pavement \_\_\_\_\_ SF

**2 Total impervious area reductions** .....   BOX 2  
(Add tree credit and impervious area reduction techniques square footage)

**3 Total impervious area requiring stormwater management** .....   BOX 3  
(Subtract Box 2 from Box 1)

**4 Surface facilities proposed**

	Impervious Area Managed		Sizing Factor		Facility Surface Area
A. Planter	SF x	0.06	=		SF
B. Swale	SF x	0.09	=		SF
C. Basin	SF x	0.09	=		SF
D. Downspout Extension	SF x	0.10	=		SF
E. Vegetated Filter Strip for walks and driveways	SF x	0.20	=		SF

Overflow will be directed to (check all that apply): ☐ Subsurface Facility ☐ Surface Water ☐ Stormwater Sewer ☐ Combined Sewer

**5 Total surface facility impervious area managed** .....   BOX 4  
(Add square footage from planters, swales, basins, downspout extensions, etc.)

**6 Subsurface facilities proposed**

The following subsurface facilities can receive overflow from the facilities listed above or can be used independently to manage stormwater from roofs. If stormwater is generated from anything other than roof area, the facilities are subject to the UIC (Underground Injection Control) requirements.

(See Section 2.3.3 for sizing information)

**Facility Size**

A. Drywell \_\_\_\_\_ 2,000 sf \_\_\_\_\_ 48 Diameter \_\_\_\_\_ 5 Depth

B. Soakage Trench \_\_\_\_\_ sf \_\_\_\_\_ Length \_\_\_\_\_ Width

**7 Total subsurface facility impervious area managed** ..... 2,000 BOX 5  
(Add square footage from proposed drywell, soakage trench)

**8 Total stormwater facility impervious area managed** .....   BOX 6  
(Add totals from Box 4 and Box 5)

**9 Total impervious area without management** ..... 2,000 BOX 7  
(Subtract Box 6 from Box 3)

**Escape Route:** If the stormwater facility temporarily fails or rainfall exceeds the facility design capacity, describe where flows will drain to in order to maintain public safety and avoid property damage. Depending on site conditions, this may include storage in an overflow structure, parking lot, street, or landscaped area.

I certify the accuracy of this application.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

10.21.2015

Printed Name: \_\_\_\_\_

TRISHA CLARK - AUTH. AGENT FOR WILDCARD INVESTMENTS LLC

## **EXHIBIT “H”**

---

### **LETTER OF AUTHORIZATION**



**LETTER OF AUTHORIZATION**  
**10722 SE 55<sup>th</sup> Avenue, Milwaukie, Oregon**

This letter is to authorize TRISHA CLARK to sign for WILDCARD INVESTMENTS LLC for needed forms and applications related to the partitioning of the parcel of land located at 10722 SE 55<sup>th</sup> Avenue, Milwaukie, Oregon.

This letter only authorizes signing of documents in direct relation to the land development for the site, for the duration of the project, and only until final plat recording; no other permission is granted beyond the parameters of this written statement.

  
\_\_\_\_\_  
JOSEPH TAYLOR, WILDCARD INVESTMENTS LLC

September 29, 2015

Date: \_\_\_\_\_



## MEMORANDUM

**To: Milwaukie Planning Commission**

**From: Keith Liden, Temporary Planner**

**Re: File# MLP-2015-004 / VR 2016-001**

**Date: April 21, 2016 for April 26, 2016 Public Hearing**

Following the completion of the staff report for the above land use case on April 18, 2016, it was discovered that Parcel 1 of the proposed partition plat would not satisfy the R-7 Zone minimum lot size requirement of 7,000 square feet. Because the proposed Parcel 1 is only about 50 square feet less than the 7,000 square-foot requirement, a minor adjustment to the proposed 5.5 rear yard setback for the existing home on Parcel 2 will allow compliance with the minimum lot size standard.

Attached are an amended staff report, Attachment 1 Findings, and Attachment 2 Conditions of Approval that address the need to amend the proposal to satisfy the minimum lot size requirement.

cc: Dennis Egner, Planning Director  
File(s): MLP-2015-004



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission  
**Through:** Dennis Egner, Planning Director  
**From:** Keith Liden, Temporary Planner  
**Date:** April 18, 2016, for April 26, 2016, Public Hearing  
**Subject:** Amended Report – April 21, 2016

**File:** MLP-2015-004, VR-2016-001

**Applicant:** Trisha Clark, NW Land Planning

**Owner(s):** Joseph Taylor, Wildcard Investments, LLC

**Address:** 10722 SE 55<sup>th</sup> Ave

**Legal Description (Map & Tax Lot):** 1S2E31AB 01700

**NDA:** Linwood

---

## ACTION REQUESTED

Approve application MLP-2015-004, VR-2016-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a 2-parcel partition and a variance to the minimum rear yard setback for the existing residence.

## BACKGROUND INFORMATION

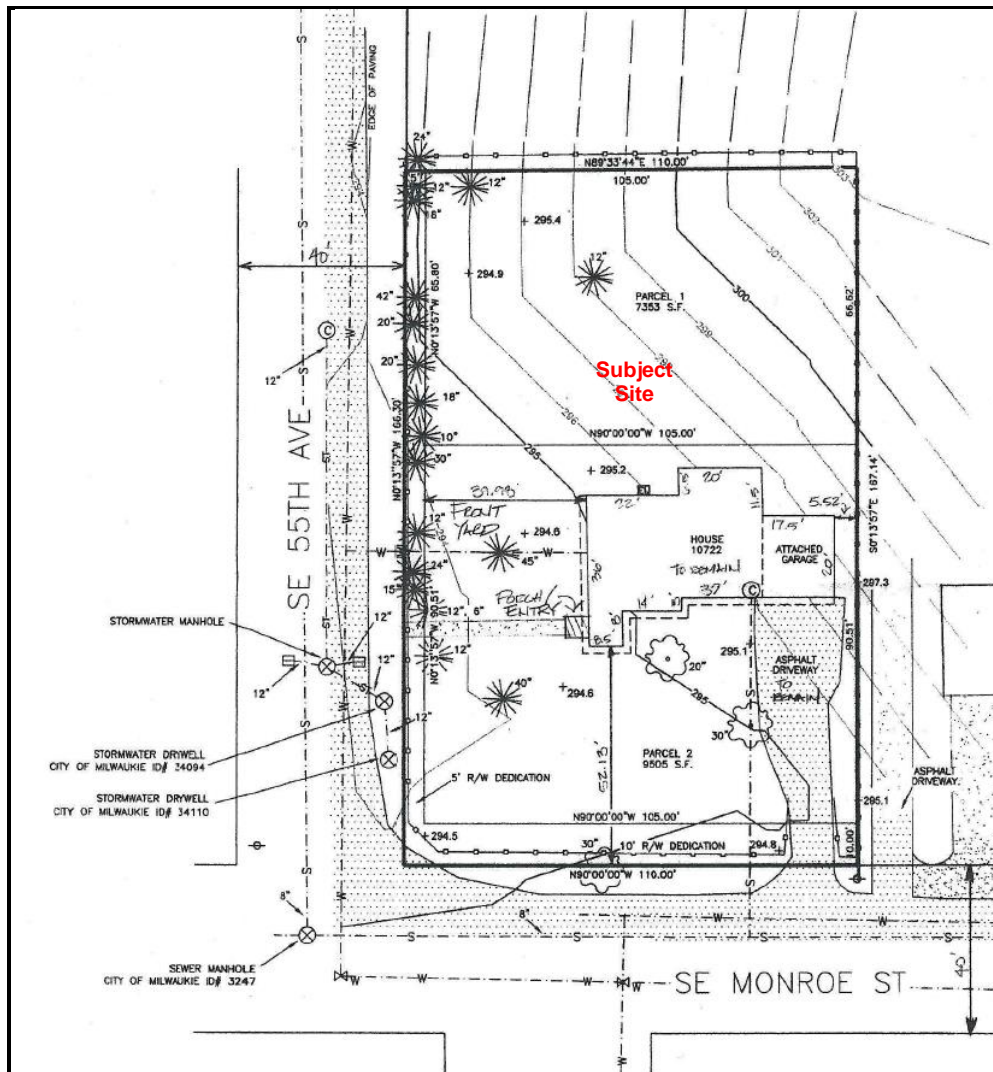
The subject 0.42-acre (18,270 sq. ft.) property is located on the northeast corner of SE 55<sup>th</sup> Ave and SE Monroe Street (see Figure 1). The applicant proposes to divide the existing rectangular lot into 2 parcels (see Figure 2). The property is developed with one residence, which is on the southern portion of the site (see Figure 3).

**Figure 1. Subject site**





**Figure 2. Proposed Partition Plat**



**A. Site and Vicinity**

The site is located in a residential neighborhood with lots sizes ranging from approximately 6,500 square feet to 1 acre. The subject property and neighboring parcels immediately to the east represent some of the larger properties in the immediate area. Both SE 55<sup>th</sup> Ave and SE Monroe are paved without curb or sidewalk.

**B. Zoning Designation**

R-7 Residential Zone

**C. Comprehensive Plan Designation**

LD Low Density Residential

## D. Land Use History

There are no previous land use applications for this property.

## E. Proposal

The applicant is seeking land use approval for the following:

1. Partition of the existing lot into 2 parcels of approximately 7,353 sq ft (Parcel 1) and 9,505 sq ft (Parcel 2). Parcel 1 would have frontage on SE 55<sup>th</sup> Ave and Parcel 2 would have frontage on both SE 55<sup>th</sup> Ave and SE Monroe Street. The house on Parcel 2 currently has driveway access on SE Monroe. This request is subject to Type II review. Following completion of the April 18, 2016 staff report, it was discovered that the size shown for Parcel 1 does not include the required 5-foot right-of-way dedication along the SE 55<sup>th</sup> Avenue frontage. This results in a lot size of approximately 6,952 sq ft, which is slightly less than the minimum lot size requirement of 7,000 sq ft. The 9,505 sq ft lot size calculation shown for Parcel 2 does reflect the right-of-way dedication along the SE 55<sup>th</sup> Avenue and SE Monroe Street frontages.
2. Variance to reduce the minimum rear yard setback for Parcel 2 from 20 ft to 5.5 ft. This request exceeds the 10% variance permitted through Type II review, and is subject to Type III review.

