

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, AUGUST 8, 2000

COMMISSIONERS PRESENT

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

STAFF PRESENT

Alice Rouyer,
 Planning Director
John Gessner,
 Associate Planner
Shirley Richardson,
 Hearings Recorder

COMMISSIONERS ABSENT

Doug Ouderkirk
Donald Hammang

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 PLANNING COMMISSION MINUTES -- None.

4.0 INFORMATION ITEMS -- City Council Minutes Not Available

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS

6.1 Applicant/Owner: Gerald and Carolyn Read
Location: 2820 SE Roswell
Proposal: Requesting approval of a setback Variance on an addition
that was completed in 1993.
File Numbers: VR-00-02
NDA: Ardenwald

Chair Cook opened the public hearing on File Number VR-00-02 to allow a variance to the rear yard setback at 2820 SE Roswell. The criteria to be addressed

are found in Section 303, 500, 700 and 1011.3 of the Milwaukie Zoning Ordinance.

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

STAFF REPORT

John Gessner reviewed the staff report with the Commission. The work that was done in 1993 was done without permits, therefore, without zoning approvals. There were two violations created: violation of the rear-yard setback and a violation to the requirement to have at least one covered parking space.

Staff has provided an analysis in the staff report and recommends that the Commission approve the setback variance based on a finding that it complies with the three criteria in Section 700. Overheads were shown of the subject site and surrounding area.

In 1993 the Zoning Ordinance had, and continues today, two types of setbacks. It depends on whether it's the primary structure of the house or a detached building. For the house it is a minimum 20-foot setback. Both structures were constructed in the 1930s, before zoning and this setback is less than the required 20-feet. The regulations today regarding accessory dwellings allow them to be located within 3-feet from the property line when they are at least 60-feet from the street and no more than 480 sq.ft. This subject building is within 4-feet of the rear property line and has a wider sideline. The building was originally built in conformance with the setbacks..

When the remodeling was done, was attached to the main house and the regulations go back to the primary setback of 20-feet. It is only 4-feet. This is the origin of the violation. This former garage met the requirement that covered parking be provided. When the garage became a part of the house, the second violation occurred.

QUESTIONS FROM THE COMMISSIONERS -- None.

CORRESPONDENCE RECEIVED -- None.

APPLICANT'S PRESENTATION

Speaking: Carolyn and Jerry Read, 2820 SE Roswell, Milwaukie

Carolyn Read stated that at the time the garage was converted, she called the County because that is where she paid her taxes. She applied for and received an electrical permit from the County. The permit was granted, the work was done, and inspections were completed. It was not until recently that they learned about the City of Milwaukie's permits and requirements. Milwaukie was contacted and they applied for the necessary permits. This is when they learned of the setback violation.

Jerry Read explained that they have raised their children and they have left home. Now they are taking in foster children and the addition was to allow them more room for these kids. They would like to try and make things right with the permits.

QUESTIONS FROM THE COMMISSIONERS

Howard Steward asked what permits were obtained at the County? **Carolyn Read** stated that she took a sketch of what they wanted to do to the County and they sold her an electrical permit. There was no mention that other permits would be required.

Barbara Cartmill asked the Reads if they did the work on the house or had someone do the remodel? **Carolyn Read** stated that the work was done by friends and relatives.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

John Gessner noted a change in the language in Page 6.15, Paragraph 3A. Since the house and garage existed since 1940, no appreciable changes to the site's relationship with adjoining properties have happened since the addition was made in 1993.

The City has issued electrical or plumbing permits since the mid 1990's. Prior to that the County was exclusively issuing both electrical and plumbing permits. The City was only doing structural and mechanical. It is reasonable that there could have been a gap in communication between the Applicant and the County.

QUESTIONS FROM THE COMMISSIONERS

Judith Borden asked if there are procedures in effect now that would prevent this misunderstanding from happening again? **John Gessner** stated that the City issues County electrical permits; there is an interface with the County. The City issues County electrical permits and has taken over the issuance of all other permits. This problem has been solved by the fact that the City handles County permits.

QUESTIONS FOR CLARIFICATIONS

Mike Miller asked if the City is not enforcing the building code as it presently stands on this situation? **John Gessner** stated that the Commission has the authority to modify the condition to require that the present code be enforced. Staff was trying to extend some accommodation due to the fact that the work was done in 1993; therefore, it should be held to the construction standards that were in effect at that time.

Howard Steward stated that he is concerned that the Applicant is being asked to pay fees now that they would have been paid at the time of the permit had they been informed of the whole process. **Alice Rouyer** stated that fees are not under Commission discretion.

APPLICANT'S CLOSING COMMENTS -- None.

QUESTIONS FROM THE COMMISSIONERS -- None.

DELIBERATION AMONG COMMISSIONERS

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

Howard Steward asked what would happen if Condition #1 was deleted? **Alice Rouyer** stated that the variance is needed to make the Reads property legal. They need to get the permits and variance to make their structure legal.

Mike Miller stated that he is in favor of approving this proposal. He does however feel that if there are code improvements that have been changed since 1993, these codes should be enforced. He is concerned about the current codes for a firewall between a converted garage and the house. **Alice Rouyer** stated that the only code changes she can think of are insulation changes. This could be a real burden to the applicant. When the structure goes through the inspection process, there may be structural updates.

Barbara Cartmill moved to approve the application for Variance Request VR-00-02 of Carolyn and Gerald Read for a variance to the rear yard setback at 2820 SE Roswell, and adopt recommended Findings and Conditions of Approval as stated in the Staff Report. **Mike Miller** seconded the motion. MOTION CARRIED 5-0.

Ayes: Cook, Borden, Cartmill, Miller, Steward; Nays: None.

- 6.2 Applicant/Owner: Daniel Redmond and Denise Lockhart
Location: 9529 SE 32nd Avenue
Proposal: Approval of Conditional Use to remove two existing residences and replace with a 2-unit townhouse.
File Numbers: CU-00-02
NDA: Ardenwald

Chair Cook opened the public hearing on File Number CU-00-02 to allow for construction of a new duplex in a C-L zone. The approval criteria are found in Section 311, 500, 600, and 1011.3 of the Zoning Ordinance and Chapter 4 – Land Use Comprehensive Plan.

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

STAFF REPORT

Alice Rouyer introduced Harriet Wegner, a contract planner that will be working with the City the next few months. She then reviewed the Staff Report with the Commission. Overheads were shown of the subject site and the surrounding area. There are two older homes on the site that the Applicant is wishing to replace with a duplex. A duplex in this CL Zone is a Conditional Use and requires Commission approval.

Staff is recommending approval with the Conditions as outlined on Page 5 and 6 of the Staff Report.

QUESTIONS FROM THE COMMISSIONERS

Judith Borden asked if staff has met the requirement of reviewing structures of a similar type within a 200-foot radius of the subject site? **Alice Rouyer** stated that the staff member who researched this Application is no longer with the City. She does feel confident; however, that the analysis on Page 3, of the 200-foot radius was measured and found that there were three lots containing two dwellings per lot and one lot containing three dwellings.

CORRESPONDENCE RECEIVED -- None.

APPLICANT PRESENTATION

Speaking: Denise Lockhart and Daniel Redmond, 3537 SE 144th Avenue, Portland

Mr. Redmond stated that they have two old structures that they would like to replace with a duplex. There is no way of maintaining these structures; they had to be destroyed. They have the option of developing the property in a business use, however they have decided to develop the site as it is currently being used. The existing structures will be replaced with an attached two-unit duplex single-story structure.

Mr. Lockhart stated that they will have the parking aligned with the headlights facing to the North (Commercial property) and not towards the south (Residential Zone). The parking will maintain the proper landscaped buffers, setbacks, and other requirements that the Code recommends. A final landscape drawing can be prepared if the Commission so desires.

The property is currently fenced on all three property lines. The fencing is less than ten years old. The fencing complies with the fencing requirements. There is wooden fence on the rear property line. The cyclone fence has privacy slats in the fencing. They would prefer not to tear this fencing out if the existing fencing meets the objective of providing a visual buffer to the one R-7 lot to the back.

QUESTIONS FROM THE COMMISSIONERS

Barbara Cartmill asked if the sketched plan was a conceptual drawing? She asked why the duplexes in the front and the parking in the back? **Mr. Redmond** stated that the driveway would crowd the property line and the building.

Mike Miller asked how they would obscure the site from the sides of the property should the existing fence remain? **Mr. Redmond** reiterated that the fence has privacy slats. Pictures were presented that showed the existing fence.

Chair Cook asked if the unit will be rentals? **Mr. Redmond** stated that Denise Lockhart's mother and father will live in one unit and the other unit will be a rental.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS

Speaking: Sherry Newton, 9557 SE 32nd, Milwaukie

Ms. Newton stated that she is the adjoining south side neighbor. She has a five-foot fence, but would prefer the applicant provide a higher fence to keep her dog from being disturbed. She voiced concern about the renters throwing garbage over the fence, loud music, fighting, destroying vehicles, or drugs. She feels the higher fence would eliminate some of the noise and confusion associated with renters.

Speaking: Frank Ladd, 5415 NE Sacramento, Portland

Mr. Ladd noted that in reference to the height of the fence. The fence should not be so high so you can see what's coming up and down the street. Or, short enough so that people coming from the street can see cars coming out of the driveway.

Speaking: Richard Newton, 9557 SE 32nd Avenue, Milwaukie

Mr. Newton stated that the fence does drop down. The fence is higher in the back and lower in the front. All of the fencing has slats. He voiced concern that the noise of the demolition of the property that the noise will keep him from getting his needed rest. He sleeps until 10:00 a.m. He is also concerned about his dog and debris coming from the demolition.

He asked that the applicant be required to construct an 8-foot fence all around except in the front where sight distance is a consideration. He also asked that this be a drug-free rental.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

Alice Rouyer explained that the maximum fence height in Milwaukie is six feet. The proposed condition of approval recognizes compliance with the Clear-vision Ordinance (maximum height 30-inches). The Code calls for a maximum 42-inch fence.

In regards to construction noise, the Commission doesn't have authority over construction time. There are Codes that regulate when construction can begin and end. Staff can work with Mr. Newton with regards to constructing times.

QUESTIONS FROM THE COMMISSIONERS

Chair Cook asked if the Commission could require a one-story structure? **Alice Rouyer** stated that the Commission has the authority to amend the condition that allows this duplex the option of being a multi-story building.

QUESTIONS FOR CLARIFICATIONS

Judith Borden asked staff if there were any concerns about the adequacy or condition of the existing fencing? **Alice Rouyer** stated that she walked the site, not on the property, but found that the condition of the slats to be poor. She suggested that the Commission asked that the plastic slats be replaced with a higher-quality wooden slat.

APPLICANT'S CLOSING COMMENTS

Speaking: Daniel Redmond, 3537 SE 144th Avenue, Portland

Mr. Redmond stated that he does not want to create any negative impacts to the neighborhood. He has chosen a one-story building so that the neighbors will not be impacted. He is willing to replace the slats in the fence if the Commission wants; it is much less expensive than replacing the entire fence. Once the property is improved and the parents are moved in, the livability matters expressed by the neighbors will no longer be an issue.

Ms. Lockhart stated that she has listened to the neighbors concerns. They are trying to do the best they possibly can and make the property look nicer. They would like to put two good livable dwellings back where there is no adverse impact to the neighbors.

QUESTIONS FROM THE COMMISSIONERS

Howard Steward asked for the height of the fence on the sides? **Mr. Redmond** stated that the majority of the side fence is five feet; however it transitions down four feet to three-and-a-half feet towards 32nd Avenue.

Mike Miller asked why there are no SDC charges applied to this application? **Alice Rouyer** stated that whatever charges are applicable at time of building permit will be assessed. However, on Page 6210, it states that "...credit will be given for two units, therefore no additional system development charges will be assessed. There are two units there today and they are being replaced with two new units. There is no net increase, therefore no new SDCs.

DELIBERATION AMONG COMMISSIONERS

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

Barbara Cartmill stated that she is in favor of this proposal. She suggested that the fencing in the back be raised to six feet and upgraded with new slats. She would like to see the one-story restriction imposed.

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Mike Miller stated that this would be positive construction and a benefit to the neighborhood. He agrees that the fence definitely has to be upgraded, and that six-foot fencing placed where needed.

Howard Steward, Judith Borden, and Chair Cook all agreed that the fencing should be updated. **Chair Cook** asked the applicants to be sensitive to the neighbor's concerns and keep open communication with the neighbor that works nights and sleeps days.

Mike Miller moved to approve Conditional Use CU-00-02 authorizing construction of a new duplex in a C-L zone. Also, reword Condition #2C to read, "Require a five-foot chain link fence with site obscuring wooden slats along the side and rear property lines. Any fencing along the front property line shall not exceed 3.5 feet in height and shall comply with the Clear-Vision Ordinance." That the fence be upgraded with the staff Findings with the following amendments: Further, reword Recommendation #5 to read, "...The structure shall be of a single-story nature." **Barbara Cartmill** seconded. MOTION CARRIED 5-0.

Ayes: Cook, Borden, Cartmill, Miller, Steward; Nays: None.

Recess was taken at 7:50 p.m. and the meeting reconvened at 8:07 p.m.

- 6.3 Applicant/Owner: Murphy Plywood Company
Location: 10409 and 10427 SE 32nd Avenue
Proposal: Approval to construct a new masonry wall, and a variance from the required 20-foot setback to 10-feet along 32nd Avenue.
File Number: VR-00-04
NDA: Ardenwald

Chair Cook opened the public hearing on Variance Request VR-00-04 to diminish the required 20-foot landscaped setback to 10-feet and the construction of a 8-foot high masonry fence on the 10' setback line with landscaping. The criteria to be address can be found in Sections 309, 318, 700, and 1011.3 of the Milwaukie Zoning Ordinance.

Chair Cook asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if any member of the Planning Commission visited the site; four hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the Staff

Report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Alice Rouyer reviewed the staff report with the Commission. Overheads were shown of the subject site and surrounding area. The applicant is asking for a variance to the 20-foot landscaped setback to 10-feet. This will allow the construction of an 8-foot high masonry fence on the proposed 10-foot setback line and landscaping in the setback.

Staff analysis finds that the landscaping proposed by the applicants justifies the diminished setback. Staff believes that the proposal, with the addition of some improved landscaping, is of a high quality that justifies approval of the variance to the buffer standards specified for the Murphy Plywood site.

CORRESPONDENCE RECEIVED -- None.

APPLICANT PRESENTATION

Speaking: Jerry Offer, OTAC Incorporated, 17355 Boones Ferry Road, Lake Oswego

Mr. Offer stated that he is a Planner with OTAC. He introduced John Lee, OTAC, and John Murphy, Owner of the Murphy Company.

Speaking: John Lee, 8500 SE Cecilia Terrace, Portland

Mr. Lee stated that he worked with John Murphy in putting together the landscape design for this program. His presentation included photos and a site plan on the kinds of landscape to be used on this project. His goal is to meet the Code requirements as well as do something that has a residential character.

QUESTIONS FROM THE COMMISSIONERS

Judith Borden asked Mr. Lee to address the issue of the species of the trees. **Mr. Lee** stated that the Emerald Queen Normandy Maple is on the City of Portland plant list. It is recommended for an area 6-8 feet. It is highly recommended as a street tree. It is known as a nuisance tree in a situation where it is used in the environmental zones or in natural setting as mitigation. In its home environment it is evasive; but this is not that kind of environment. This gets a large canopy. We see these in canopies 30-35 feet wide now, but if utilities go over the top of

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the trees it poses a problem because the tree can get up to 40-50 feet in height. This tree gives a very nice heavy canopy and there is a nice shadow pattern. It will soften the impact of wind on the area. The foliage comes out at about 6 feet high.

Mike Miller asked how the Clematis clings to the wall until it reaches the height of the rod? **Mr. Lee** stated that a wire or rod would be used as support for the plant until it reaches the height of the rod. The purpose of the Clematis is to soften the top of the wall.

Mike Miller noted that the Clematis has a tendency to die out except on the outer edge of the plant until it reaches certain maturity. He asked if these plants would be maintained to stay healthy? **Mr. Lee** stated that they have the Hamlin Apartment grounds serviced by a maintenance person. That person will also care for this site.

Mike Miller asked if consideration was given to a different type of Barberry to give some fall color? **Mr. Lee** stated he likes the texture of this type of Barberry. They have no problem with changing if so requested. There are several options available for this type of plant.

Mike Miller asked what is the purpose of the entrance at Meek and C Street? On the plans, it is indicated as a fire or emergency entrance. **Mr. Lee** stated that this is the main entrance. The City requested that all routing come around 32nd Avenue and down C Street.

Mike Miller asked if any of the trucks use C Street as an entrance? **Mr. Lee** stated that most of the trucks pull out through 31st Street and Harrison.

Mike Miller asked about a buffer on Meek Street and Hillside Park. He noted that the fence is to stop at the corner of the old houses. Are there any plans to improve that area of Meek Street so that the residential area of Hillside Park will have an attractive buffer facing them? **Mr. Hill** stated that they have the option of continuing the cyclone fence. When they acquire the house on 32nd Avenue and Meek and tore both houses down, it was decided to continue the fencing. There are no plans to continue the wall to Meek. The landscaping on the corner of Meek will be better landscaped and maintained.

Judith Borden asked for the width-span of the proposed Maple Trees. **Mr. Lee** stated that the trees would get about 30-35 feet across. The canopy will be over

the sidewalk and the interior. The trees will meet and grow together to form the canopy.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

Alice Rouyer noted that the Commission has the option to revise the Conditions of Approval, as they deem necessary. She suggested an addition to Condition 20, "Landscaping shall be regularly maintained for health of the vegetation and aesthetics." Also, under G, "Landscaping shall be irrigated and regularly maintained for at least two years."

Alice Rouyer stated that she was confident in the applicant's competency to resolve the concerns about landscaping materials. She feels that Conditions 2B and 2C can be withdrawn with the condition that the applicant commits to a regular maintenance program.

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS FOR CLARIFICATIONS -- None.

APPLICANT'S CLOSING COMMENTS -- None.

DELIBERATION AMONG COMMISSIONERS

Chair Cook closed the public testimony portion of the hearing and opened the meeting to discussion among the Commissioners.

Barbara Cartmill stated that she has heard that the Maple Trees have problems with height and dropping of leaves. She voiced concern about maintenance. She suggested a maintenance document that can be followed to ensure maintenance and upkeep of the vegetation.

Mike Miller agreed that a maintenance plan be required of the applicant. This is something that could tie the applicant to maintenance guidelines and checklist.

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Mike Miller suggested taking out the two-year requirement on irrigation. The irrigation system proposed is adequate.

Mike Miller noted that fall color enhances any landscape scene. He encouraged the applicant put in something different than the type of Barberry proposed. He reiterated that he would like to see the wall continue to Meek Street. **Mr. Lee** stated that the future of the land is uncertain. This area will continue to be improved. They do not have a total scheme at this point, but until the rest of the use is defined, they will do the best they can to improve the landscaping and view for the surrounding properties.

Mike Miller moved to approve application VR-00-04 to allow a 10-foot setback in place of the 20-foot landscape setback. An 8-foot masonry wall will be constructed at the 10-foot setback line with landscaping between that and the street subject to the Findings and Conditions of Approval as outlined in the Staff Report with the following changes:

- 2.b Delete this condition.
- 2.c Delete this condition.
- 2.g Changing the language of this Condition, "Landscaping shall be irrigated."
- 2.i New Condition, "The Plan shall include the following: a regular Maintenance Plan for the landscaping subject to the review and approval of the Planning Director."

Harold Steward seconded the motion. MOTION CARRIED 5-0.

Ayes: Cook, Borden, Cartmill, Miller, Steward; Nays: None.

7.0 WORKSESSION -- None.

8.0 DISCUSSION ITEMS

Howard Steward reported that before he was on the Commission he applied for a building permit for some improvements to a building that he leases. The building was inspected and signed off on. Within a week after the sign-off was completed, the Fire Marshall came in and wrote them up saying that the building did not have automatic sprinklers and they were prohibited from using the facility. He voiced displeasure with the Fire Marshall. The Fire Marshall later stated that maybe the citation wasn't fair. **Steward** stated that he hopes that the City would continue to weigh carefully how far they intrude on personal rights.

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9.0 OLD BUSINESS -- None

10.0 OTHER BUSINESS/UPDATES

10.1 Matters from the Planning Director

Sign Requests for United Church of Christ. **Alice Rouyer** passed out copies of sign requests. There is a current request before the Commission for the United Church of Christ on Logus Street for a sign. Staff has reviewed the request and finds that it is appropriate for the area subject to the conditions in the Staff Report. This will be a very low-key non-illuminated sign.

Mike Miller moved to approve the Sign Request for United Church of Christ subject to the conditions as listed in the Staff Report. **Howard Steward** seconded the motion. MOTION CARRIED 5-0.

Ayes: Cook, Borden, Cartmill, Miller, Steward; Nays: None.

No Commission Worksession on August 22, 2000. **Alice Rouyer** announced that the next Commission meeting would be held on September 12, 2000. There will be no worksession this month.

Education Service District Update. **Alice Rouyer** updated the Commission on the ESD proposal. At the last City Council meeting, the Council revisited the ESD Application and approved the application subject to findings. Mediation resulted in ESD agreeing to the use of two acres of the site for a park. The open space on the site can be used for active and passive recreational use during the daytime hours.

Council approved the installation of a traffic control device in the intersection of 32nd Avenue and the driveway of the site to control the traffic leaving the site to a right out only and traffic entering both left and right. This will avoid traffic entering into the residential portion of the neighborhood.

Urban Forestry Ordinance Ad Hoc Committee. City Council has accepted applications for an Ad Hoc Committee for the Urban Forestry Ordinance. The Council will appoint this Committee on September 19, 2000. It was recommended that a Parks and Recreation member and a Planning Commission member be on the Committee. She asked for a volunteer from the Commission.

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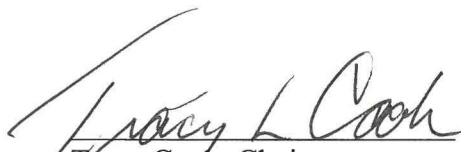
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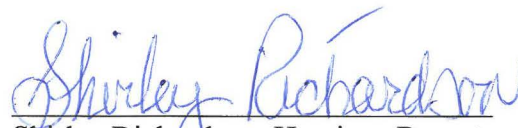
It was the consensus of the Commission that staff contact Doug Ouderkirk and Donald Hammang to see if they want the appointment.

Thomason Ford Use. **Howard Steward** stated that there is activity at the Thomason Ford site. **Alice Rouyer** stated that the attorney for Thomason has indicated that a Non-conforming Use Application will be submitted. To-date no application has been received. She will review the situation and get back to the Commission.

- 11.0 NEXT MEETING -- September 12, 2000
- 11.1 S-98-04/VR-98-14 – Hoesly -- 5515 SE King Road
- 11.2 S-00-01 -- Dickenson -- Willow Street

Mike Miller moved to adjourn the meeting of August 8, 2000. **Howard Steward** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:25 p.m.


Tracy Cook, Chair


Shirley Richardson, Hearings Reporter

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

Public Hearing Procedure

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.** THE STAFF REPORT IS FOLLOWED BY ANY VERBAL OR WRITTEN CORRESPONDENCE WHICH HAS BEEN RECEIVED SINCE THE COMMISSION WAS PRESENTED WITH ITS PACKETS.
3. **APPLICANT'S PRESENTATION.** WE WILL THEN HAVE THE APPLICANT MAKE A PRESENTATION, FOLLOWED BY:
4. **PUBLIC TESTIMONY IN SUPPORT.** TESTIMONY FROM THOSE IN FAVOR OF THE APPLICATION.
5. **COMMENTS OR QUESTIONS.** COMMENTS OR QUESTIONS FROM INTERESTED PERSONS WHO ARE NEITHER IN FAVOR NOR OPPOSED TO THE APPLICATION.
6. **PUBLIC TESTIMONY IN OPPOSITION.** WE WILL THEN TAKE TESTIMONY FROM THOSE IN OPPOSITION TO THE APPLICATION.
7. **QUESTIONS FROM COMMISSIONERS.** WHEN YOU TESTIFY, WE WILL ASK YOU TO COME TO THE FRONT PODIUM AND GIVE YOUR NAME AND ADDRESS FOR THE RECORDED MINUTES. PLEASE REMAIN AT THE PODIUM UNTIL THE CHAIR PERSON HAS ASKED IF THERE ARE ANY QUESTIONS FOR YOU FROM THE COMMISSIONERS.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** AFTER ALL TESTIMONY, WE WILL TAKE REBUTTAL TESTIMONY FROM THE APPLICANT.
9. **CLOSING OF PUBLIC HEARING.** THE CHAIR PERSON WILL CLOSE THE PUBLIC PORTION OF THE HEARING. WE WILL THEN ENTER INTO DELIBERATION AMONG THE PLANNING COMMISSIONERS. FROM THIS POINT IN THE HEARING WE WILL NOT RECEIVE ANY ADDITIONAL TESTIMONY FROM THE AUDIENCE, BUT WE MAY ASK QUESTIONS OF ANYONE WHO HAS TESTIFIED.
10. **COMMISSION DISCUSSION/ACTION.** IT IS OUR INTENTION TO MAKE A DECISION THIS EVENING ON EACH ISSUE BEFORE US. DECISIONS OF THE PLANNING COMMISSION MAY BE APPEALED TO THE CITY COUNCIL. IF YOU DESIRE TO APPEAL A DECISION, PLEASE CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT DURING NORMAL OFFICE HOURS FOR INFORMATION ON THE PROCEDURES AND FEES INVOLVED.
11. **MEETING CONTINUANCE.** THE PLANNING COMMISSION MAY, IF REQUESTED BY ANY PARTY, ALLOW A CONTINUANCE OR LEAVE THE RECORD OPEN FOR THE PRESENTATION OF ADDITIONAL EVIDENCE, TESTIMONY OR ARGUMENT. ANY SUCH CONTINUANCE OR EXTENSION REQUESTED BY THE APPLICANT SHALL RESULT IN AN EXTENSION OF THE 120 DAY TIME PERIOD FOR MAKING A DECISION.

The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.

Milwaukie Planning Commission:

Tracy Cook, Chair
Judith Borden, Vice Chair
Barbara Cartmill
Donald Hammang
Mike Miller
Doug Ouderkirk
Howard Steward

Community Development Department Staff:

Martha Bennett, Community Development Director
Alice Rouyer, Planning Director
John Gessner, Associate Planner
Jeanne Garst, Staff Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Hearings Reporter



To: Planning Commission
 Through: Alice Rouyer, Planning Director *AR*
 From: John Gessner, Associate Planner *JG*
 Subject: VR-00-02 Gerald and Carolyn Read
 Major variance to rear yard setback
 Date: August 8, 2000

I. ACTION REQUESTED

Approve the application VR-00-02 of Carolyn and Gerald Read for a variance to the rear yard setback at 2820 SE Roswell, and adopt recommended Findings and Conditions of Approval.

II. CODE AUTHORITY & SUBSTANTIVE CRITERIA

Milwaukie Zoning Ordinance Sections:

- 303—Residential Zone R-5
- 700—Variances, Exceptions and Home Improvement Exceptions
- 500—Off-street Parking and Loading
- 1011.3—Minor Quasi Judicial Review.

III. EXECUTIVE SUMMARY

The applicant is seeking a variance to authorize an addition that was done in 1993 without prior zoning approval or building permits. Staff believes the application meets applicable criteria and has recommended that the Planning Commission approve the application.

VI. BACKGROUND INFORMATION

Statistics

Location: 2820 SE Roswell
 NDA: Ardenwald
 Zone: R-5
 Lot Size: 6555.3 s.f.;
 Map & Tax Lot: 1S1E25BA 18700

Summary Project Description (See Exhibit 5-Photo Survey)

The applicants request a variance for an addition that created encroachments within rear yard setback. By connecting the house to the former detached garage, the required 20-foot setback was reduced 4'. Also, the addition extended the house, which had a non-conforming setback of 15 feet, thereby violating the 20-foot rear yard setback.

In 1993 the applicants converted an existing garage to living space. See Exhibit 2—Site Plan, and Exhibit 3—Elevations and Floor Plans. The garage was existing when the applicants purchased the house. The conversion was completed without city building permits; the applicant's obtained a Clackamas County electrical permit, have indicated they were unaware of the need to obtain city permits as well. Had the applicants applied for city building permits, they would have been advised of the 20-foot rear yard setback standard.

As a part of the project the applicants added a family room between the existing house and converted garage, attaching the garage to the main structure. The existing roofline of the house, which was nonconforming because it encroached 5' into the 20' rear setback, was extended to the garage.

The site is located on the south side of Roswell Street, at the edge of the R-5 zone. Residential uses border the site on all sides. Roswell ends at the railroad right-of-way, about 360' west of the site. To the east of the site, 29th Ave. intersects Roswell approximately 310' from the site.