The project requires approval of the following applications:

1. Type II Minor Land Partition
2. Type III Variance

## KEY ISSUES

### Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

A. ~~A.~~ Is the proposed variance reasonable and appropriate?

B. How should the minimum lot size requirement of 7,000 square feet be addressed?

### Analysis

#### A. Is the proposed variance reasonable and appropriate?

The existing house on Parcel 2 will have a rear yard setback of 5.5 ft. The applicant has provided an alternatives analysis (see application narrative) evaluating the impacts and benefits of the proposed 5.5-foot setback for Parcel 2.

As noted in Attachment 1 Findings, the dimensions of the property and the location of the existing house create a situation where at least one variance is necessary. If the rear yard requirement of 20 ft is met, then the lot width of Parcel 1 would need to be less than the code standard of 60 ft.

**B. How should the minimum lot size requirement of 7,000 square feet be addressed?**

As proposed, Parcel 1 would be approximately 50 square feet below the minimum lot size of 7,000 square feet. With a lot depth of 105 feet, Parcel 1 would only need to be approximately 0.5 feet wider to meet the 7,000 square-foot minimum area standard. Requiring compliance with the minimum lot size standard and approving the variance to allow a rear yard setback of approximately 5 feet would address this issue.

## CONCLUSIONS

**A. Staff recommendation to the Planning Commission is as follows:**

1. Approve the 2-parcel land division.
2. Require compliance with the 7,000 square-foot minimum lot size standard of the R-7 Zone.
32. Approve the variance to the minimum rear yard setback of the R-7 Zone. This will result in a reduction of the minimum rear yard setback for Parcel 2 from 20 ft to approximately 5-5 ft.
43. Adopt the attached Findings and Conditions of Approval.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC Section 19.301 Low Density Residential Zones
- MMC Subsection 19.911.4 Variance Approval Criteria
- MMC Chapter 19.700 Public Facility Improvements
- MMC Chapter 19.1200 Solar Access Protection
- MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
- MMC Section 17.28 Design Standards
- MMC Section 17.32 Improvements

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by July 20, 2016, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development and Engineering Departments, Linwood Neighborhood District Association (NDA), Clackamas County, and Clackamas Fire District #1. As of April 18, 2016, comments had been received from the Milwaukie Engineering Director and Clackamas Fire District #1.

## ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	Early PC Mailing	PC Packet	Public Copies	E- Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation dated March 14, 2016.				
a. Narrative	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Vicinity map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Exhibit A Setbacks for Parcel 1	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Exhibit B Reduced Preliminary Plat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Exhibit C Preapplication Notes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Exhibit D Assessor's Tax Map	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g. Exhibit E City Utility Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
h. Exhibit F Deed/Ownership Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i. Exhibit G Site Photos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
j. Stormwater Simplified Approach Form	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
k. Exhibit H Letter of Authorization	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-148>.

**Recommended Findings in Support of Approval**  
**File #MLP-2015-004, VR-2016-001, Trisha Clark**  
**(Amended – April 21, 2016)**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Trisha Clark NW Land Planning on behalf of Joseph Taylor, Wildcard Investments, LLC, has applied for approval to partition the property at 10722 SE 55<sup>th</sup> Ave (TLID 1S2E31AB 01700) and has requested a variance to the minimum rear yard setback requirements. This site is in the R-7 Zone. The land use application file numbers are MLP-2015-004 and VR-2016-001.
2. The applicant is proposing to divide the existing rectangular lot into 2 parcels. The property is developed with one residence, which is on the southern portion of the site. The applicant is requesting relief from the R-7 Zone minimum rear yard setback of 20 ft to allow a 5.5-ft rear yard setback for the existing house on proposed Parcel 2. The request for relief from the minimum rear yard setback standards of the R-7 Zone is subject to Type III Variance review, which is being reviewed concurrently with the Type II Minor Land Partition application.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.301 Low Density Residential Zones
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.911 Variances
  - MMC Chapter 19.1200 Solar Access Protection
  - MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
  - MMC Section 17.28 Design Standards
  - MMC Section 17.32 Improvements
4. Per MMC 17.12.020.D.1, applications for a preliminary partition plat (the first phase of a minor land partition, or MLP) shall be processed in accordance with MMC Section 19.1005 Type II Review unless an associated application subject to Type III review is submitted in conjunction with the partition. The requested Variance is subject to Type III review, and the application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on April 26, 2016, as required by law.
5. MMC Section 19.301 Low Density Residential Zones
  - a. MMC 19.301.2 establishes uses allowed in the R-7 zone. Development on the parcels will be subject to the uses allowed in this subsection.
  - b. MMC 19.301.4 establishes development standards for newly created lots. The standards are met as shown in Table 1.

**Table 1. Overview of Compliance with Development Standards**

Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Minimum Lot Size	7,000 sq. ft.	Parcel 1: 7,353 sq. ft. (6,952 sq. ft. following ROW dedication) Parcel 2: 9,505 sq. ft.	<u>Parcel 2 area calculation reflects required ROW dedication, but Parcel 1 does not. Parcel 1 does not comply</u> Complies with <u>this</u> standard.
2. Minimum Lot Width	60 ft.	Parcel 1: 66 ft. Parcel 2: 105 ft.	Complies with standard.
3. Minimum Lot Depth	80 ft.	Parcel 1: 105 ft. Parcel 2: 90.5 ft.	Complies with standard.
4. Minimum Street Frontage (std. lot)	35 ft.	Parcel 1: 65.8 ft. Parcels 2: 105 ft. along Monroe St.	Complies with standard.
5. Minimum Yard Requirements for Primary Structures	Front: 20 ft. Side: 5 ft. Street side: 20 ft. Rear: 20 ft.	Parcel 1: NA Parcel 2: front (40'). Side ( 5.5'), street side (42') & rear (5.5')	Complies with standards except for rear yard.
6. Density	5.0-6.2 units/net acre	2 parcels	The site is 0.42 acres and approximately 0.38 net acres with the proposed ROW dedication <del>of 5 ft.</del> Minimum density is 2 dwelling units. Complies with standard.
7. Transportation Requirements	Yes, per MMC 19.700	Right-of-way dedication in lieu of improvements	As conditioned, complies with standard. See Finding 6.

The Planning Commission finds that, as conditioned, these standards are met with the exception of the rear yard setback for which a variance is sought.

6. MMC Chapter 19.700 Public Facility Improvements

- a. MMC Section 19.702 establishes the applicability of this chapter to new development.

MMC Chapter 19.700 applies to partitions, subdivisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

*The applicant proposes to partition the existing parcel into two new lots. The partition triggers the requirements of MMC Chapter 19.700.*

*This chapter is applicable to the proposed development.*

- b. MMC Section 19.704 requires submission of a transportation impact study documenting the development impacts on the surrounding transportation system.



*The proposed development will not trigger a significant increase in trip generation and therefore does not require a transportation impact study.*

*This section is not applicable to the proposed development.*

- c. MMC Section 19.705 requires that transportation impacts of the proposed development be mitigated.

*The proposed development does not trigger mitigation of impacts beyond the required frontage improvements. The impacts are minimal and the surrounding transportation system will continue to operate at the level of service previous to the proposed development.*

*As conditioned, this standard is met.*

- d. MMC Section 19.708 contains the City's requirements and standards for improvements to public streets.

- (1) MMC Subsection 19.708.1 requires all development shall comply with access management, clear vision, street design, connectivity, and intersection design and spacing standards.

*The applicant shall construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line.*

*The applicant shall remove all signs, structures, or vegetation in excess of three ft in height from "vision clearance areas" at intersections of streets, driveways, and alleys.*

*The proposed development, as conditioned, is consistent with MMC 19.708.1.*

- (2) MMC Subsection 19.708.2 establishes standards for street design and improvement.

*The applicant shall construct a half street improvement on the east side of SE 55<sup>th</sup> Ave along the newly created lot's frontage. The street improvements include, beginning from the fronting property line, a 5 ft setback sidewalk, 5 ft planter strip, curb and gutter. The applicant agrees that the proposed development will impact SE 55<sup>th</sup> Ave, and that the ultimate improvement of SE 55<sup>th</sup> Ave to city standards, including stormwater planter facilities and sidewalks will benefit the subject property. The applicant has requested to dedicate Right-of-Way in lieu of constructing public improvements on SE 55<sup>th</sup> Ave along the newly created lot. The proposed dedication includes a width of 5 ft on SE 55<sup>th</sup> Ave and 10 ft in width on SE Monroe Street adjacent to parcel 1. The City has calculated the value of the proposed land dedication and finds it to be roughly proportional to the cost of street improvement construction and, due to the anticipation of improvements constructed as part of the Monroe Street Neighborhood Greenway project which is currently in a planning phase; the City of Milwaukie finds this alternative to be approvable.*

*The existing right-of-way width of SE 55<sup>th</sup> Ave fronting the newly created lot is 40 ft. The Milwaukie Transportation System Plan and Transportation Design Manual classify the fronting portions of SE 55<sup>th</sup> Ave a local street. According to Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 ft and 68 ft depending on the required street*

*improvements. The right-of-way width required to accommodate the required improvements on SE 55<sup>th</sup> Ave is 50 ft. The applicant is responsible for a right-of-way dedication of 5 ft in width fronting the newly created lot.*

*The proposed development, as conditioned, is consistent with MMC Section 19.708.2.*

- (3) MMC Subsection 19.708.3 establishes sidewalks shall be provided on the public street frontage of all development.

*The construction of sidewalks along the proposed development property abutting SE 55<sup>th</sup> Ave is included in the street frontage requirements. MMC Section 19.708 states that “The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character”. The proposed development fronts a local road which currently does not contain sidewalks on either side, providing no opportunity for sidewalk connectivity. The City finds that the applicant’s proposal to dedicate right-of-way in lieu of constructing sidewalk along the frontage of the newly created lot provides a greater benefit for future pedestrian connectivity through contribution of needed right-of-way acquisition for the Monroe Street Greenway Project.*

*The proposed development, as conditioned, is consistent with MMC Section 19.708.3.*

- (4) MMC Section 19.708.4 establishes standards for bicycle facilities.

*The portion of SE 55<sup>th</sup> Ave fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan. As a result, bicycle facility improvements are not required for the proposed development.*

*MMC 19.708.4 does not apply to the proposed development.*

- (5) MMC Section 19.708.5 establishes standards for pedestrian and bicycle paths.

*The proposed development property is surrounded by single family residences. The proposed development does not present an opportunity to provide a pedestrian or bicycle path and is not required to provide one.*

*MMC 19.708.5 does not apply to the proposed development.*

- (6) MMC Section 19.708.6 establishes standards for transit facilities.

*The portion of SE 55<sup>th</sup> Ave fronting the proposed development is not classified as a transit route in the Milwaukie Transportation System Plan. As a result, transit facility improvements are not required for the proposed development.*

*MMC 19.708.6 does not apply to the proposed development.*

The Planning Commission finds that, as conditioned, these standards are met.



## 7. MMC Chapter 19.911 Variances

- a. MMC 19.911.3 establishes the appropriate review process for variance applications.

*The applicant proposes to reduce the rear yard setback on Parcel 2 from the minimum R-7 Zone requirement of 20 ft to 5.5 ft. This request would reduce the rear yard setback by over 70%, which exceeds the maximum 25% reduction to lot width standards permitted through Type II Variance review.*

*The Planning Commission finds that the request is subject to a Type III Variance review.*

- b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

### (1) Discretionary relief criteria

- (a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

*The applicant indicates that the existing house has a 5.5-ft setback between the garage and eastern property line. This setback condition will not be affected by the partition. The front entrance to the house faces SE 55<sup>th</sup> Ave, making a reasonable argument for this to be considered as the rear yard and the setback from the northern side of the house to the new boundary with Parcel 1 as a side yard. Figure 19.201-6 Yards in MMC 19.201 Definitions supports this interpretation.*

*Given the minimum lot width standard of 60 ft, the existing property may not be partitioned without a variance to at least one code standard. Creating a lot that meets the city's dimensional standards will create a new buildable lot which should be fully capable of satisfying applicable building setback requirements for the new home. This will enable the new home on Parcel 1 to be compatible with surrounding development.*

*This criterion is met.*

- (b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

- (i) The proposed variance avoids or minimizes impacts to surrounding properties.

*The proposed variance avoids creating adverse impacts for surrounding properties. Development on the newly created lot will be subject to the same setback and lot coverage requirements of the R-7 Zone. The building setback variance will be internal to the site and will not pose any discernible adverse impacts on surrounding properties. As noted above, some type of variance would be necessary to divide this property, and the proposed variance will allow for a new lot, which can satisfy all city standards.*

*This criterion is met.*

- (ii) The proposed variance has desirable public benefits.

*The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone.*

- (iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

*As noted above, the location of the existing house is driving the need for the variance. Without it, the lot could easily be partitioned in a manner that meets all dimensional requirements. However, the house has significant value, and it is not feasible to remove it and begin anew.*

- (c) Impacts from the proposed variance will be mitigated to the extent practicable.

*The potential impact of the variance on neighboring properties will be mitigated by having the setback reduction located in the middle of the site and not adjacent to adjoining properties. ~~In addition~~As noted in Table 1, Parcel 1 as proposed will not satisfy the minimum lot size requirement of the R-7 Zone once 5 feet of right-of-way is dedicated along the SE 55<sup>th</sup> Avenue frontage. To allow compliance with this standard, the rear yard setback should be further reduced from 5.5 feet to approximately 5 feet to create a lot, which meets the minimum lot size standard. With this modification, the new buildable lot will meet all applicable dimensional standards, enabling construction of a new home that also complies with code requirements.*

The Planning Commission finds that these criteria are met.

#### 8. MMC Chapter 19.1200 Solar Access Protection

- a. MMC 19.1203 contains the standards for solar access protection for new development.

- (1) MMC 19.1203.2 establishes applicability for this chapter for a partition, unless an adjustment as provided in MMC 19.1203.5 is justified.

*The applicant proposes an adjustment. This chapter is not applicable as noted in the findings relating to MMC 19.1203.5 below.*

- (2) MMC 19.1203.5 allows the Director (in this case, the Planning Commission) to reduce the percentage of lots that must comply with the design standards in MMC 19.1203.3.

MMC 19.1203.5 A. allows for adjustments to the design standards when compliance would reduce density or increase on-site development costs. Subsection MMC 19.1203.5 A 2 allows consideration of “significant development amenities.”

*In this case, the significant development amenity is the existing house, which cannot be reasonably be moved or removed due to the value of this improvement. The house location dictates dividing the property in the manner proposed. In addition, with an east-west dimension of 110 ft (105 ft following right-of-way dedication) removing the house and creating two long parcels with frontage on SE Monroe Street would require a variance to the minimum lot width standard of 60 ft.*

The Planning Commission finds that the criteria for granting an adjustment are met.

9. MMC Section 17.12 Application Procedure and Approval Criteria

a. MMC 17.12.040.A establishes criteria for approving a preliminary plat.

- (1) The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

*See Finding 5 for an analysis of the proposal against the standards of MMC 19.301 Low Density Residential Zones.*

- (2) The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

*The applicant has requested a variance to the minimum rear yard setback of the R-7 Zone for Parcel 2. See Finding 7 for an analysis of this request.*

- (3) The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

*The proposed partition is not a subdivision, and this section is not applicable.*

- (4) The streets and roads are laid out so as to conform to subdivision plats, which are already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

*No new streets or amended street alignments area proposed, and this section is not applicable.*

- (5) A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

*The applicant has provided this information in the materials submitted for the land use application.*

The Planning Commission finds that, as conditioned, these criteria are met.

10. MMC Section 17.20 Preliminary Plat

MMC 17.20 contains the information required for a preliminary plat application.

*The materials submitted by the applicant satisfy the requirements of this chapter.*

The Planning Commission finds that these requirements are met.

11. MMC Section 17.28 Design Standards

- a. MMC 17.28.010 requires that partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

*As demonstrated by these findings, the partition conforms with all applicable City criteria and standards with the exception of the variance request for the rear yard of the existing house.*

- b. MMC 17.28.020 requires that all land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.700 Public Facility Improvements and the Public Works Standards for

improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

*As described in finding 6, the proposed partition complies with Chapter 19.700. Utilities and work within the right-of-way will be reviewed by the Milwaukie Engineering Department for conformance with Public Works Standards.*

c. MMC 17.28.040 contains standards for lot design.

- (1) MMC 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

*As approved by this action, the proposed parcels have adequate size and dimensions for development and uses allowed in the R-7 zone, and conform to the standards of Title 19 as described in these findings.*

- (2) MMC 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

*The proposed parcels are rectilinear in shape, with side lot lines at right angles and the rear lot lines parallel to the street.*

- (3) MMC 17.28.040.C limits compound lot lines for side or rear lot lines.

*There are no compound lot lines proposed for side or rear lot lines of either parcel.*

- (4) MMC 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

*The applicant has requested a variance to the minimum rear yard setback standard of the R-7 Zone, which is being processed pursuant to MMC 19.911.*

- (5) MMC 17.28.040.E states that double frontage and reversed frontage lots should be avoided except in certain situations.

*None of the parcels in the proposed partition have a double or reversed frontage on more than one public right-of-way.*

- (6) MMC 17.28.040.F requires that pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

*The minimum street frontage standard for the R-7 Zone is 35 ft (MMC 19.301.4, Table 19.301.4). Parcel 1 only has street frontage along SE 55<sup>th</sup> Ave with over 60 ft of frontage. Parcel 2 contains the existing house, which has access via SE Monroe Street, where it has over 100 ft of street frontage. As established in Finding 5.b, these frontages meet the minimum required street frontage in the R-7 zone.*

d. MMC 17.28.080 contains criteria for public open spaces.

*The Milwaukie Comprehensive Plan does not identify any planned park or open space for the site. As such, no dedication for public open space is required.*

- e. MMC 17.28.070 prohibits flag lots in new subdivisions and subdivisions platted after August 20, 2002.

*The proposed land division would create 2 lots and is not a subdivision.*

The Planning Commission finds that these standards are met.

12. MMC Section 17.32 Improvements

- a. MMC 17.32 described required public improvements.

*The applicant proposes to dedicate right-of-way of constructing street and sidewalk improvements.*

The Planning Commission finds that these standards are met.

13. The application was referred to the following departments and agencies on March 31, 2016:

- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Linwood Neighborhood District Association Chairpersons and Land Use Committees
- Clackamas County
- Metro

The comments received are summarized as follows:

- Clackamas County Fire District #1 indicated it had no comments or concerns (via email from Matt Amos, Fire Inspector).
- The Milwaukie engineering Department submitted recommended findings and conditions of approval in a memorandum dated April 14, 2016.

**Recommended Conditions of Approval**  
**File #MLP-2015-004, VR-2016-001, Trisha Clark**  
**(Amended – April 21, 2016)**

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
  - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
  - b. A final plat that substantially conforms to the plans received by the Planning Department and deemed complete on March 22, 2016, and approved by this action, except as modified by these conditions of approval.
  - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications MLP-2015-004 and VR-2016-001.
3. Prior to approval of the final plat, the following shall be resolved.
  - a. Dedicate 5 ft of Right-of-Way along the frontage of both lots on SE 55<sup>th</sup> Ave, and 10 ft of Right-of-Way along the frontage of the existing lot on SE Monroe Street.
  - a-b. Amend the dimensions of Parcel 1 to meet the minimum lot size requirement of 7,000 square feet in the R-7 Zone. The rear yard setback for Parcel 2 may be reduced from 5.5 feet as necessary to satisfy the minimum lot size requirement for Parcel 1.
  - b-c. Remove all signs, structures, or vegetation in excess of 3 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development.
4. Prior to final inspection for any building on the proposed development, the following shall be resolved:
  - a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.
  - b. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA) to the new lot on SE 55<sup>th</sup> Ave. The driveway approach apron shall be between 9 ft and 20 ft in width and least 7.5 ft from the side property line, and shall be constructed in conformance with Milwaukie Public Works Standards.

### **Additional Requirements**

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code and Public Works Standards that are required at various point in the development and permitting process.