The applicants are foster parents for Clackamas County Services to Children and Families. The conversion of the garage to living space was done to provide more living space to house foster children.

Project Details

Prior to the garage conversion the structures on the lot included a three-bedroom house and a detached garage. The project converted the garage to a fourth bedroom. A new 25'x15' family room also was added to the house at this time. See Exhibit 3—Building Elevations and Floor Plans.

Site History

There are no land use review cases or building permit files on record for this site. Clackamas County Tax Assessor's records indicate that the house and garage were constructed in 1930. The City's first Zoning Ordinance was adopted in 1946. The house was constructed within 15 feet of the rear property line, the garage within 4 feet. Today's setbacks would allow rear yards setbacks for similar garage to be within 5 feet, and 20 feet for a house. In 1993 both the house and garage were legally non-conforming with respect to rear yard setbacks.

IV. ANALYSIS OF PROPOSAL

Zoning Authority

The proposal is subject to the following sections of Zoning Ordinance.

- Section 1011.3 governs public notice and the application process.
- Section 303 governs the use and site development of R-5 zoned properties.
- Section 500 specifies standards for provision of off-street parking spaces.
- Section 700 authorizes variances to zoning standards and specifies approval criteria.

See *Exhibit 4-Summary Zoning Analysis* for discussion of how the proposal complies with Sections 1011.3, 303, and 500.

Compliance with Section 700-Variances, Exceptions, and Home Improvement Exceptions

The applicant is seeking a variance to authorize work that was conducted without zoning and building permit approvals. Staff believes that the application meets approval criteria for variances. In order to approve the variance request, the Commission must find that the applicant has demonstrated compliance with the three criteria of Section 702. A discussion of the approval criteria follows:

Variance Approval Criteria

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

Applicants' Response to Approval Criteria

The applicant states the following:

"In 1993 we decided to attach our garage to our home and convert it to living space. We went to the county and showed our plans. They sold us an electrical permit. We were not aware that the city needed to be contacted. We finished the work and were okayed. At no time were we asked about city permits. Earlier this year we were made aware of our mistake and are now trying to correct it. Our existing garage and house built around 1940 sit in the easement [setback] of

our property. We are requesting a variance for the work already completed. We will also build a carport to comply with Chapter 303 Rs. Zone R-5”

“We are requesting a variance due to the fact that the existing structure (the garage) was already located four feet from the south property line. The garage has been standing in that location for at least 40 years. Our house is also located at the south end of our property. Due to the need for additional living space, we saw no other alternative.”

“Due to the need for additional living space, we saw no other alternative. The section (of the house) we built to attach the garage to the house does meet the backyard size. We are currently adding a carport to satisfy the city ordinance for a covered parking space.”

“Neighbors on the east and west both have structures within 5 feet of our property. The extension and conversion does not effect any of our neighbors. The neighbors to the south have a deep lot and their house sits on the front of their property facing another street. Our neighbors to the west can not even see the structure. The neighbors to the east also have no view of the structure due to their garage blocking the view.” [See Exhibit 5, Photographs 3,4, and 5]

Staff Analysis

1. *Section 702.A That the property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures*

The house and garage were constructed prior to the City's adoption of zoning regulations. Accordingly, the house and garage are “prior legally existing structures”. The site was originally developed with a large front yard setback (approximately 40 feet), with the house being located approximately 15 feet from the rear property line. As was customary for residential construction at the time, the detached garage was setback from the front of the house. The unusual condition in this case relates to the location of structures that pre-dated zoning, pre-dated the applicant's ownership, and is therefore consistent with the “unusual conditions” requirements of Section 702.A.

2. *Section 702.B That there are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his/her property in a manner substantially the same as others in the surrounding area.*

- a. The need for a variance can be eliminated by the demolition of a portion of the house. Restoration of living area lost by the demolition would require construction a new addition. However, correction of the setback violation and construction costs of a new addition is estimated to be approximately \$15,000. This amounts to

approximately 25% of the value of the existing structure based on Clackamas County Assessor records. Staff suggests that the cost of demolition and reconstruction is economically unreasonable given the relatively minor impacts to adjoining properties of allowing the structure to remain. Therefore there are no feasible alternatives to the variance.

- b. The application requested is the minimum needed to allow the existing structures to remain. Since the residential use of the property will remain, it will continue to be used in substantially the same manner as others in the area.
3. *Section 702.C That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.*

Staff believe that there will be no adverse impacts to other properties as a result of this variance as explained below:

- a. Since the house and garage existed since 1940, no appreciable changes to the sites relationships with adjoining properties happened the addition was made in 1993.
- b. Two houses to the south and one to the east are potentially affected by the addition. The houses were built in the 1920's and 1930's. The house to the east is located closer to the street than the Read's and therefore is not affected by their addition. Located to the south of the Read's, 2807 Boyd, has a large accessory structure close to its rear lot line that obstructs views of the Read's rear yard. The house on 2807 Boyd is over 50 feet from the rear property line. Also to the south of the Reads, the house at 2823 Boyd is located over 70 feet from the rear of lot line. The rear lot of this property is generally open, but a large evergreen shrub blocks direct view of the Read's house at its closest location to the property line.

VI. CONCLUSION & RECOMMENDATION

Based on the above analysis, staff believes the application complies with the specific approval criteria for variances. Accordingly, it is recommended that the Commission approve the application subject to conditions that require permits and inspections to ensure applicable building codes have been met.

VII. COMMENTS

City of Milwaukie Buildings Inspection staff and Clackamas County Fire District No. 1 Fire Prevention staff stated that the setback variance is not in conflict with fire and safety standards, provided that no part of the structure is within 3' of the property line. A 1-hour firewall is required if any part of the structure is within 3' of the property line.

VIII. RECOMMENDED FINDINGS

1. The applicant is seeking approval of a variance of the rear yard setback for property located at 2820 SE Roswell Street to authorize improvements that were constructed without zoning approval and building permits in 1993. The house has a non-conforming rear yard setback. Rear yard setbacks are less for detached accessory structures than for houses. The need for the variance results from connecting the two structures.
2. Application VR-00-02 has been processed, and public notice provided as required by Zoning Ordinance Section 1011.3.
3. Application VR-00-02 complies with Section 702- Circumstances for Granting Variances as explained below:
 - a. The property is subject to unusual conditions relating to legally prior existing structures over which the applicant has no control. The location of the house and former detached garage at the rear of the lot results in practical difficulties for making building improvements.
 - b. There are no feasible alternative to the variance due to the cost of demolition and reconstruction.
 - c. There are no adverse impacts to adjoining properties resulting from the variance due to the location of buildings on adjoining lots and vegetative screening at the rear of the subject lot.
 - d. Granting the variance would allow the property to be used in substantially the same manner as other properties in the area since it will continue to be used for residential purposes.
4. With approval of variance application VR-00-02, the site meets the development standards listed in Section 303-Residential Zone R-5.
5. The property is presently non-conforming with covered parking requirements of Section 500-Offstreet Parking and Loading. After completion of the proposed carport for which a permit has been issued, (Building Permit # 99-389), the site will comply with Section 500-Off-street Parking and Loading.
6. Building permits were not obtained for building additions that were made in 1993. There is public interest in ensuring that all construction complies with building codes. The construction that was done in 1993 warrants the issuance of permits and official inspections to ensure public safety and personal safety of occupants.

IX. RECOMMENDED CONDITIONS OF APPROVAL

1. Within one month of the effective date of this approval, the applicant shall submit complete building permit applications and fees as needed to validate the construction that was done in 1993.
2. Within two months of the effective date of this approval, the applicant shall request building inspections from the Milwaukie Building Division and Clackamas County

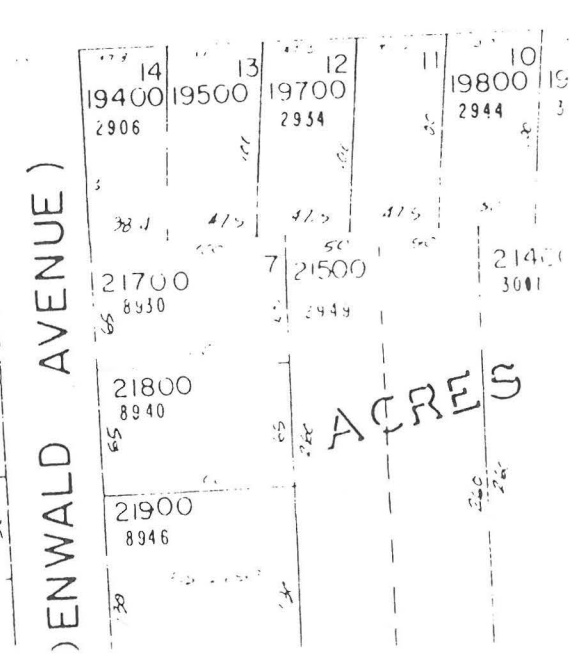
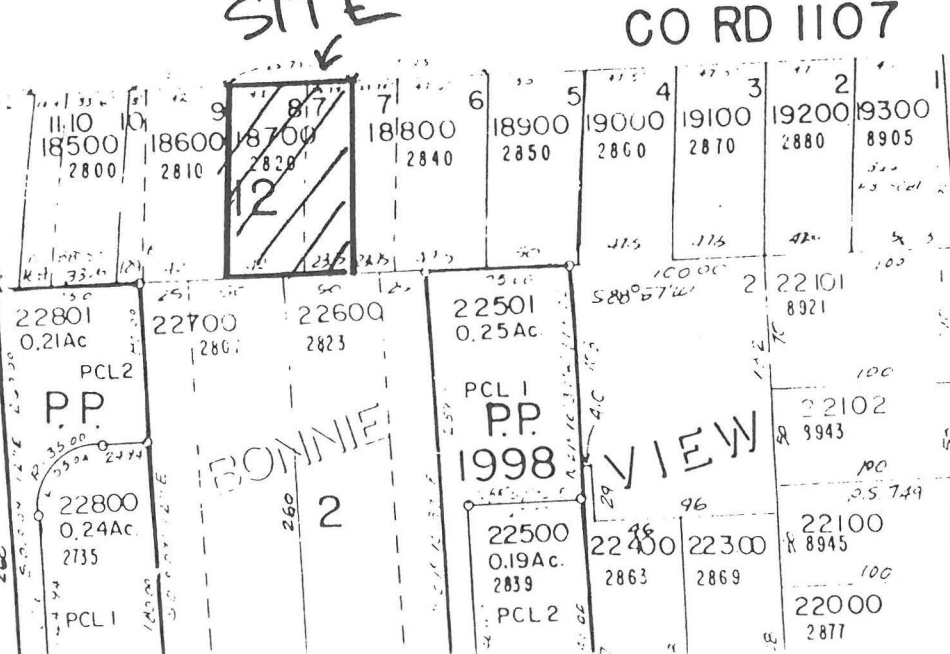
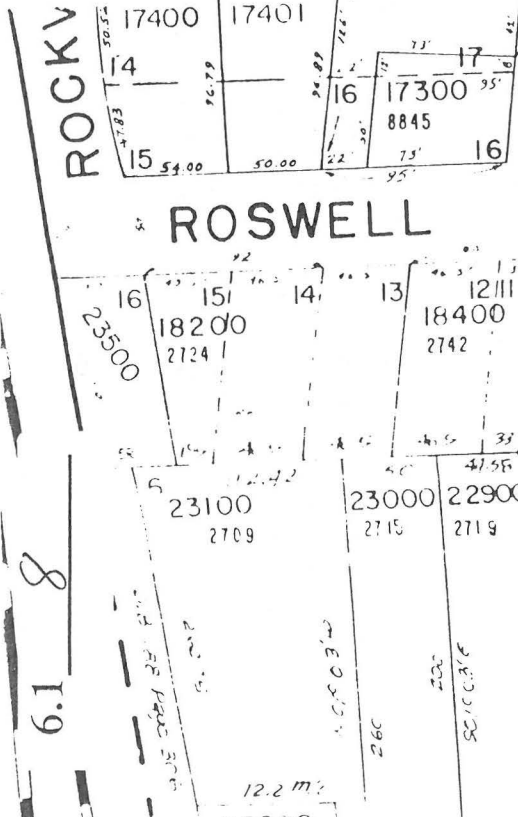
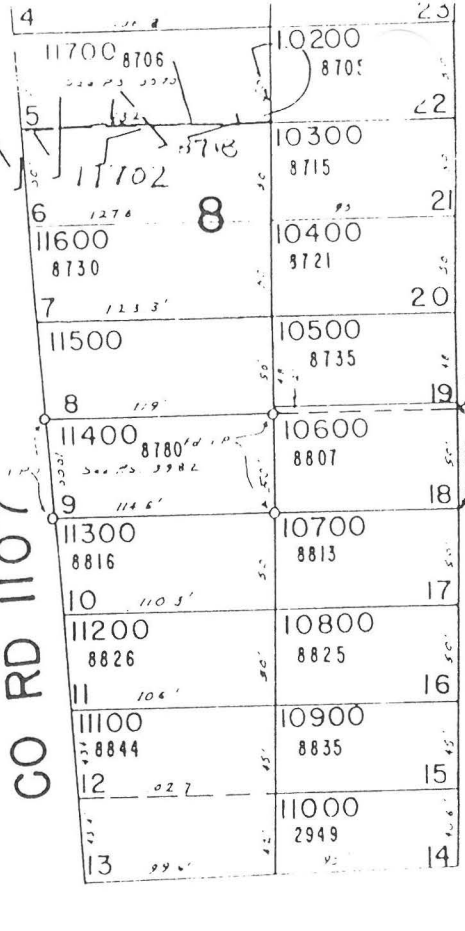
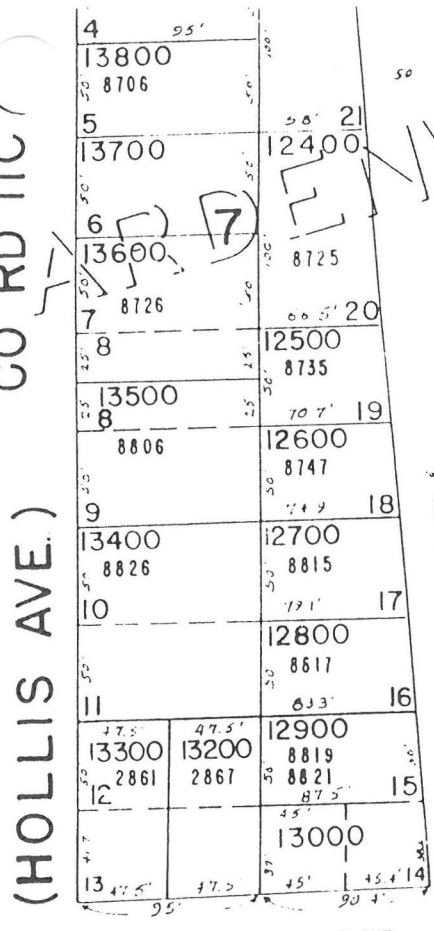
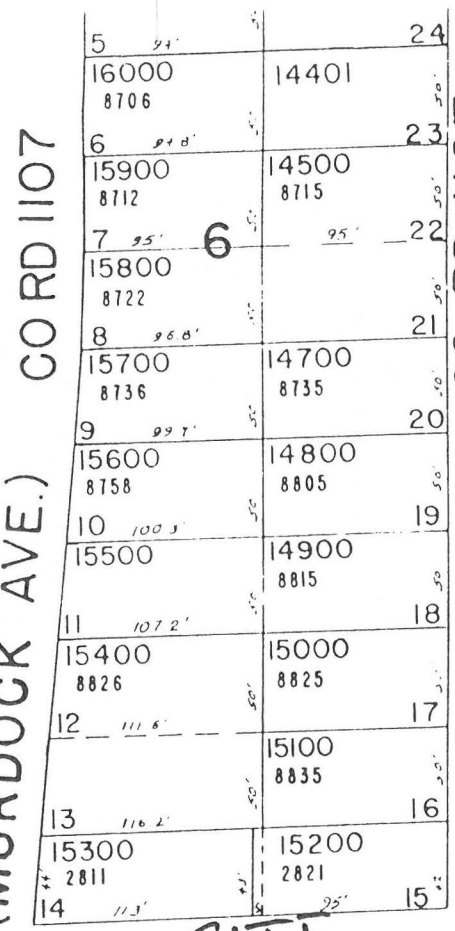
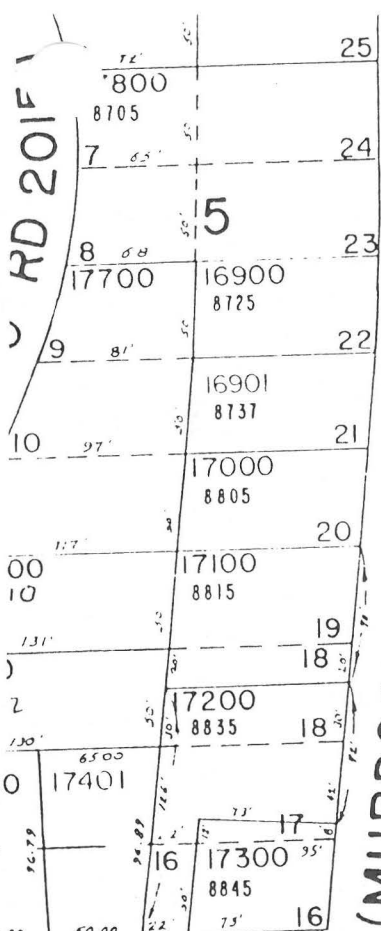
Building Services (for final electrical inspections) as needed to demonstrate compliance with building codes that were in effect at the time of construction.