1. The Time Limit on Approval established in MMC 17.04.050 applies to this proposed partition.



- a. MMC 17.040.050.A: All decisions on boundary changes and land divisions shall expire 1 year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.  
*Staff note: approval of a final plat must occur prior to the expiration of the preliminary plat approval on which the final plat is based.*
  - b. MMC 17.04.050.B: Approvals may be extended up to 6 months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed 6 months will be granted if the criteria in MMC 17.04.050.B are satisfied.
2. The requirements on MMC 17.24 for preparation and recording the final plat are as follows:
    - a. MMC 17.24.040: Within 6 months of City approval the applicant shall submit the final plat for City signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within 30 days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the City.
    - b. MMC 17.04.120.B: Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with the City Code and required approvals.
    - c. MMC 17.04.120.A: Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within 6 months of City approval.
  3. Prior to commencement of any earth-disturbing activities, the applicant shall obtain an erosion control permit.
  4. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



**To:** Planning Commission  
**Through:** Dennis Egner, Planning Director  
**From:** David Levitan, Senior Planner  
**Date:** April 18, 2016, for April 26, 2016, Worksession  
**Subject:** Comprehensive Plan Update

---

## **ACTION REQUESTED**

None. This is a briefing for discussion only. This worksession is intended to provide an update on the status of the Comprehensive Plan Update.

## **BACKGROUND INFORMATION**

### **A. History of Prior Actions and Discussions**

- **February 23, 2016:** Staff provided the Planning Commission a brief update on the Visioning process, summarizing the presentation that visioning consultant Steven Ames gave to the City Council on February 18 and the feedback that the City Council provided.
- **January 12, 2016:** Staff provided the Planning Commission with an overview of the history and planned approach for the Comprehensive Plan Update and the feedback that the City Council provided on the approach at their December 15, 2015 meeting.

### **B. Background**

As discussed in previous worksessions, the City is starting the process of updating its Comprehensive Plan, the current version of which was adopted in 1989. Staff and its consultants are currently working on several technical inventories that will provide context to future Comprehensive Plan goal and policy development. These include the Housing Needs Analysis (HNA), Economic Opportunities Analysis (EOA), and Buildable Lands Inventory (BLI). In addition, by the end of April staff will be releasing a Request for Proposals (RFP) for consultant assistance to develop a Community Vision and Action Plan. More detail on each of these tasks is included below.



*Housing Needs Analysis (HNA)*

Angelo Planning Group (APG) was hired in March 2016 to prepare the City's Housing Needs Analysis (HNA). Statewide Planning Goal 10 details the required components of an HNA that is prepared as part of a Comprehensive Plan Update. The HNA must assess both current and future demand for housing units across a range of price ranges, rent levels, locations, housing types, and densities, and compare these needs with its supply of buildable residential land. If the HNA shows that cities do not have adequate land supply to meet the full spectrum of anticipated housing needs, they are required to develop policies and actions to help meet this demand. The HNA will provide policy recommendations for consideration as part of the Comprehensive Plan's Housing Chapter, as well as potential implementation tools.

A Housing Technical Advisory Group (TAG) has been created to help guide the HNA process and review project deliverables. The TAG includes staff from a number of county and state housing agencies, as well as local developers, housing non-profits, Mayor Gamba, Councilor Power, and Commissioner Abma. The first TAG meeting is scheduled for May 3, at which members will review and comment on the HNA's key assumptions and methodology. Staff anticipates that the HNA will be substantially completed by July 31.

*Economic Opportunities Analysis (EOA)*

Johnson Economics was hired in October 2015 to prepare an Economic Opportunities Analysis (EOA). Statewide Planning Goal 10 details the required components of an EOA that is prepared as part of a Comprehensive Plan Update. The EOA must analyze the anticipated market demand and employment growth across a number of industries and zoning designations throughout the city, and compare this demand with its supply of employment lands. Similar to the HNA, if the EOA shows that cities do not have adequate employment land, they must develop policies and strategies to help accommodate anticipated economic growth.

A Technical Advisory Group (TAG) has also been created to help guide the EOA process, which includes members from local businesses, business associations, industry groups, utility companies, and Commissioner Argo. The first TAG meeting was held on February 2 and focused on economic trends and targeted industries. The second TAG meeting will focus on the city's employment land supply, and will be scheduled following completion of the Buildable Lands Inventory (BLI). Staff anticipates that the buildable land inventory will be completed by June 30.

*Buildable Lands Inventory (BLI)*

The city's future land supply is calculated through a model known as a Buildable Lands Inventory (BLI). The BLI takes into account a property's zoning designation, lot size, redevelopment potential and permitted density, and then factors in a number of environmental constraints and economic assumptions to determine the city's 20 year supply of residential and employment land. Land is classified as vacant or developed, and a number of uses such as churches and publically owned land are excluded from the model.

Metro has developed a region-wide BLI model, which it updates regularly as part of its work on its Urban Growth Report and Regional Transportation Plan. As part of its scope of work for the HNA, APG will be making refinements to the BLI to account for local conditions and zoning categories. The work on the BLI should be completed by early May,

and will provide the residential land supply estimate for the HNA and the employment land estimate for the EOA.

### *Community Vision*

As briefly discussed at the Planning Commission's February 23 meeting, the City Council has directed staff to prepare a Community Vision and Action Plan that serves as the precursor to the Comprehensive Plan. The visioning process is anticipated to last 9-12 months, and is intended to cover a full range of city issues and services, as opposed to being focused on just land use and planning issues. Development of the Action Plan is expected to overlap with the initial work on several topics of the Comprehensive Plan.

The Community Vision will involve a robust public engagement process, combining a series of public meetings and community events with a strong online and social media presence. Ideas generated during this process will be reviewed and categorized into a number of general theme areas, which will then be developed into the Community Vision and Action Plan. Staff anticipates issuing a Request for Proposals (RFP) for consultant assistance by the end of April 2016, and hopes to start the project by the end of May.

The Community Vision will include a Project Advisory Group (PAG) to help with development of the work products and public engagement as well as a Steering Committee that is focused on process. PAG members will be appointed by the City Council, and include a Planning Commission representative. Staff has spoken with Commission Anderson about serving on the PAG, and she has confirmed her interest.

Chapter 1 of the current Comprehensive Plan (Citizen Involvement) states that the City shall form a Comprehensive Plan Review Committee (CPRC) to assist in periodic review of the Plan, and that one member of the Planning Commission serve on the CPRC. Staff is proposing that upon completion of the Vision and Action Plan, PAG members, including the PC representative, be offered the opportunity to continue on as members of the CPRC for the Comprehensive Plan Update.

## **DISCUSSION**

Staff is seeking input from Commission on the following items:

- Should the Vision Project Advisory Group (PAG) transition into the Comprehensive Plan Preview Committee (CPRC)? Would one commissioner like to serve on the PAG, and another serve on the CPRC?
- Do commissioners have suggestions on potential outreach methods for the visioning process?

## **RECOMMENDATION**

There is no formal staff recommendation. Staff is seeking input from the Commission regarding the Comprehensive Plan Update.

**ATTACHMENTS**

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	E- Packet
1. Visioning Draft RFP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Visioning and Comprehensive Plan Process Graphic	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

PC Packet = paper materials provided to Planning Commission 7 days prior to the meeting.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-148>.



## **CITY OF MILWAUKIE PLANNING DEPARTMENT**

### **REQUEST FOR PROPOSALS (RFP)**

#### **COMMUNITY VISION AND ACTION PLAN**

#### **INTRODUCTION**

The City of Milwaukie is presently accepting proposals from qualified firms for the development of a Community Vision and Action Plan. The Vision will be an aspirational document that relies on community preferences to describe Milwaukie in the year 2040, while the Action Plan will address how the City can achieve the goals and aspirations outlined in the Vision. To accomplish this task, the Milwaukie Planning Department is seeking to hire a consultant to perform tasks outlined in the Scope of Work.

The City is undertaking this visioning process as the first step in updating its Comprehensive Plan. The input received from the community will be used to help identify topics of interest that may be addressed in further detail in the Comprehensive Plan, and to develop goals and policies that help guide future growth and development over the next two decades. In addition, the Vision and Action Plan are anticipated to help guide other City plans, policies, decisions and actions, including the City Council's annual goal setting. As such, a broad and representative public outreach effort that gains participation and input from throughout the diverse Milwaukie community is integral to the success of the project.

#### **SECTION 1: Proposal Submittal and Closing Date**

The proposal must be received by the Milwaukie Planning Department by **5:00 p.m. on May 6, 2016**. Electronic submittals will be accepted. Late proposals will not be considered and will be returned unopened to the Proposer.

Proposals should be addressed to:

David Levitan, Senior Planner  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206  
Phone: (503) 786-7627  
[levitand@milwaukieoregon.gov](mailto:levitand@milwaukieoregon.gov)

## **SECTION 2: Inquiries**

Questions that arise prior to the deadline must be submitted in writing no later than 48 hours prior to the deadline and must be addressed to the Project Manager listed above. As appropriate, questions and answers will be provided to all RFP recipients.

Protest of the contract award must be submitted within seven (7) days of the contract award or issuance of intent to award, whichever is earlier.

## **SECTION 3: Scope of Work** (Please refer to the attached “Community Vision and Action Plan – Scope of Work”)

## **SECTION 4: Request for Proposal**

Information that is required from the applicant as part of the proposal shall include:

1. Project approach

The statement shall include an outline of the objectives and scope of the proposed project and shall describe the proposer's approach to accomplishing the project.

2. Statement of Work and products to be delivered

A clear statement of the services to be performed, the form they will take and what the final product or end result will be. A concise outline delineating the specific tasks to be performed, indicating what will be done, in what sequence and by whom.

3. Qualifications and Experience

Include resumes on each person involved in the project with verifiable references as well as a description of the respondent's organizational framework, special resources, and any other information to demonstrate that the respondent can effectively and efficiently provide the requested product.

Include the number of Oregon governmental organizations the proposer has worked with in performing the type of services covered by this RFP, the range of sizes of those organizations and a brief description of the services provided.

4. Cost proposal

The proposal shall provide an offer to undertake the project as proposed at a quoted cost. A rate schedule shall be provided in case of unanticipated change orders.

5. Project Timeline

A chart designed to illustrate the project schedule.

## **SECTION 5: Evaluation**

The applicant's proposal and capabilities will be judged according to the following criteria:

1. Understanding the problem (20 pts)

The proposal will be evaluated based on the respondent's understanding of the nature of the project, chief issues, types of services necessary to accomplish the work, coordination issues and delivery of stated needs.

2. Project approach (30 pts)

This response will be evaluated to assess the approach that will be applied to accomplish the objectives set forth in the statement of work. This statement of approach must clearly outline how the work will be completed.

3. Individual capabilities and experience with similar projects (35 pts)

The project will be evaluated based on the experience and skills of the applicant and/or staff as they relate to this project, capacity to perform requested tasks and knowledge and experience with local housing issues.

4. Cost proposal (15 pts)

The proposal will be evaluated based upon the completion of the project in a timely fashion and at a competitive cost.

## **SECTION 6: Contract Language**

The City's Personal Services Agreement is included with this RFP to inform proposers of the City's contractual requirements. Any questions or issues with the contract language should be addressed under separate cover and must be included with the proposal. This will be part of the evaluation process, although it is not a weighted score.

**City of Milwaukie  
SCOPE OF WORK  
for a  
COMMUNITY VISION AND ACTION PLAN**

**Project Description**

The City of Milwaukie intends to develop a Community Vision and Action Plan that outlines a future vision of the Milwaukie community in the year 2040, and actions that can be taken to help achieve that vision. Development of the Community Vision and Action Plan will be a precursor to a major update of the City's Comprehensive Plan. As such, community engagement that reaches all segments of the Milwaukie community and is consistent with Statewide Planning Goal 1 is integral to the success of the project.

Milwaukie is a city of just over 20,000 residents, with a network of 7 strong neighborhood district associations that meet monthly and a strong local job base. The City has undertaken a number of planning efforts in recent years, including the recently completed Moving Forward Milwaukie project, which can provide additional context for issues that the City is facing and priorities that have been identified. The City is currently preparing a Goal 9 Economic Opportunities Analysis (EOA) and Goal 10 Housing Needs Analysis (HNA), which will be completed by July 2016.

With the recent opening of the Orange Line Light Rail and rapidly increasing housing prices, Milwaukie is a community that is growing and evolving. As part of the Community Vision and Action Plan, the city is interested in assessing the city's future through the lenses of sustainability, equity, and livability (see Scope of Work item #3 for more detail).

**Estimated Start Date:** June 2016

**General Scope of Work Assumptions**

The following five categories in the Scope of Work outline the City's minimum requirements for respondents to address in their proposals. The City is open to additional project components and methodologies that have proven successful in community visioning efforts. The proposal should be clear in the specific tasks, hours, costs, schedule, and responsibilities (consultant vs. City staff) for each component and task in the scope of work. Following the selection of a consultant, the City expects for the consultant to meet with City staff and the Steering Committee (discussed in more detail in Scope of Work item #1) to assist in finalizing project roles and priorities.

The City is aiming to complete work on the Community Vision within 6-8 months, and complete work on the Action Plan within 12 months. The City has budgeted \$75,000 as well as 1.0 FTE of staff time for development of the Community Vision and Action Plan, which includes a Senior Planner to serve as Project Manager. Proposals should assume that the City's Project Manager will be responsible for coordination and communication with the City Council and the project's committees (discussed further below), coordination of process/meeting logistics and support, and oversight of consultant work. Consultant expertise is needed for community

engagement, committee meeting and event facilitation, marketing and branding, survey research, website/social media, and development of the Vision and Action plan documents. The City is committed to developing a project-specific website that has the ability to incorporate a wide variety of social media platforms and engagement tools, which the City would host but for which it would require assistance in developing content and managing.

## **1: Project Management and Identification of Roles**

As noted, the City will have a Project Manager as part of 1 FTE dedicated to the project, and will be responsible for coordination and communication with the City Council and Steering Committee, coordination of process logistics and support, and oversight of consultant work. The consultant will be responsible for the development of a community engagement program, meeting/event facilitation, marketing/branding, survey research, website/social media content, and development and graphic design of the Vision and Action Plan documents (further requirements for these individual tasks are included later in this RFP). The proposal needs to be clear in identifying the consultant's role on specific tasks and the cost/deliverables associated with those tasks.

City staff is proposing that the following groups and committees will be involved in the visioning process, and has identified the anticipated consultant support that each group will require. Respondents are welcome to comment on the proposed structure based on their experience with other visioning efforts.

- **Steering Committee:** The Steering Committee will guide the visioning process, including helping to identify opportunities for community involvement, keeping the full City Council updated on the project, and reviewing work products. The Steering Committee will include staff from the Planning Department and City Manager's Office; one or two City Council members; and several city department heads. City staff will be responsible for supporting most Steering Committee meetings, but respondents should budget for attending at least two meetings.
- **Project Advisory Group:** The Project Advisory Group (PAG) is designed to be the Statewide Planning Goal 1 citizen involvement advisory committee, and the precursor to the Comprehensive Plan Review Committee, which the city's existing Comprehensive Plan calls for creating for major updates to the Comprehensive Plan. The PAG will be responsible for advising on the content and language of the Vision and Action Plan and helping with community outreach. The PAG will include representation from the Planning Commission; City Council; Parks and Recreation Board; Milwaukie Center/Community Advisory Board; Public Safety Advisory Committee; the city's 9 neighborhood districts; the city's business community; and Clackamas County. Members of the PAG will be invited to continue as members of the Comprehensive Plan Review Committee. The consultant will be responsible for supporting and facilitating the PAG meetings, and working with city staff to prepare materials for each meeting.
- **Technical Advisory Group:** The Technical Advisory Group (TAG) will be comprised of city department heads and other agencies as needed, including the North Clackamas Parks and Recreation District, Clackamas County, ODOT, DLCD, and Metro. City staff will support the TAG without assistance from the consultants.
- **Project Management Team:** The Project Management Team (PMT) will be a subset of the



Steering Committee, and include staff from the Planning Department and City Manager's Office as well as the consultants. Regularly scheduled meetings, primarily by phone and as frequently as weekly, will serve to keep the process moving forward and identify short term PMT member tasks.

## **2: Stakeholder Identification, Outreach, and Community Engagement**

The City's Project Manager and Steering Committee will assist consultants with identification of, and provide contact information for, the diverse set of stakeholders in the Milwaukie community that should be involved in the development of the Vision and Action Plan. The consultant will be responsible for developing and implementing an inclusive and creative community engagement process that is appropriate for an inner-ring suburb of 20,000 residents that combines traditional engagement (community events, open houses, NDA meetings, etc.) with a robust website and social media presence. City staff, including the Project Manager, Public Affairs Specialist, and Community Programs Coordinator, will be available to assist with community engagement.

The consultant should address how they plan to engage community members that are traditionally under-represented in visioning and planning efforts, including a summary of efforts that have been successful in other jurisdictions. The Steering Committee will review the proposed Public Engagement Plan and offer local insight and potential scope refinements.

The proposal shall include specific details on the number and type of proposed meetings/events, website and social media platforms, and other engagement/outreach tools, which will be summarized in a Public Engagement Plan. The proposal shall identify specific tasks that require assistance from city staff and Steering Committee members. Staff will be available to provide insight on topic areas of particular interest to the community in recent years. A preliminary list includes housing, transportation, natural resource protection, public safety, resilience, arts, governance, neighborhood communication and NDA structure, growth management, and downtown development/revitalization.

### ***Consultant Products:***

- a. Public Engagement Plan that summarizes stakeholders, online and social media efforts, open houses, community meetings and events, and other engagement efforts

## **3: Incorporating Sustainability, Equity, and Livability**

The proposal shall make recommendations on how the topics of equity, livability, and sustainability can be framed and incorporated into the development of the Community Vision and Action Plan, and how these interests may intersect or conflict when developing the Vision and Action Plan. The City has identified the quadruple bottom line as a potential framework, one which evaluates not just the city's economic stability and prosperity, but also the city's commitment to sustainability and environmental stewardship, social equity, and the city's cultural landscape.

#### **4: Development of the Community Vision**

Working with the Steering committee, the consultant will evaluate and analyze the information gained through the public engagement process to identify and develop a structure and important components for the Community Vision. Working with the Project Manager and Steering Committee, the consultant will be expected to draft a Community Vision document, which will include identification of a vision statement, goals, and priorities for the community, as well as recommendations on how the Vision can be incorporated into future planning projects, Council goal setting, and other city efforts.

The vision statement should provide context and direction for the City's Comprehensive Plan update, in regards to how the community envisions Milwaukie will grow and develop over the next 20 years. The consultant will support the Project Manager in presenting a draft Vision Statement to the Steering Committee and the City Council, for review, discussion, and ultimate adoption. Upon adoption by the City Council, the consultant shall provide the City with the final document. The consultant is expected to provide graphic design services for the document. The City is seeking a document with a design and structure that will be easily accessible on the city website.

Development of the Vision should be based on the Oregon Visioning Model, or another proven model that achieves similar results, that is based on the following components:

- Background information that is easily understood and graphically oriented, incorporating data from recent city documents such as the Economic Opportunities Analysis and Housing Needs Analysis as well as data from other city services, such as police, public works, and the arts;
- An identification of current trends and an assessment of community input regarding the city's direction and prospects, and potential changes to respond to community feedback; and
- A methodology that synthesizes information collected through workshops, community events, and online tools into topic areas for the vision, and a process for the community to review, revise, and ultimately validate the identified vision.

#### ***Consultant Products:***

- a. Memo summarizing the major themes/categories of ideas identified during the public outreach process, and how these will be presented in the Vision Statement and Action Plan
- b. Vision 2040 Document (Vision Statement, Goals and Priorities)

#### **5: Development of the Action Plan**

The consultant will incorporate information regarding the capabilities and capacity of the City and identified stakeholders to develop an achievable Action Plan the community ideals identified in the Community Vision. The Action Plan shall identify priority goals and action items that will

help fulfill the Vision identified by the community. The City is interested in goals and action items that integrate both short- and long-term projects, and that are based on a set of quantified metrics that can measure achievement of these goals.