3. In the event it is determined that the existing structure must be modified to meet applicable codes, (based on Building Division inspections referenced above), the applicant shall inform the Planning Director and specify a reasonable time by which the work will be completed. Failure to perform the required work in a timely manner shall be subject to enforcement action.
4. Within three months of the effective date of this decision, the applicant shall construct and request final inspections for the carport (Building Permit #99-389) as needed to comply with covered parking requirements if Zoning Ordinance Section 500-Offstreet Parking and Loading.
5. This variance shall become void unless substantial work has commenced within six months after the effective date of approval pursuant to Zoning Ordinance Section 1013.

X. EXHIBITS

1. Vicinity Map
2. Site Plan
3. Building Elevations and Floor Plans
4. Zoning Compliance Report
5. Photo Survey

EXHIBIT 1



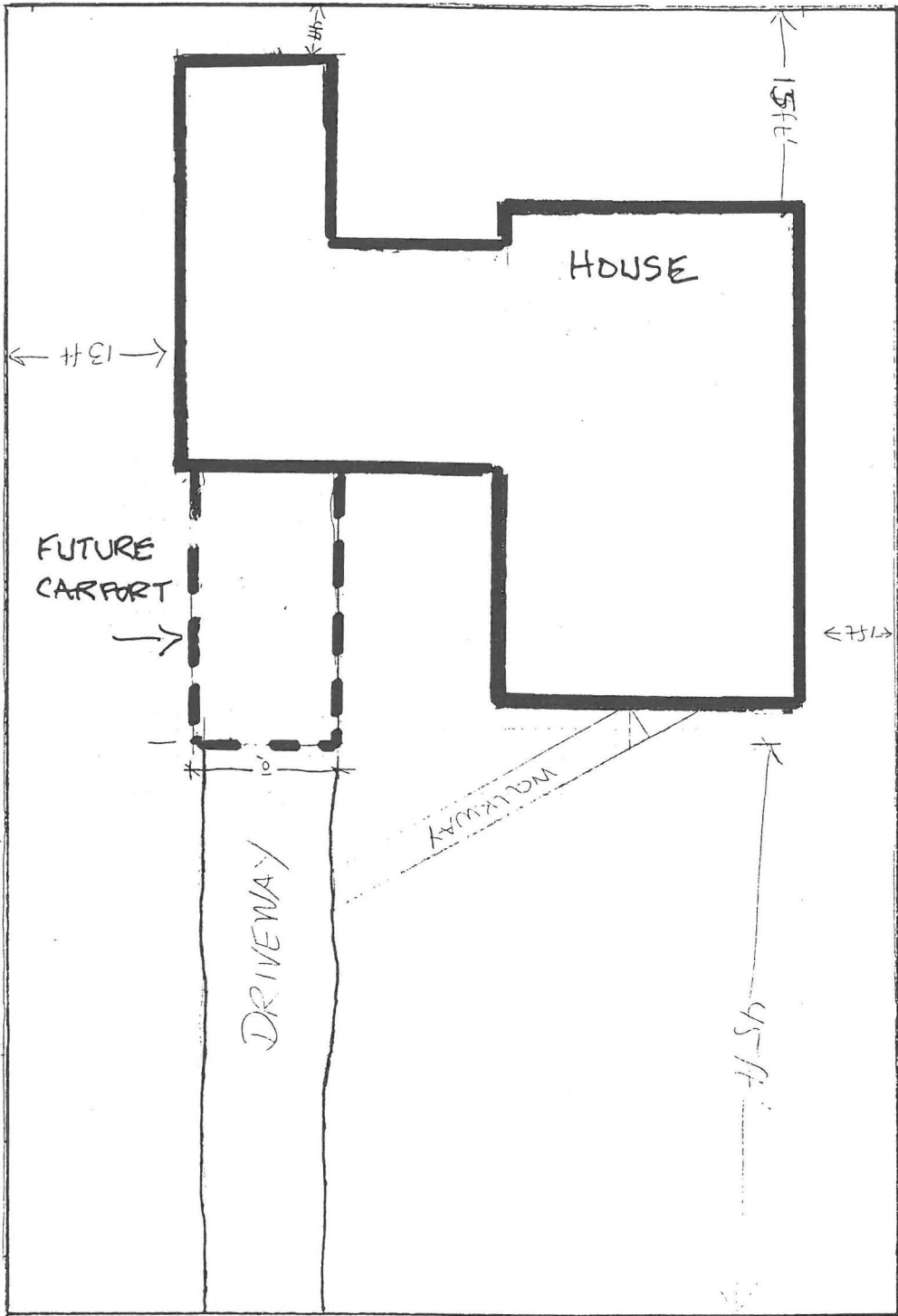
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BONNIE VIEW

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EXHIBIT 2

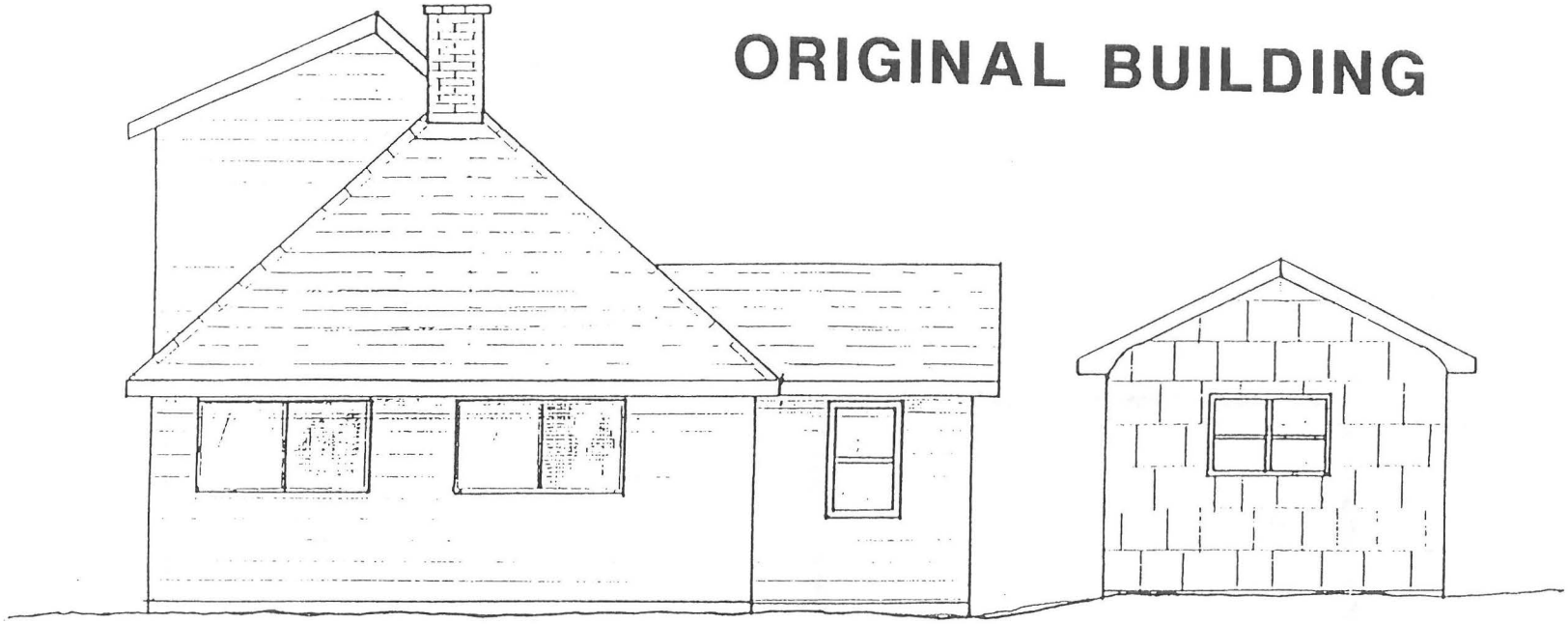


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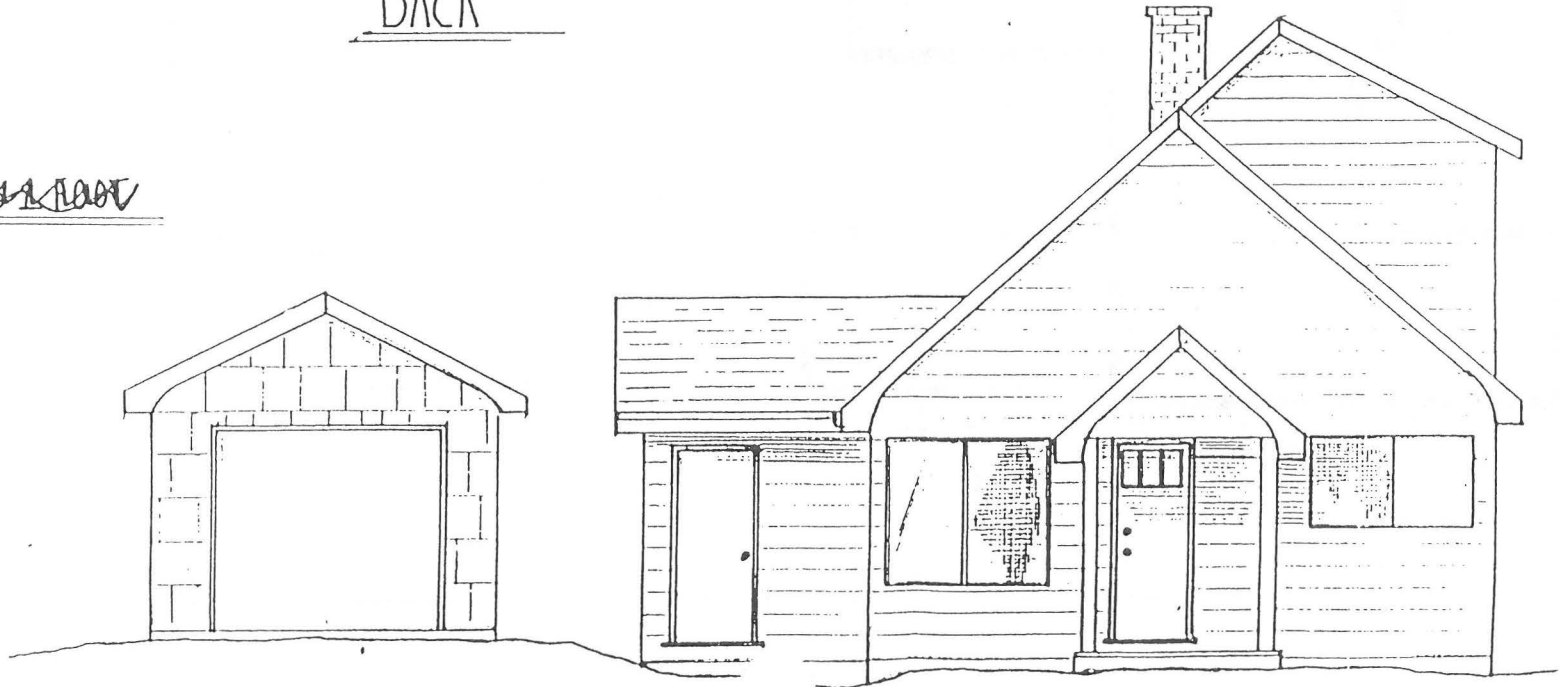
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ORIGINAL BUILDING