Short and long-term action plan items may rely on individual organizations or partners, or a combination of partners that are responsible for each item in order to actively achieve the goals and priorities. The short-term plans shall include, at a minimum, identification of goals and actions to be accomplished in the first five years of the Vision horizon.

Actions should be tied to Vision themes and should identify who has responsibility for the goals and action items. The city is seeking to identify, develop, and measure specific and quantifiable metrics that can assess progress on achieving the vision and associated goals of the community. These metrics should be easily accessible and replicable on an ongoing basis so that the visioning process can be maintained and updated in future years.

Development of the Action Plan shall be done in a way that allows for a seamless transition into the City's Comprehensive Plan Update. It is anticipated that the visioning process will identify a number of ideas and concepts that will result in detailed discussion and policy additions or amendments in the Comprehensive Plan, while other topics won't fit well within the typical construct of a Comprehensive Plan. It will be important for ideas and concepts that don't fit into the Comprehensive Plan to be featured prominently in the Action Plan. The consultant shall also address how ideas identified in the Action Plan can be incorporated into the Comprehensive Plan Update.

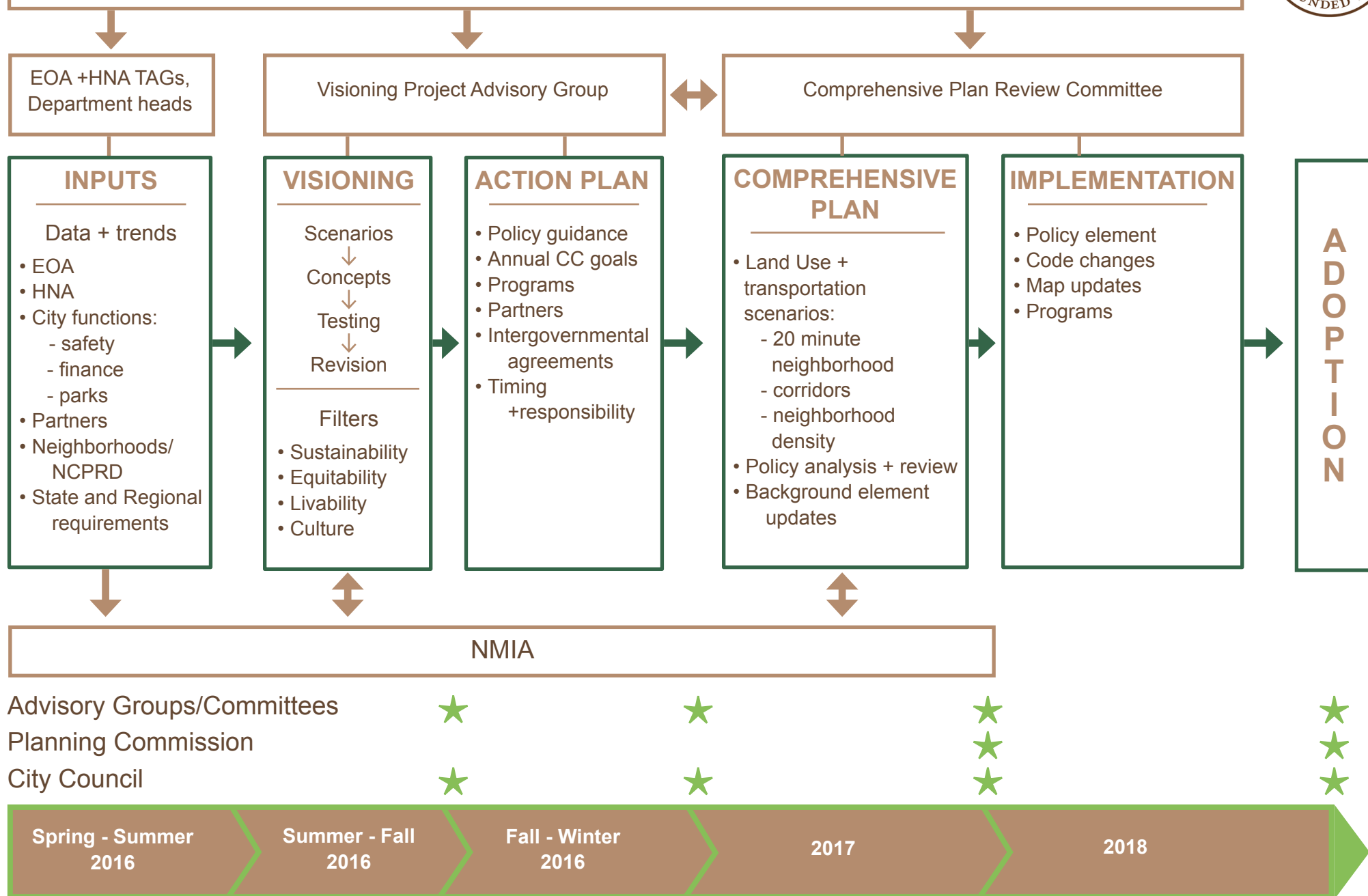
The consultant will present a draft Action Plan to the Steering Committee and the City Council, for review, discussion, and ultimate adoption. Following the City Council's approval of the Action Plan, the consultant will provide the City with the final document. The consultant is expected to provide graphic design services for the document. The City is seeking a document with a design and structure that will be easily accessible on the city website.

***Consultant Products:***

- a. Vision 2040 Action Plan, including metrics to evaluate progress towards achieving identified goals
- b. Summary memo on how to incorporate Action Plan items into the Comprehensive Plan Update process



# MILWAUKIE COMMUNITY MEMBERS





# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission  
**From:** Denny Egner, Planning Director  
**Date:** April 22, 2016 for April 26, 2016  
**Subject:** Supplemental Packet

---

Enclosed is the supplemental packet for the April 26th Planning Commission meeting and includes the materials per Agenda Item below.

- Revised Agenda
- S5.1 MLP-2015-004/VR-2016-001 55th Ave Partition
  - Memo regarding amended staff report and attachments
  - Amended Staff Report
  - Amended Attachment 1 Recommended Findings in Support of Approval
  - Amended Attachment 2 Recommended Conditions of Approval
- S6.2 Marijuana Businesses Code Amendments
  - Memo regarding added agenda item for marijuana businesses code amendments
  - Summary of proposed changes
  - Proposed Code Amendments (Underline/Strikeout)

A supplemental e-packet PDF has been posed and can be viewed at <http://www.milwaukieoregon.gov/planning/planning-commission-148>. If you have trouble accessing the link, feel free to contact Alicia Martin at (503) 786-7600 or [martina@milwaukieoregon.gov](mailto:martina@milwaukieoregon.gov).



# Memorandum

**To: Planning Commission**

**From: Denny Egner, Planning Director**

**Date: April 22, 2016 for April 26, 2016 Worksession**

**Re: Marijuana Businesses Code Amendments**

On May 24th, a public hearing is tentatively scheduled on zoning text amendments related to the regulation of marijuana businesses. I will be out of town on May 10 so I have added a worksession for the proposed amendments to the April 26<sup>th</sup> Planning Commission agenda. The proposed amendments are based partially on direction from the City Council regarding where grow sites (production) should be permitted. This is one of the key issues for discussion.

## ATTACHMENTS

	PC Packet	Public Copies	E- Packet
1. Summary of proposed changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Marijuana Businesses Code Amendments (Underline/Strikeout Version)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**City of Milwaukie, Oregon  
Recreational and Medical Marijuana Land Uses  
Proposed Code Amendments**

**Purpose of amendments** – The purpose of the proposed amendments is to employee local regulations to address potential impacts associated with marijuana businesses. The local regulations are intended to supplement state requirements for marijuana businesses.

**Approach** – Milwaukie's proposed regulations address retail sales, testing labs, processing facilities, warehousing, and production/growing. Each is addressed below:

**Retail Sales** – In 2015, the City of Milwaukie adopted local regulations for medical marijuana dispensaries. The local regulations essentially allowed dispensaries anywhere that pharmacies were permitted consistent with state mandated buffering requirements for 1000-ft buffers around schools and other dispensaries. Milwaukie added 1000-ft buffers around two former schools where many youth related activities are held. The proposal resulted in dispensaries being allowed in all of the commercial and mixed use zones except for the C-N Neighborhood Commercial Zone and the B-I Business Industrial Zone. In the M-Manufacturing Zone and the Tacoma Station Overlay, dispensaries generally need to be located in a building with a permitted manufacturing use. The northern sub area of the Tacoma Station Overlay does allow the opportunity for stand-alone retail use.

The proposed changes merge recreational sales with medical dispensaries and make zoning requirements the same for both types of retail marijuana businesses including the 1000 ft separation between retail stores.

**Testing Labs** – Testing labs are considered a type of production office use similar to a medical or dental lab. There are no regulations proposed for this type of use. It is allowed in any zone where an office use or an industrial processing use is allowed. Limitations specific to the zone apply.

**Processing Facilities** – Processing facilities generally involve the transformation of plant materials into oils or resins or into other products such as edibles. Processing may also involve packaging. Processing facilities are allowed in all industrial and manufacturing zones and to a limited extent in some commercial zones. No changes are proposed as to where these uses may be permitted except that in the BI zone a conditional use permit would be required. A code amendment is proposed to address potential odor problems resulting from these uses.

**Warehousing** – Warehousing for marijuana businesses is allowed in the flowing zones: Manufacturing –M, Tacoma Station Area Manufacturing - M-TSA, and the Business Industrial B-I zones. No changes are proposed.

**Production/Growing** – Under current standards, Milwaukie considers production or growing of marijuana plants an agricultural use. Agriculture is only listed as a permitted use in the following zones:

- Low Density Residential: R-10, R-7, and R-5;

- Medium and High Density Residential: R-3, R-2.5, R-2, R-1, and R1-B
- Commercial Zones: C-G and C-L

Agricultural use is not an allowed use in any other zones. The code places limitations on livestock and chickens and in residential zones, restricts agricultural sales only to those that occur as part of a home occupation.

The proposed code changes include the following:

Residential Zones – Proposed code changes require medical marijuana grow operations to occur only as home occupations and only with ventilation and odor control equipment. Recreational marijuana growing is limited to that which is for personal use only and may occur outdoors subject to state regulations.