BACK

BRICK GARAGE



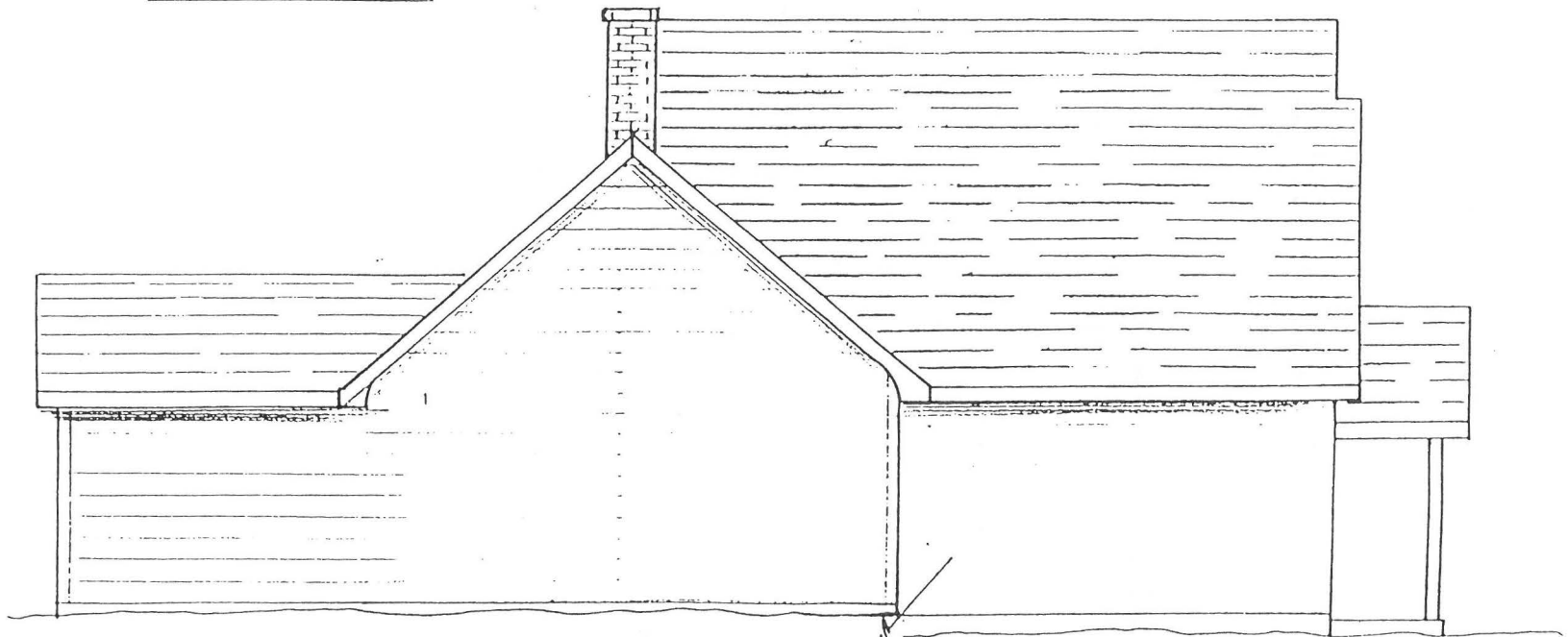
FRONT

99.38

1993 ADDITION

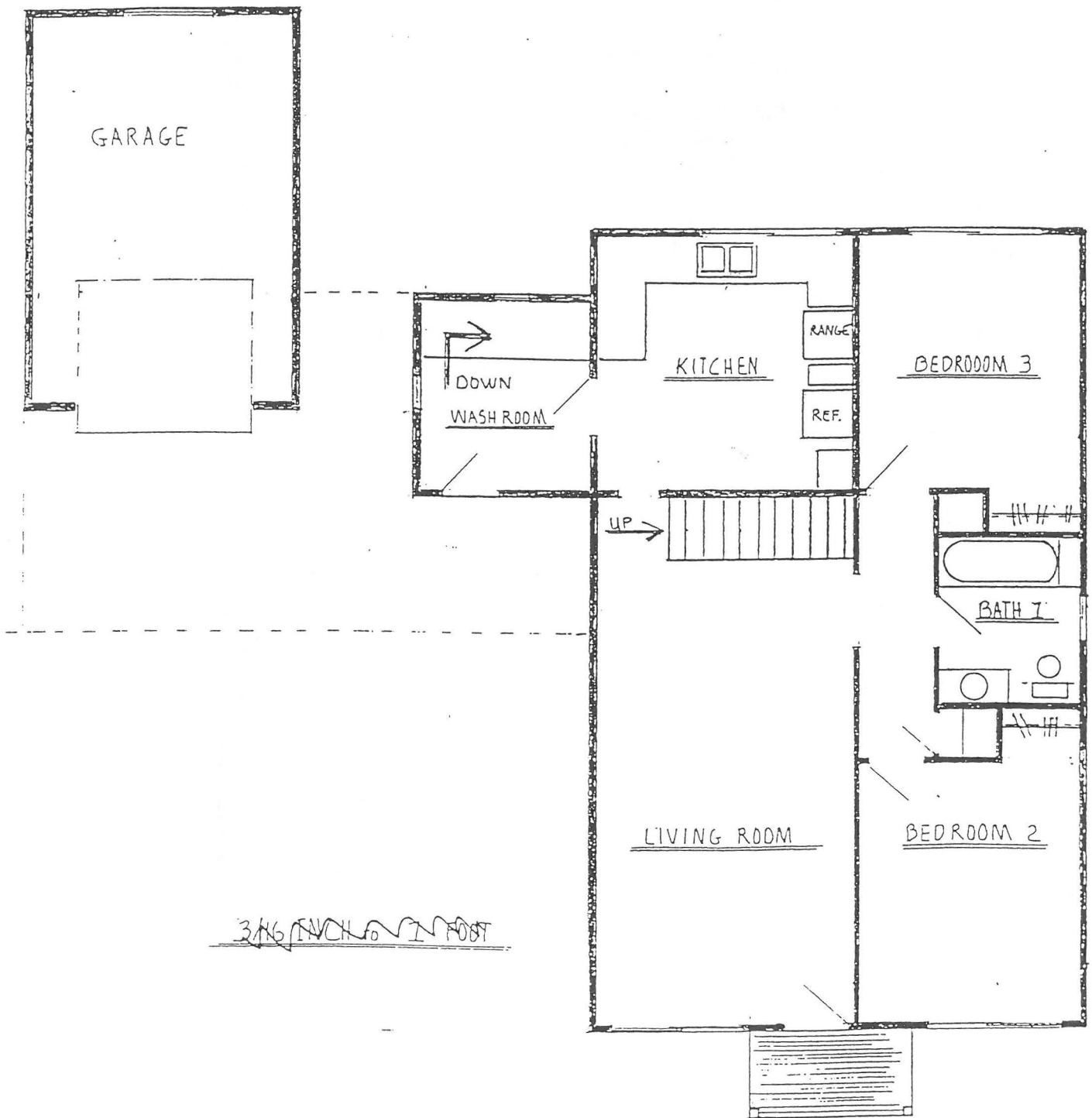


FRONT



LEFT SIDE

ORIGINAL FLOOR PLAN



1993 FLOOR PLAN

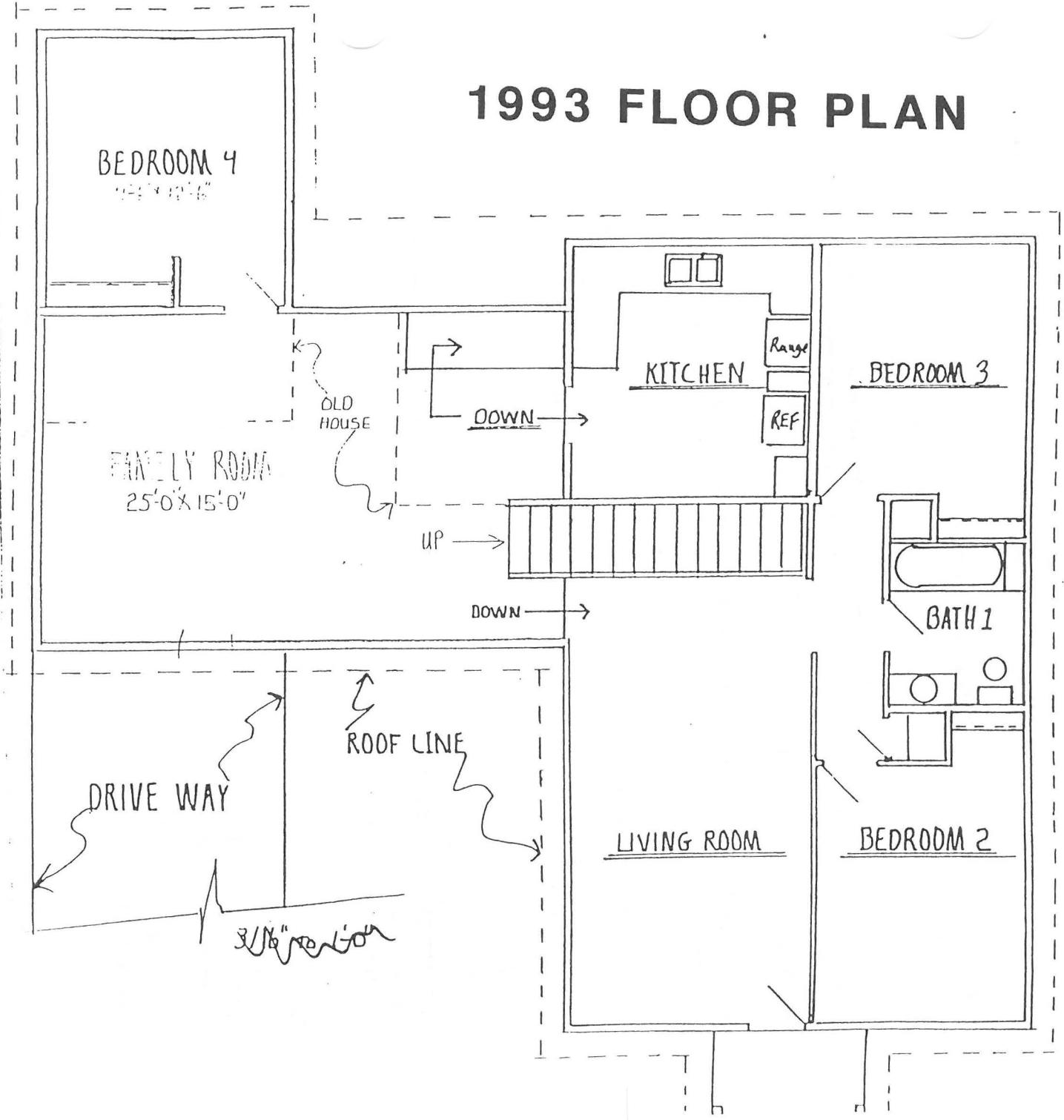


EXHIBIT 4**ZONING COMPLIANCE REPORT FOR VR-00-02**

This report identifies how the project complies with applicable sections of the Zoning Ordinance that are not detailed in the staff analysis for VR-00-02.

1. Compliance with Section 1011.3—Minor Quasi Judicial Review

The application meets, or will meet, all requirements of this section. This includes pre-application conferences, mailed notice to neighbors, publication of a legal ad, and posting the site with a notice of public hearing.

2. Compliance with Section 303—Residential Zone R-5

The application complies with applicable provisions of Section 303 as shown in the table following.

Standard	Required	Existing	Proposed	Compliance/ Comments
Lot size	5000s.f	6575s.f.	No change	Complies
Front yard	20'	48'	45'	Complies
Side yard	10'	13' 7'	No change	Non-conforming
Rear yard	20'	4'	No Change	No
Off-street parking and loading	2 parking spaces, at least one of which is covered	Uncovered parking spaces	Carport	Complies
Height restriction	2 ½ stories, or 35'	2 stories	No change	Complies
Lot coverage	30% of lot area, or 1972.5s.f	1450s.f.	1660s.f.	Complies
Minimum vegetation	35% of lot area, or 2301s.f.	4383s.f.	No change	Complies

3. Compliance with Section 500—Off-street Parking and Loading

Section 500 requires two off-street parking spaces for a single-family detached dwelling unit. The applicants converted the existing covered parking space (their garage) into living space, leaving the site in violation of Section 500. The applicants have applied for a building permit (Building Permit # 99-389) to erect a carport to satisfy the covered parking requirement and resolve the outstanding City of Milwaukie Zoning Violation case.

EXHIBIT 5

Photo 1-View of house from Roswell

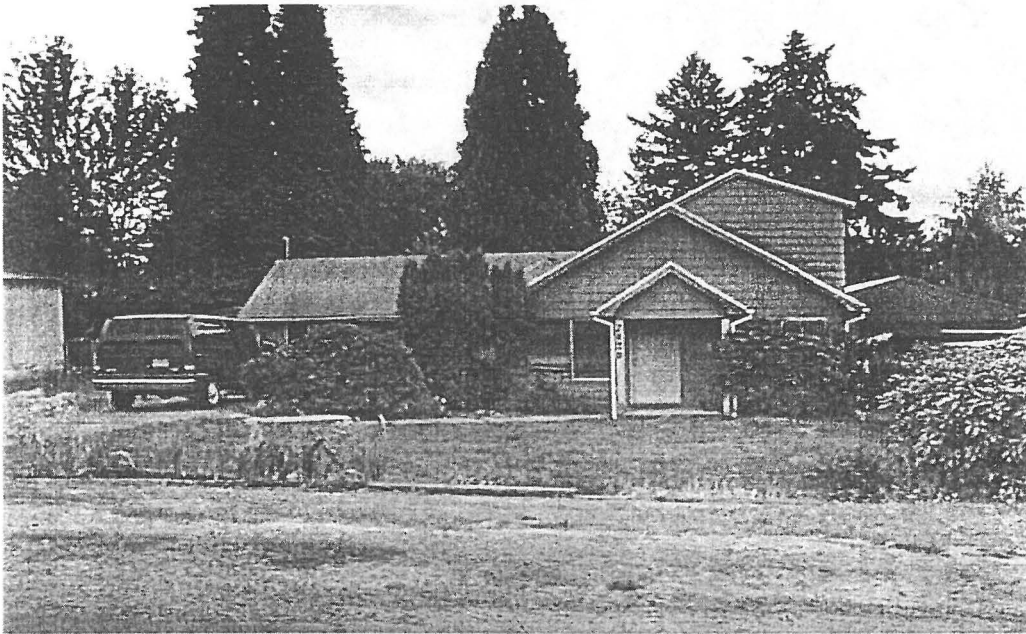


Photo 2 - View of addition from Roswell

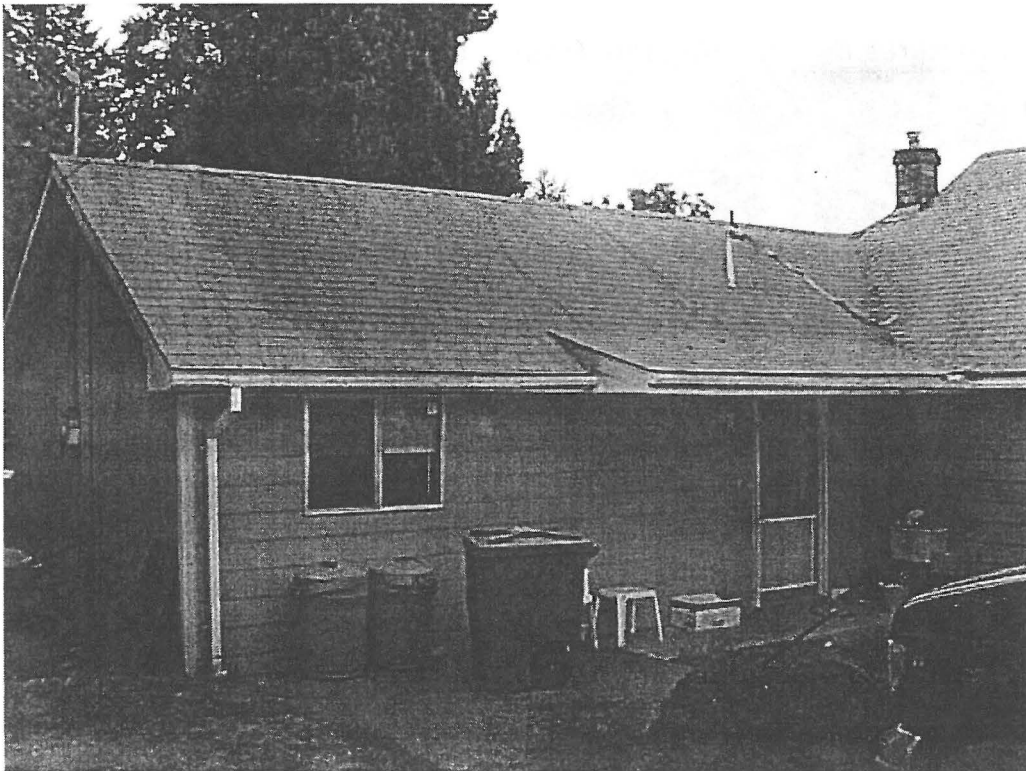


Photo 3-View of the back of the former garage from the southwest corner of the house

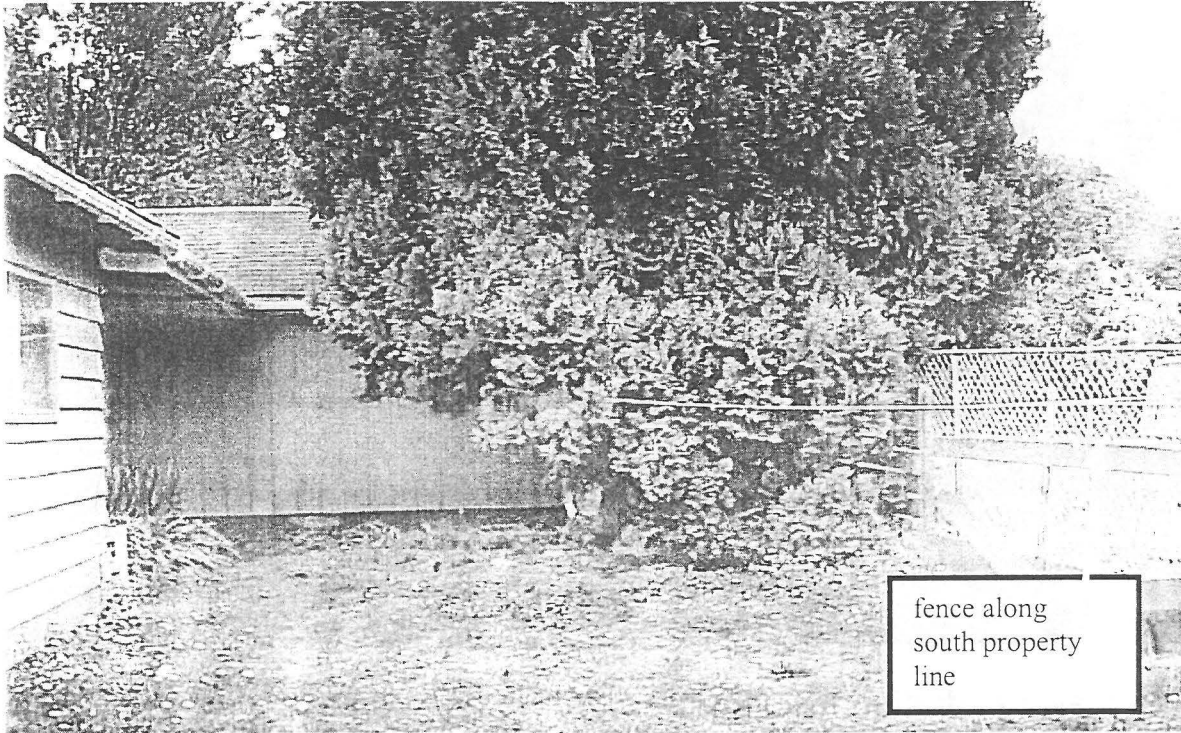


Photo 4- View of structures on adjoining lots from southwest corner of the house.

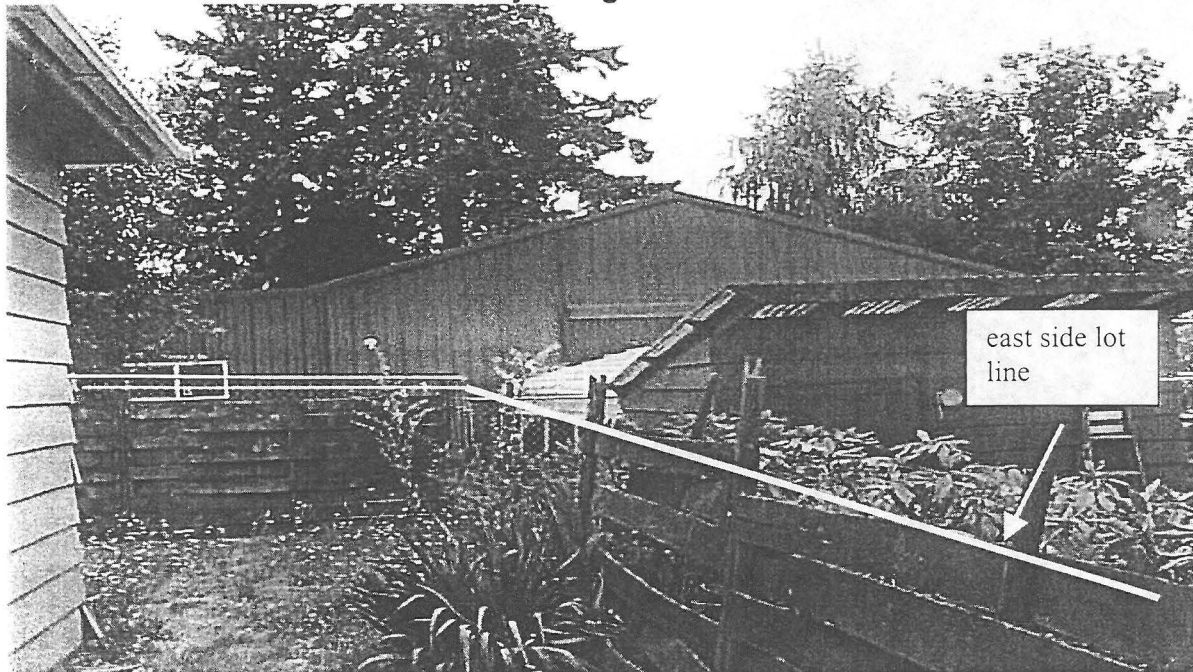
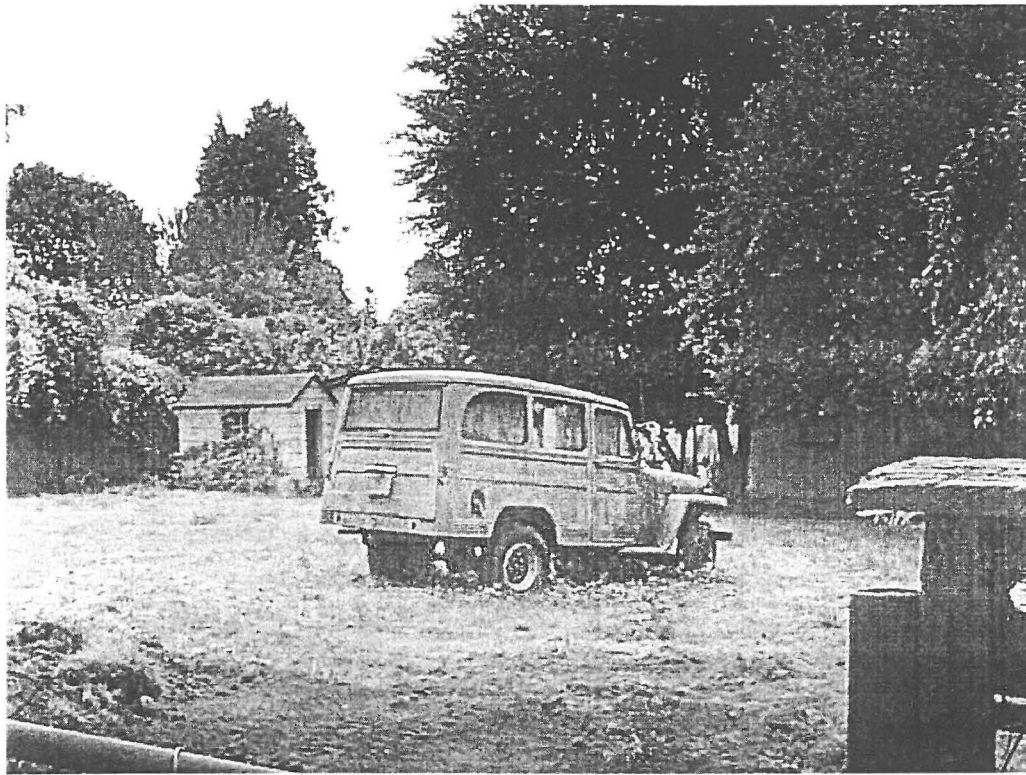


Photo 5 - View of lot directly south of the former garage





To: Planning Commission

Through: Alice Rouyer, Planning Director

From: Lisa Nasshahn, Temporary Planner

Subject: CU-00-02;
Applicants Daniel Redmond and Denise Lockhart;
Replace two existing older residences with a new duplex structure.

Date: August 8, 2000

AR
LN

I. ACTION REQUESTED

Approve application CU-00-02 authorizing construction of a new duplex in a C-L zone.

II. CODE AUTHORITY AND SUBSTANTIVE CRITERIA

Milwaukie Zoning Ordinance Sections:
311—Limited Commercial Zone CL
600—Conditional Uses
500—Off-street Parking and Loading
1011.3—Minor Quasi-Judicial Review

III. EXECUTIVE SUMMARY

The proposal meets the criteria of applicable zoning provisions. The Planning Commission must review the proposal to ensure that it is compatible with existing zoning, uses and development in the area. If the Planning Commission approves the proposal, It may impose any conditions deemed necessary to protect the public health, safety, or general welfare from potentially deleterious effects resulting from approval of the permit, or to fulfill the public need for services created by approval of the request.

Staff believes that the proposal is compatible with existing zoning and may provide the adjoining R-7 zoned lots with a buffer from the existing and potential commercial development immediately to the north. With the recommended conditions, adverse visual impacts due to the relatively large parking area will be mitigated. The addition of sight-obscuring wooden fencing along the side and rear property lines will assure privacy to adjoining residents.

IV. BACKGROUND INFORMATION

Statistics

Location:	9529 SE 32 nd Ave. See Exhibit A—Vicinity Map
NDA:	Ardenwald
Zone:	Limited Commercial—C/L
Lot Size:	7820 s.f.
Map & Tax Lot:	1S1E25CA 01200

Summary Project Description

The applicants propose to replace two existing single-family residential structures with a new single-family attached dwelling (duplex).

The site is located on 32nd Avenue. The site forms the southern terminus of a strip of C-L zoned properties along the west side of 32nd Ave. The site is adjoined on all sides by residential uses. A commercial building housing several small businesses is located a lot away to the north at the southwest corner of Olsen and 32nd. Immediately across 32nd from the site are residential uses; a small market is located about 150' from the site on the southeast corner of Olsen and 32nd.

The existing use on the site is two small single-family residential structures. The structures are near the end of their usable lives; the applicant noted that the houses have no foundations and the plumbing and wiring are unusable. The existing use is a conditional use in the C-L zone. The demolition and construction of a new structure is an alteration of the use and thus must be approved by the Planning Commission.

Project Details

The applicants propose two dwelling units, each about 950s.f. in area. See Exhibit 2—Site Plan. The applicants stated that they intend that the structure will be one story in height. The proposal includes a 4-space carport located at the west end of the parking area. Concrete sidewalks connect the parking area with the residence entrances; patios are provided for each unit, to give residents some outdoor recreation space. Yard setbacks are not required in the CL zone, however, the applicants propose 6' side setbacks and a 15' rear setback. No building elevations were included in the application.

Site History

There is no evidence of any previous conditional use or variance reviews. A minor partition file from 1979 (M-79-12) approved a small change in the location of the northern lot line. The lot boundary was moved north approximately a foot.

V. ANALYSIS OF PROPOSAL

Zoning Authority

The proposal is subject to Zoning Ordinance Sections 311—Limited Commercial Zone CL, 600—Conditional Uses, 500—Off-street Parking and Loading, and 1011.3—Minor Quasi Judicial Review.

- Section 1011.3 governs public notice and the application process.
- Section 311 governs the use and site development of CL zoned properties. See Exhibit 3—Staff Zoning Compliance Report for compliance analysis.
- Section 500 specifies standards for provision of off-street parking spaces. See Exhibit 3—Staff Zoning Compliance Report for compliance analysis.
- Section 600 authorizes the Planning Commission to grant conditional use requests. It specifies the requirements and standards that applicants must satisfy and conditions that the Planning Commission must consider in its review of the request. It further authorizes the Planning Commission to apply conditions of approval. The conformance analysis follows.