Commercial Zones – Commercial recreational or medical grow operations are not allowed. Growing for personal use is allowed.

Industrial Zones – Regulations are proposed to vary by area. Each area is addressed below:

- M-Zone along Johnson Creek Boulevard in NE Milwaukie – Recreational and medical marijuana grow operations are allowed as permitted uses provided that the operations are fully indoors and utilize required ventilation and odor control equipment.
- BI-Zone– Recreational and medical marijuana grow operations are allowed as conditional uses provided that the operations are fully indoors and utilize required ventilation and odor control equipment.
- M-Zone and M-TSA Zones within the North Milwaukie Industrial Area –Recreational and medical marijuana grow operations are not allowed in this area. Following completion of the NMIA plan project consideration will be given to allowing grow operations within the area.



## Underline/Strikeout Amendments

### Zoning Ordinance

#### CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

##### 19.201 DEFINITIONS

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Medical marijuana facility” means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie’s medical marijuana facility regulations.

“Marijuana business” means a state-licensed business involved in the production, processing, warehousing, testing, research, or sale of marijuana or marijuana-derived products.

“Marijuana processor” means a state-licensed business that processes, compounds, transforms, or converts marijuana into other marijuana products including concentrates, extracts, or edible products.

“Marijuana production” means planting, cultivating, growing, or harvesting of marijuana for sale or processing as a legal, state-licensed business.

“Marijuana retailer” means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.

---

#### CHAPTER 19.300 BASE ZONES

##### 19.301 LOW DENSITY RESIDENTIAL ZONES

###### 19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

## Proposed Code Amendment

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
<b>Accessory and Other Uses</b>				
Agricultural or horticultural use	P	P	P	<b>Subsection 19.301.3</b> Use Limitations and Restrictions
Home occupation	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

### 19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

- A1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
- B2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- C3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in low density residential zones except as follows:

- 1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:
  - a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
  - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure is maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.
  - c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
  - d. No more than 12 mature medical marijuana plants may be grown on a lot or parcel of land.
- 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

**Proposed Code Amendment****19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES****19.302.2 Allowed Uses in Medium and High Density Residential Zones**

Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.302.2 Medium and High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Accessory and Other Uses</b>						
Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

**19.302.3 Use Limitations and Restrictions**

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
  1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
  2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
  3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Office uses allowed in the medium and high density zones are offices, studios, clinics, and others similar professional offices. Offices for marijuana businesses are not permitted.
- C. Marijuana production is not permitted in medium and high density residential zones except as follows:
  1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:
    - a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukee.
    - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure is maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.

## **Proposed Code Amendment**

---

- c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
    - d. No more than 12 mature medical marijuana plants may be grown on a lot or parcel of land.
  - 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.
-

## Proposed Code Amendment

## 19.303 COMMERCIAL MIXED-USE ZONES

## 19.303.2 Uses

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Commercial<sup>3, 4</sup></b>			
<p>General Office</p> <p>General office means professional, executive, management, or administrative or administrative offices of firms or organizations.</p> <p>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; <u>offices for testing and research-related businesses</u>, and medical and dental clinics.</p>	P	P	<u>Subsection 19.303.6.C Marijuana testing and research facilities</u>
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>	P	P	
<p><u>Marijuana retailer</u> <del>Medical marijuana facility</del></p> <p><u>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</u></p> <p><del>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</del></p>	P	P	<u>Subsection 19.303.6.A Standards for Marijuana retailers</u> <del>Medical Marijuana Facilities</del>

## Proposed Code Amendment

Manufacturing and Production			
<p>Manufacturing and production.<sup>8</sup></p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u>; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys. <u>Marijuana production is prohibited.</u></p>	P	P	<b><u>Subsection 19.303.6.B Marijuana processors</u></b>

P = Permitted.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to "retail-oriented sales" uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on February 13, 2016, the effective date of Ordinance #2112. Redevelopment of the site is subject to all standards of Table 19.303.2.
8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

### 19.303.6 Standards for Marijuana Businesses ~~Medical Marijuana Facilities~~

#### A. Marijuana Retailers

In the commercial mixed-use zones, marijuana retailers ~~medical marijuana facilities~~ shall meet the following standards:

- A1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites. nor within 1,000 ft of another marijuana retailer.
- B2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.

**Proposed Code Amendment**

~~C3.~~ Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.

~~D4.~~ The hours of operation for marijuana retailer ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.

5. No drive-through sales are permitted.

**B. Marijuana Processors**

~~1.a.~~ The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.

~~2.b.~~ Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.

~~3.c.~~ An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

~~4.d.~~ Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

**C. Marijuana Testing and Research Facilities - permitted as office uses with no special standards.**

**19.304 DOWNTOWN ZONES**

**19.304.2 Uses**

<b>Table 19.304.2 Downtown Zones—Uses</b>			
<b>Uses and Use Categories</b>	<b>DMU</b>	<b>OS</b>	<b>Standards/ Additional Provisions</b>
<b>Commercial</b>			
Production-related office Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, <u>research</u> , production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio,	P/CU	N	<b>Subsection 19.304.3.A.2</b> Main St limitations <b>Subsection 19.304.3.A.3</b> Commercial use limitations <b>Subsection 19.304.3.A.7.a</b> <u>Marijuana testing and research facilities</u> <b>Section 19.905</b> Conditional Uses

## Proposed Code Amendment

and internet studios and broadcasting; scientific and technical services; call centers, and medical and dental labs.			
<u>Marijuana retailer</u> <u>Marijuana retailer means a state-licensed business that sells or distributes marijuana and marijuana-derived products to consumers. A marijuana retailer may sell or distribute recreational or medical marijuana.</u> <u>Medical marijuana facility</u> <u>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</u>	P/CU	N	<b>Subsection 19.304.3.A.7.a</b> <u>Standards for Marijuana retailers</u> <u>Medical Marijuana Facilities</u>
<b>Manufacturing</b>			
Manufacturing and production Uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; <u>marijuana processors</u> ; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments (including musical instruments), vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.	P	N	<b>Subsection 19.304.3.A.7.b</b> <u>Marijuana processors</u> <b>Subsection 19.304.3.A.8</b> Manufacturing and production limitations

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

### 19.304.3 Use Limitations, Restrictions, and Provisions

#### A. Use Limitations and Restrictions



---

**Proposed Code Amendment**


---

The following provisions describe the limitations for uses listed in Table 19.304.2.

7. Marijuana Businesses

a. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:

- ~~a.(1)~~ As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors. In addition, a marijuana retailer shall not be located or within 1,000 ft of another marijuana retailer ~~medical marijuana facility~~.
- ~~b.(2)~~ A marijuana retailer ~~medical marijuana facility~~ shall not be ~~colocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
- ~~c.(3)~~ Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- ~~d.(4)~~ The hours of operation for a marijuana retailer ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- (5) No drive-through sales are permitted.

b. Marijuana Processors

- (1) The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
- (2) Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
- (3) An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
- (4) Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

c. Marijuana Testing and Research Facilities - permitted as production office uses with no special standards.

- 8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. Marijuana production is prohibited.
-

## Proposed Code Amendment

---

### 19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

#### 19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- B. Offices ~~of for~~ administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- F. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.306.3.L.

#### 19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

#### 19.306.3 Standards

In a C-L Zone the following standards shall apply:

- L. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ shall meet the following standards:
  1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
  2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~colocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
  3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
  4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
  5. No drive-through sales are permitted.

---

### 19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

---

**Proposed Code Amendment**


---

**19.307.1 Uses Permitted Outright**

In a C-G Zone the following uses and their accessory uses are permitted outright:

- B. ~~Offices of~~ for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific, or statistical businesses or organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;
- Y. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.307.3.M;

**19.307.2 Conditional Uses Permitted**

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock; marijuana production is not permitted as an agricultural use;

---

**19.307.3 Standards**

In a C-G Zone the following standards shall apply:

- M. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:
  1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1,000 ft of another medical marijuana facility. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
  2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~colocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
  3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
  4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- 5. No drive-through sales are permitted.

---

**19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS**

In a C-CS Zone the following regulations shall apply:

**19.308.1 Uses**

Development shall be a community-scale shopping center.

## Proposed Code Amendment

---

- A. Such center shall include at least 3 out of the 4 following uses:
  - 1. Department store uses;
  - 2. Drug and/or variety store uses;
  - 3. Food supermarket;
  - 4. Retail specialty shops.
- B. Such center may include the following additional uses:
  - 7. Marijuana retailer ~~Medical marijuana facilities~~ subject to the standards of Subsection 19.308.5.K;

---

### 19.308.5 Development Standards

- K. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:
  - 1. As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
  - 2. A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
  - 3. Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
  - 4. The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
  - 5. No drive-through sales are permitted.

---

## 19.309 MANUFACTURING ZONE M

### 19.309.2 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.2.B.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.

---

**Proposed Code Amendment**


---

- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- F. Warehouse use which is accessory to an industrial use.
- G. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ are allowed as a commercial use under Subsection 19.309.2.A. and subject to the special development standards set forth in Subsection 19.309.7.A.

---

**19.309.4 Specific Prohibited Uses**

- D. All lots included in mapped "Industrial" areas, as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999, carry the following additional restrictions:
  - 1. Individual retail trade uses greater than 5,000 sq ft gross floor area per building or business are prohibited.
  - 2. Multiple retail trade uses that occupy more than 20,000 sq ft gross floor area are prohibited, whether in a single building or in multiple buildings within the same project.
  - 3. Facilities whose primary purpose is to provide training to meet industrial needs are exempted from this prohibition.

---

**19.309.7 Special Development Standards**

The following development standards apply to specified uses in the M Zone.

A. ~~Marijuana Businesses~~ ~~Medical Marijuana Facilities~~

- 1. ~~Marijuana retailers~~ ~~Medical marijuana facilities~~ shall meet the following standards:
  - 4 ~~a.~~ As set forth by Oregon Administrative Rules, a ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites nor within 1,000 ft of another marijuana retailer.
  - 2 ~~b.~~ A ~~marijuana retailer~~ ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business except when collocated with another state-licensed marijuana business as permitted by state laws.
  - 3 ~~c.~~ Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
  - 4 ~~d.~~ The hours of operation for ~~marijuana retailers~~ ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.