Conformance with Section 600-Conditional Uses

The single-family attached dwelling meets the requirements of a conditional use in the CL zone. The use and the proposed site development meet the standards for the CL zone. The proposal meets the applicable policies and guidelines included in the Comprehensive Plan. Site characteristics are appropriate for the proposed use and public services are adequate. The proposal complies with regulations governing yards, height and access.

Section 602.7 requires consideration of whether a structure of a similar type is within 200' of the site, and the relationship of the conditional use to neighboring uses.

- Of 27 tax lots within 200' of the site, three lots contain two dwellings per lot and one lot contains three dwellings.
- Use of this site for single-family attached dwellings will retain the existing relationship with neighboring uses.
- The project will provide a southern terminus for future development allowed by the commercial zoning stretching along the west side of 32nd Ave. from Boyd St. to this parcel.

Section 601.3 authorizes the Planning Commission to attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon adjoining properties which may result by reason of a conditional use being allowed.

Recommended conditions are intended primarily to mitigate any adverse effects upon adjoining properties. Specifically, the recommended conditions of approval include requirements for sight-obscuring wooden fencing along the property perimeter and landscaped parking area buffers along the property lines adjacent to residentially zoned property and adjacent to the public right-of-way. The parking area buffers are discussed further in the Off-Street Parking and Loading section, below.

Conformance with Section 500—Off-Street Parking and Loading

The applicants are required to provide 4 parking spaces, two of which must be covered. The current proposal includes 4 covered parking spaces (a 4-space carport) in compliance with the regulations.

The proposed configuration of the parking area does not comply with Section 503.10, Off-Street Parking Space Standards. Specifically, the parking area must be reconfigured to allow a 24' wide aisle the entire length of the parking stalls, and to allow parked vehicles to turn around to enter the street in a forward motion. This requirement has been included in the Conditions of Approval, below.

Parking area landscaping standards listed in Section 503.19 do not apply to duplex residences. However, staff recommends that the Planning Commission require landscaped buffers adjacent to the parking area, as a requirement for approval of the conditional use. This measure would help mitigate the adverse visual impacts due to the relatively large parking area. Staff recommends a 6' landscaped buffer along the lot line between the parking area and the residentially zoned property to the south of the site. Also recommended is a 8' landscaped buffer between the parking area and the right-of-way. These items are included in the Conditions of Approval, below.

VI. RECOMMENDED FINDINGS IN SUPPORT OF APPROVAL

1. Application CU-00-02 has been processed, and public notice provided as required by Zoning Ordinance Section 1011.3
2. As conditioned, the proposed single-family attached use meets the conditional use criteria of Section 311-Limited Commercial Zone C-L.

3. As conditioned, the proposed single-family attached use meets the applicable criteria of Section 600—Conditional Uses.
4. As conditioned, the proposed parking area meets the applicable standards of Section 500—Off-street Parking and Loading.

VII. RECOMMENDED CONDITIONS OF APPROVAL

1. The plans submitted for building permit shall be in substantial conformance with the plans reviewed under this approval.
2. Prior to issuance of any building permit, the applicant shall submit a scaled parking and landscaping plan. Landscaping shall meet the requirements listed in Section 503.19.A.6. The plan shall include the following:
 - a) A 24' wide two-way aisle the length of the parking area,
 - b) 19' deep parking stalls,
 - c) A 5' sight obscuring wooden fence along the side and rear property lines. Any fencing in along the front property line shall not exceed 3.5' in height and shall comply with the Clear Vision Ordinance.
 - d) A minimum 6' landscaped buffer along the south property line between the parking area and the adjoining property zoned for residential use.
 - e) A minimum 8' landscaped buffer between the parking area and the right of way,
 - f) Types and sizes of landscaping materials and proposed irrigation shall be listed on the landscape plan.
3. Prior to issuance of certificate of occupancy or final inspections as applicable, parking and landscaping improvements shall be completed.
4. Required fencing and landscaping shall be maintained for the duration of the conditional use.
5. All structures shall meet the height restriction of the R-7 zone.
6. Prior to issuance of a building permit, fully engineered plans and specifications for any required utility work and/or site improvements shall be submitted to the satisfaction of the Public Works Director.
7. Prior to the issuance of a building permit, a plumbing plan showing sanitary sewer, water, and storm drainage shall be submitted to the satisfaction of the Building Official, Public Works Director, and Fire Marshall, as appropriate.

8. Prior to issuance of a building permit, an erosion control plan shall be submitted to the satisfaction of the Public Works Director.
9. This conditional use approval shall expire if construction is not commenced within six months of the date of the Planning Commission approval.

EXHIBITS

1. Vicinity Map
2. Site Plan
3. Staff Zoning Compliance Report
4. Review Comments

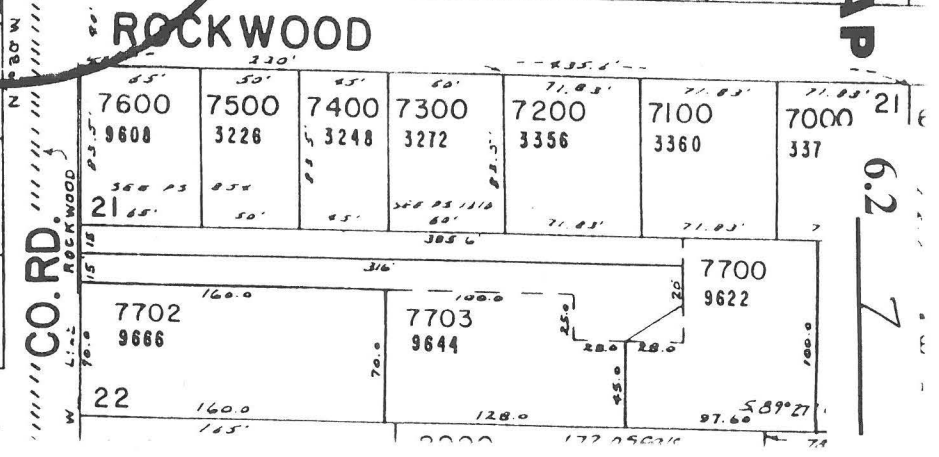
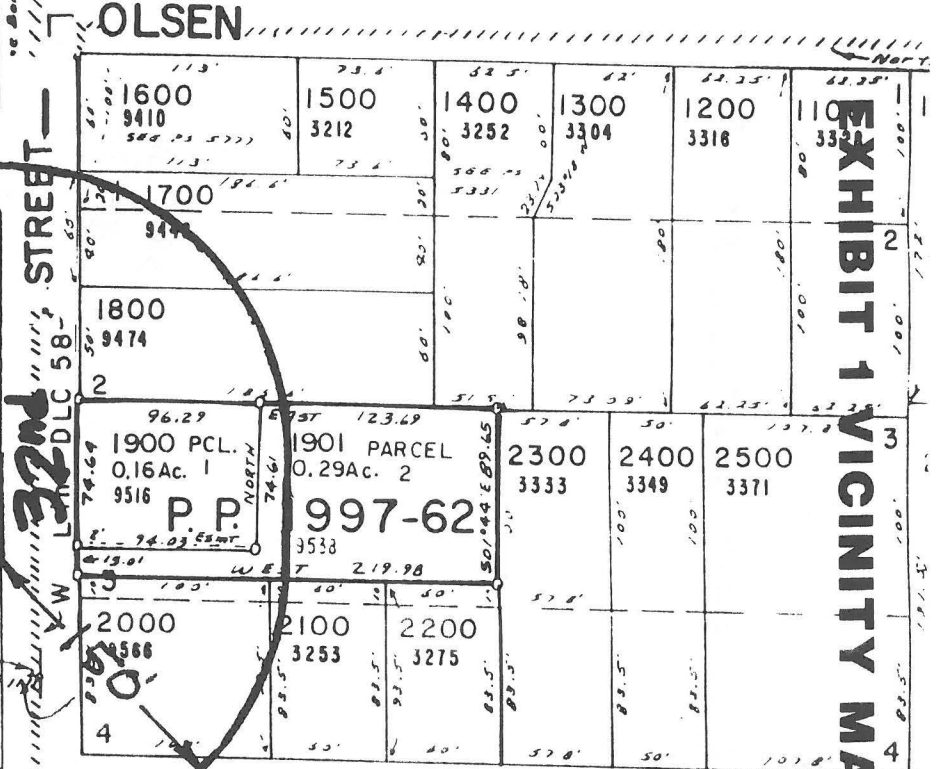
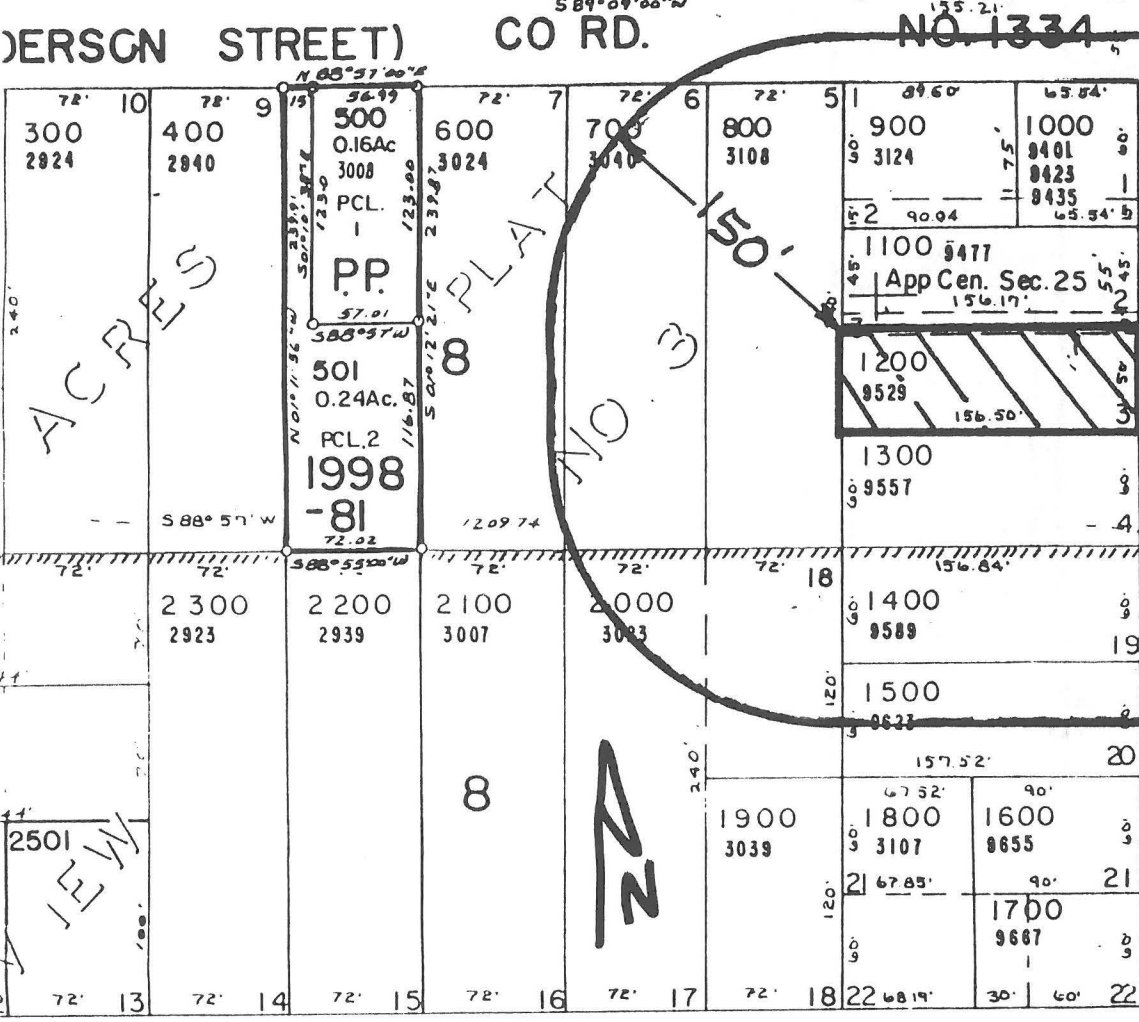
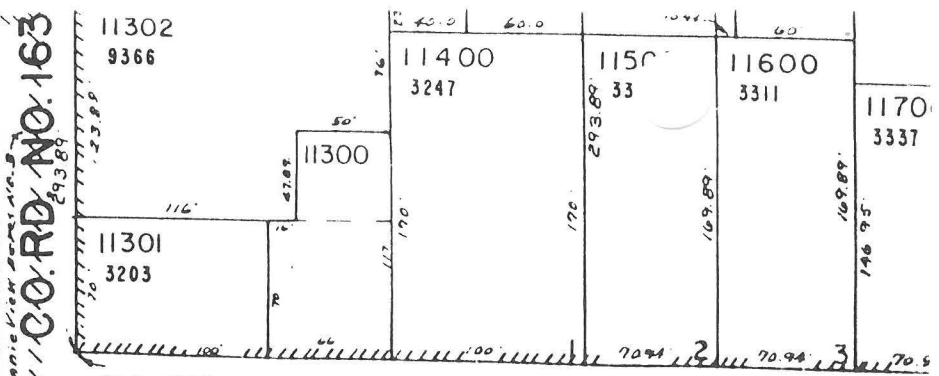
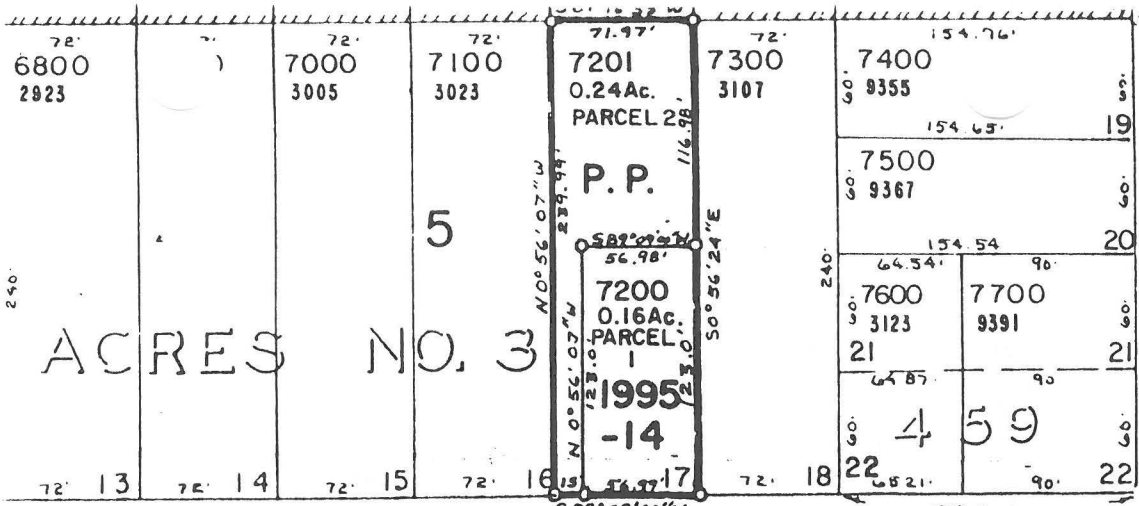


EXHIBIT 3—STAFF ZONING COMPLIANCE REPORT FOR CU-00-02 AND VR-00-03

The application complies with the applicable provisions of Section 311—Limited Commercial Zone CL, as shown in the following table.