## Proposed Code Amendment

---

e. No drive-through sales are permitted.

### 2. Marijuana producers and processors

- a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
- b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production or processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production or processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
- c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
- d. Marijuana producers and processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

### 3. Marijuana testing, research, and warehousing – no special standards

---

## 19.310 BUSINESS INDUSTRIAL ZONE BI

### 19.310.2 Uses Permitted Outright

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
  - 1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site (including marijuana testing or research);
  - 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
- C. Warehousing and distribution (including marijuana warehousing).

---

### 19.310.6 Standards

In the BI district, the following standards shall apply to all uses:

#### K. Nuisances

The use shall not be of a type or intensity which produces dust, odor, smoke, fumes, noise, glare, heat, or vibrations which are incompatible with other uses allowed in this zone; and the use does not produce off-site impacts that create nuisance as defined by the Oregon D.E.Q. and the City Noise Ordinance.

---

**19.310.5 Conditional Uses**

B. Uses allowed subject to the above conditions are:

4. Marijuana producers and processors

- a. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
  - b. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production and processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production or processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
  - c. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
  - d. Marijuana producers and processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.
-

## Proposed Code Amendment

### 19.312 TACOMA STATION AREA MANUFACTURING ZONE M-TSA

#### 19.312.2 Use Categories

The categories of land uses that are permitted in the M-TSA Zone are listed in Table 19.312.2. Permitted uses are designated with a "P." A "C" in this table indicates a use that may be authorized as a conditional use in conformance with Chapter 19.905. An "L" indicates a use that is permitted outright with certain limitations as described in Subsection 19.312.6. Uses not listed in the table are not allowed.

All uses must comply with the land use district standards of this section and all other applicable requirements of the Zoning Ordinance. If it is unclear whether a proposed use is allowed under the use categories, the applicant may submit a Director determination application per Subsection 19.903 to resolve the issue.

Table 19.312.2 M-TSA Zone Uses	
Use Category	Status
<b>B. Manufacturing</b>	
This category comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of component parts. Examples include: alternative energy development; biosciences; food and beverage processing; software and electronics production; printing; fabrication of metal products; products made from manufactured glass; products made from rubber, plastic, or resin; converted paper and cardboard products; and microchip fabrication. Manufacturing may also include high-tech and research and development companies.	P
<b>C. Wholesale Trade</b>	
This category comprises establishments engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers sell or distribute merchandise exclusively to other businesses, not the general public, and normally operate from a warehouse or office and are not intended for walk-in traffic. Associated retail is only allowed as an accessory use in conformance with Subsection 19.312.2.G.2 and other applicable standards in this section.	P
<b>D. Warehousing and Storage</b>	
This category comprises industries that are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and are generally being stored in anticipation of delivery to final customer. Examples include: transportation and distribution uses with loading docks, temporary outdoor storage, and fleet parking. Ministorage facilities (generally used by many individual customers to store personal property) are not considered industrial warehousing and storage and are not permitted in the M-TSA Zone.	P
<b>G. Limited Uses</b>	
<p>This category comprises uses that are primarily intended to support and serve other allowed uses in the M-TSA Zone. Limited uses are divided into two subcategories. See Subsection 19.312.6 for applicable limitations on these uses.</p> <p>3. <u>Marijuana Businesses</u> <del>Medical Marijuana Facilities</del></p> <p>This subcategory applies <del>only to processing, warehousing, testing, research, and retail sales of medical-marijuana at State-licensed facilities.</del> <u>Marijuana producers are prohibited.</u></p>	L

P = Permitted.

L = Limited.



---

**Proposed Code Amendment**


---

C = Conditional use.

---

**19.312.6 Standards for Limited Uses**

The following standards apply to those uses listed as limited (L) in Table 19.312.2.

**B. Marijuana Businesses ~~Medical Marijuana Facilities~~**

**1. Marijuana retailers ~~Medical marijuana facilities~~ shall meet the following standards:**

- 1a.** As set forth by Oregon Administrative Rules, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors ~~or within 1,000 ft of another medical marijuana facility~~. In addition, a marijuana retailer ~~medical marijuana facility~~ shall not be located within 1,000 ft of ~~the Wichita and Hector Campbell school sites~~ of another marijuana retailer.
- 2b.** A marijuana retailer ~~medical marijuana facility~~ shall not be ~~collocated~~ collocated with another business ~~except when collocated with another state-licensed marijuana business as permitted by state laws~~.
- 3c.** Display of marijuana or marijuana products that are visible from outside of the retail facility is prohibited.
- 4d.** The hours of operation for marijuana retailers ~~medical marijuana facilities~~ shall be limited to the hours between 8:00 a.m. and 10:00 p.m.
- e.** No drive through are permitted.

**2. Marijuana processors**

- a.** The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
- b.** Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the processing rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for processing. Exhaust outlets shall be a minimum of 25 feet from a property line.
- c.** An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
- d.** Marijuana processors shall demonstrate during the business registration process that their electrical energy source is from 100% renewable energy.

**3. Marijuana testing, research, and warehousing – no special standards.**

**C. Retail Commercial and Professional Services**

In order to ensure that these uses are limited in size and scale and do not dominate land intended for manufacturing uses, the following standards apply. See Figure 19.312.6.B for an illustration of the size limitations.

**Proposed Code Amendment**

---

1. The total gross leasable square footage of an individual retail or professional service use shall not exceed 5,000 sq ft or 40% of the floor area of an individual building, whichever is less.
2. Multiple retail or professional service uses shall not exceed 20,000 cumulative gross leasable sq ft within the same development project. For the purposes of this section, a development project is defined as:
  - a. A single building with 50,000 sq ft or more of gross floor area.
  - b. Multiple buildings, each with less than 50,000 sq ft of gross floor area, that share common development features (such as access, parking, or utilities), whether or not the buildings are located on the same or a different parcel or lot.
3. Retail and professional service uses shall not be permitted in a stand-alone building. They must be included within a building whose primary purpose is for an allowed manufacturing use. The retail commercial or professional service use is not required to be related to the primary manufacturing use. Food carts are permitted as a stand-alone use.

**19.312.7 Development Standards for All Uses**

The following development standards apply to all uses in the M-TSA Zone.

**H. External Effects**

The potential external effects of manufacturing uses shall be minimized as follows:

1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
  2. Potential nuisances such as noise, odor, electrical disturbances and other public health nuisances are subject to Title 8 Health and Safety.
  3. Roof-mounted mechanical equipment, such as ventilators and ducts, for buildings located adjacent to residential districts, arterial streets, or transit streets, shall be contained within a completely enclosed structure that may include louvers, latticework, or other similar features. This screening requirement does not apply to roof-mounted solar energy systems or wind energy systems.
-

## **CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS**

### **19.406 TACOMA STATION AREA OVERLAY ZONE TSA**

#### **19.406.3 General Provisions**

The following provisions apply to all development within the Tacoma Station Area Overlay Zone.

##### **A. Consistency with Base Zone**

The M-TSA Zone is the base zone for the properties within the Tacoma Station Area Overlay Zone and all requirements of the base zone apply unless otherwise noted in this section. Where conflicts occur between this section and other sections of the code, the standards and requirements of this section shall supersede.

##### **B. Off-Site Impacts**

In order to ensure greater compatibility between manufacturing and nonmanufacturing uses in the Tacoma station area, the following off-site impact standards apply in Subareas 1-3.

##### **4. Odor**

Continuous, frequent, or repetitive odors are prohibited. The odor threshold is the point at which an odor may just be detected. An odor detected for less than 15 minutes per day is exempt.

#### **19.406.4 Tacoma Station Area Overlay Zone Subareas**

##### **19.406.5 Subarea 1: North of Springwater**

##### **D. Limited and Prohibited Uses**

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 60,000 sq ft per building or development project.
  2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
  3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.
-

**Proposed Code Amendment**

---

**19.406.6 Subarea 2: West of McLoughlin****D. Limited and Prohibited Uses**

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 20,000 sq ft per building or development project.
2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.

**19.406.7 Subarea 3: Mixed Employment****D. Limited and Prohibited Uses**

The following uses are not allowed or are allowed with limitations.

1. Retail uses are permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). Retail uses shall not exceed 20,000 sq ft per building or development project. Development standards for manufacturing uses will be the standards of the base zone plus additional standards similar to those in the Business Industrial Zone Subsection 19.310.6.
2. Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.
3. Only those manufacturing uses that comply with the off-site impact standards in Subsection 19.406.3.B are allowed.

**19.406.8 Subarea 4: Manufacturing****C. Permitted Uses**

Permitted uses in Subarea 4 are the same as those permitted in the base M-TSA Zone, with the following exceptions: Retail commercial and professional service uses may be permitted in a stand-alone building (they do not need to be accessory to a manufacturing use). The size limitations of the base M-TSA Zone Subsections 19.312.6.C.1-2 still apply.

**D. Limited and Prohibited Uses**

The following uses are not allowed or are allowed with limitations: Warehousing and storage uses, as defined in Subsection 19.312.2.D, are allowed only as accessory or secondary uses to a permitted use. Stand-alone warehouse and storage uses are prohibited.

---

## **CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

### **19.507 HOME OCCUPATION STANDARDS**

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the City's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

#### **19.507.1 Home Occupation Use Standards**

Home occupation uses are allowed by right; however, they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property.
- B. Maintain the residential character of the building and premises.
- C. Not have the outward appearance of a business.
- D. Not detract from the residential character of the neighborhood.
- E. Be owned and operated by an occupant of the dwelling.

#### **19.507.2 Prohibitions and Use Restrictions**

- A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premises instruction, no more than 5 enrollees shall be present at the same time.
- D. Motor vehicle, boat, or trailer repair is prohibited as a home occupation.
- E. Only 1 home occupation is allowed per residence, except that 2 may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.
- F. Except as set forth below, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for

## **Proposed Code Amendment**

---

medical marijuana patients is permitted provided the operation is entirely indoors and meets the following standards:

1. The operation shall be within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie.
2. Odor shall be managed through the installation of activated carbon filters on all exhaust outlets from the production rooms to the building exterior. Negative air pressure shall be maintained within the rooms used for production. Exhaust outlets shall be a minimum of 25 feet from a property line.
3. An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the state of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.