Standard	Required	Proposed	Compliance
Lot Size	5000s.f. plus 1000s.f for each additional dwelling	7820s.f.	Yes
Lot Width	5'	51'	Yes
Lot Depth	80'	156.5'	Yes
Front Yard	None required	80'	Yes
Rear Yard	None required	15'	Yes
Yard Abutting a major street	30' from centerline of 32 nd Ave.	80' from sidewalk	Yes
Height restriction	The lesser of: 3 stories or 45'	Not yet proposed	To be determined at building plan review
Minimum vegetation	15% of lot area (min. 1173s.f.)	40% of lot area (3195s.f.)	Yes
Access requirements	Must abut on a public street for at least 35'	51'	Yes

EXHIBIT 4—REVIEW COMMENTS

From: Paul Roeger
Civil Engineer

Re: CU-00-02
9529 SE 32nd Avenue

Date: June 23, 2000

City water is available in 32nd Avenue from a 6-inch main on the east side of the street. A new water service may be required for the duplex. Size of the meter must be determined by the plumber. Credit will be given for two units, therefore no additional system development charges (SDC's) will be assessed.

City sanitary sewer is available from an 8-inch main in 32nd Avenue. A 4-inch lateral is extended to the property and has served the two units on the property. The proposed duplex may be connected to the existing lateral if it passes visual inspection. No additional SDC's will be assessed.

Storm drainage is available in 32nd Avenue. Roof drains may be run to the curb or directly to the 18-inch main line, which is approximately 13-feet deep. SDC credit will be given for two units. No additional SDC's will be assessed.

The existing right-of-way width of 32nd Avenue is only 40-feet with an asphalt street in excellent condition and existing curb and sidewalk. All trenches into 32nd Avenue must use controlled density backfill (CDF) and the trench patch must be infrared sealed.

The only additional frontage improvements would be closing any non-used driveway approaches and installing the new driveway approach where required. If the existing driveway approach or any portion thereof is not used, full sidewalk and curb must be constructed and a new driveway approach must be constructed.

An erosion control plan and permit application is required for demolition work, with a separate erosion control plan and application for the new construction.

No additional Parks and Recreation SDC's will be required for the duplex. No additional Transportation SDC's will be assessed either.

From: Ernie Badeau, Deputy Fire Marshal

Re: CU-00-02/VR-00-03

Date: June 27, 2000

After careful review the Prevention Division of Clackamas County Fire District #1 wishes to report CU-00-02 and VR-00-03 are not in conflict with the 1997 Uniform Fire Code as long as the following requirements are met:

The first is the requirement that fire department access be provided and maintained with a minimum access of 20 feet in width, a minimum vertical clearance of 13 feet 6 inches and in conformance with City requirements for driveway access. The access road must be of an all weather type, which will handle a minimum of 60 thousand pounds weight load. Additionally, addresses must be visible from the street of address on a contrasting background, which identifies each site location on the lot. Fire department turnarounds are required when the distance from the street on the access roadway exceeds 150 feet. Finally, there is a requirement that a fire hydrant be within 500 feet of the furthestmost structure on the lot. This can be field verified by the applicant and also by the water department.



TO: Planning Commission

THROUGH: Alice Rouyer, Planning Director *AR*

FROM: Lisa Nasshahn, Contract Planner *LW*

SUBJECT: VR—00-04
Applicant: The Murphy Company

HEARING DATE: August 8, 2000

I. ACTION REQUESTED

Approve application VR-00-04 to diminish the required 20' landscaped setback to 10'. The applicants propose an 8' high masonry fence constructed on the proposed 10' setback line and landscaping in the setback.

II. CODE AUTHORITY AND SUBSTANTIVE CRITERIA

Milwaukie Zoning Ordinance Sections:

309—Residential-Office-Commercial Zone R-O-C

318—Mixed Use Overlay Zone MU

700—Variances, Exceptions and Home Improvement Exceptions

1011.3—Minor Quasi-Judicial Review

III. EXECUTIVE SUMMARY

The proposal, as conditioned, meets the standards and criteria of applicable zoning provisions. Staff analysis suggests that the landscaping proposed by the applicants to justify the diminished setback should be improved. Staff believes that the applicants' proposal, with the addition of some improved landscaping, is of a high quality that justifies approval of the variance to the buffer standards specified for the Murphy Plywood site in Section 318—Mixed Use Overlay Zone MU.

IV. BACKGROUND INFORMATION**Statistics**

Location: Tax Assessors Identification Number 1S1E25CD, tax lots 6000, 6100 (10409 SE 32nd) and 6200 (10427 SE 32nd).
Additional tax lots owned by the applicant: 6300, 6400, 6600, 6700, 7300, 7400, 7500, 7700
See Exhibit 1—Vicinity Map

NDA: Ardenwald

Zone: R-O-C, Mixed Use Overlay.

Site Size: 28,625 s.f.

Summary Project Description

The applicants propose to construct an 8' tall masonry fence set back 10' from the property lines of tax lots 6100, 6200 and 6700—32nd Avenue between Llewellyn Street and Meek Street. It will extend around the corner and west along Meek Street for 68'. The fence will replace the existing fence and continue the existing fence line north to Meek Street. The existing fence is a cyclone fence with wooden privacy slats and is topped with razor wire. The lots will be used for outdoor lumber storage.

It is important to note that the applicants' site plan (see Exhibit 2) does not depict the property lines along 32nd Avenue accurately. This site plan does not depict a 10 foot "jog" in the right-of-way along the southern 90 feet of the site area (see the jog on Exhibit 1—vicinity map). This issue is referenced more below.

Site History

ZC-68-1 approved a zone change from Industrial to Commercial on the property located at 3105 SE 32nd. No conditions were included in the approval.

C-78-6 approved the start-up of plywood manufacturing operations. Conditions included an 8' sight-obscuring fence located along the south right-of-way line of Moss Street between Llewellyn Street and the rail line, and along the main rail line north to the rail spur.

C-79-1 approved a request to expand the operation of the Murphy Plywood Mill. The conditional use case included the vacation of portions of Meek Street, Moss Street, Llewellyn Street and 31st Street. Conditions attached to the approval of the street vacation included a following requirement that the applicant dedicate 10' along the west side of 32nd Avenue to be used for future street improvements.

VR-85-17 approved a variance to the 48' height standard for the M-G zone to allow construction of dust collection equipment. Among the conditions was a requirement that "street trees be planted along the northern boundary of the site

adjacent to Meek Street and along the parking lot which fronts Llewellyn Street and 32nd Avenue, as approved by staff.”

CPA-97-01, CPA-97-03, and ZC-97-03 included the Murphy site as a portion of the Regional Center Master Plan.

V. ANALYSIS OF PROPOSAL

Zoning Authority

The proposal is subject to Zoning Ordinance Sections 309—Residential-Office-Commercial Zone R-O-C, 318—Mixed Use Overlay, 700—Variances, Exceptions and Home Improvement Exceptions, and Section 1011.3—Minor Quasi-Judicial Review.

- Section 1011.3 governs public notice and the application process. See Exhibit 3—Staff Zoning Compliance Report.
- Section 309 regulates the use and development on properties zoned R-O-C. This section is superceded by Section 318. See Exhibit 3—Staff Zoning Compliance Report.
- Section 318 regulates the use and development on sites on which the Mixed Use Overlay is applied. The section designates the review process for applicable projects and specifies special standards for designated sites within the Mixed Use Overlay areas. The conformance analysis follows.
- Section 700 authorizes review bodies to grant variances to standards listed in the Zoning Ordinance. The review criteria listed in Section 700 are superceded by the criteria specified in Section 318.9 B.1. for review of a request to diminish the required 20' buffer area to 10'.

Compliance with Section 318—Mixed Use Overlay

The applicants' proposed outdoor storage use is permitted on this site. The site is located in Subarea 2. Section 318.9 B.1 specifically allows this use. This section specifies for the site a 20' landscaped setback along 32nd Avenue and requires a sight-obscuring wooden fence adjacent to the public right-of-way and residential property lines.

The section also allows the Planning Commission to grant a reduced 10' setback, provided that the buffer is of high quality. Specifically, the buffer is to include the three elements below.

1) The use of masonry walls, or other acceptable material, of up to 8 feet in height.

The applicants' proposed masonry wall includes 8' piers and 6.5' masonry fencing topped with strands of light wire provided for the proposed clematis vines to climb upon. The proposal meets the requirements of 1).

2) Enhanced landscaping.

The basic landscaping requirement is trees, spaced at a minimum of one tree per 40 linear feet, and vegetative materials to cover the remainder of the buffer area, such as grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement. "Enhanced" landscaping is not defined in the section; the Planning Commission is required to judge whether the applicants' proposal qualifies as "enhanced."

Staff's analysis suggests that the proposal is not sufficient to satisfy the requirement for enhanced landscaping. The applicant requests that the public give up an item that is of community value—a 20' setback buffer along an industrial use that is located adjacent to residentially zoned areas and on a collector street. The applicants' proposal must include a buffer of high quality to make up for the loss of 10' of landscaped buffer.

While the applicants' proposal may include a greater number of plant materials than they would otherwise have proposed, the plant materials themselves are not well-suited for the site. Staff recommends that the Planning Commission require the applicants to install either landscaping using hardy native plants or xeriscaping (utilizing plant materials that tolerate dry conditions). Installing plant materials that require little care once established will ensure that the buffer remains of high quality in years to come. Analysis of the applicants' landscaping proposal follows.

The applicants propose to install trees at a spacing of 1 tree per every 30 lineal feet; this results in an additional 2 trees over the minimum 9 required. The applicants also propose to install clematis vines. Vines are not included in the minimum requirements listed in Section 503.19.A.6, and their inclusion in the proposal exceeds the minimum standards. Warty Barberry shrubs and Blue Pacific Shore Junipers fill out the remainder of the landscaping proposal.

The applicants proposal includes buffer landscaping as follows:

- 11 Norway Maple trees, planted about every 30 lineal feet of landscaped buffer area. *The Sunset New Western Garden Book (Sunset)* states that Norway Maples can be objectionable as street trees because they are subject to infestations of aphids, causing honeydew drip and sooty mold, and because the deep and surface roots can be a problem. Norway Maple is listed as a nuisance plant on the Portland Plant List. Nuisance plants are invasive and dominate native plant communities. This species should be replaced with one that will be more compatible in this location. See conditions of approval below.
- 23 Evergreen Clematis vine spaced randomly along the wall. *Sunset* states that this plant requires constant pruning or it will become tangled

and will build up dead thatch. This species should be replaced with another variety that will require low maintenance and be compatible in this location. See conditions of approval below.

- 66 Warty Barberry shrubs, planted approximately every 5' along the buffer. *Sunset* states that barberry plants can become unattractive if not regularly maintained. This species should be replaced with another variety that will require low maintenance and be compatible in this location. See conditions of approval below.
- 66 Blue Pacific Shore Junipers, planted approximately every 6' along the length of the buffer. This plant reaches about 1' in height, about 6-8' spread. This shrub should be spaced out more to accommodate the wider spread. See conditions of approval below

3) One of the design elements listed in subsection 318.8.A.19.

The applicants propose to install pedestrian scale lighting at a spacing of one light per every 30 linear feet. Many of the design elements listed in this section do not apply to a masonry wall construction. The pedestrian scale lighting satisfies the requirement.

It is important to note that the present proposal does not depict a "jog" in the property line that shows that the right-of-way is 10' wider along the southern 90' of the site area. If the City ever acquires right-of-way to widen the street to be consistent with the right of way line to the south, then granting approval for a fence constructed in the location now proposed may result in a zero setback from the public right-of-way. Staff does not know when and if 32nd Avenue will be widened and improved to this extent. A condition is included in the Conditions of Approval that requires the applicant to depict the property line accurately and include a 10' buffer area along the entire property frontage.

Recommended Findings in Support of Approval

1. Application VR-00-04 has been processed, and public notice provided as required by Zoning Ordinance Section 1011.3.
2. Application VR-00-04 complies with criteria 1-3 of Zoning Ordinance Section 318.9 B.1.
3. Application VR-00-04 complies with the procedural requirements of Zoning Ordinance Section 700.
4. Application VR-00-04 has been reviewed per processes and standards stipulated in Section 318; the processes and standards supercede those identified in Zoning Ordinance Section 309.

Recommended Conditions of Approval

1. The plans submitted for building permit shall be in substantial conformance with the plans reviewed under this approval.
2. Prior to any building permit issuance, the applicant shall submit a scaled landscaping and fencing plan which conforms to Zoning Ordinance Section 318.9 B.1. The plan shall include the following:
 - a) The plan shall accurately depict the applicants' property line, and a 10' landscaped buffer area shall be provided between the proposed masonry wall and the property line, along the entire 32nd Avenue frontage.
 - b) Trees shall be spaced every 30 linear feet. The proposed "Norway Maple" species shall be replaced with a variety that is hardy, native, and low-maintenance, appropriate for a roadside site and of a size that will not interfere with overhead utility lines when grown.
 - c) The Evergreen Clematis vine and Warty Barberry shrub shall be replaced with a variety that is hardy, native, low maintenance and is appropriate for a roadside site.
 - d) The Blue Pacific Shore Juniper shrubs shall be spaced appropriately for their size when mature.
 - e) Ground cover sufficient to fully cover the area of the buffer not occupied by trees, shrubs and vines within two years of the date of installation.
 - f) Types and sizes of landscaping materials and proposed irrigation shall be specified on the landscape plan.
 - g) Landscaping shall be irrigated for at least two years, or until established.
 - h) Dead plant materials shall be replaced by the applicant in conformance with these Conditions of Approval.
3. This variance approval shall expire if construction is not commenced within six months of the date of the Planning Commission approval.

Exhibits

1. Vicinity Map

2. Site Plan
3. Staff Zoning Compliance Report
4. Review Comments

29TH E ST.

SECTION

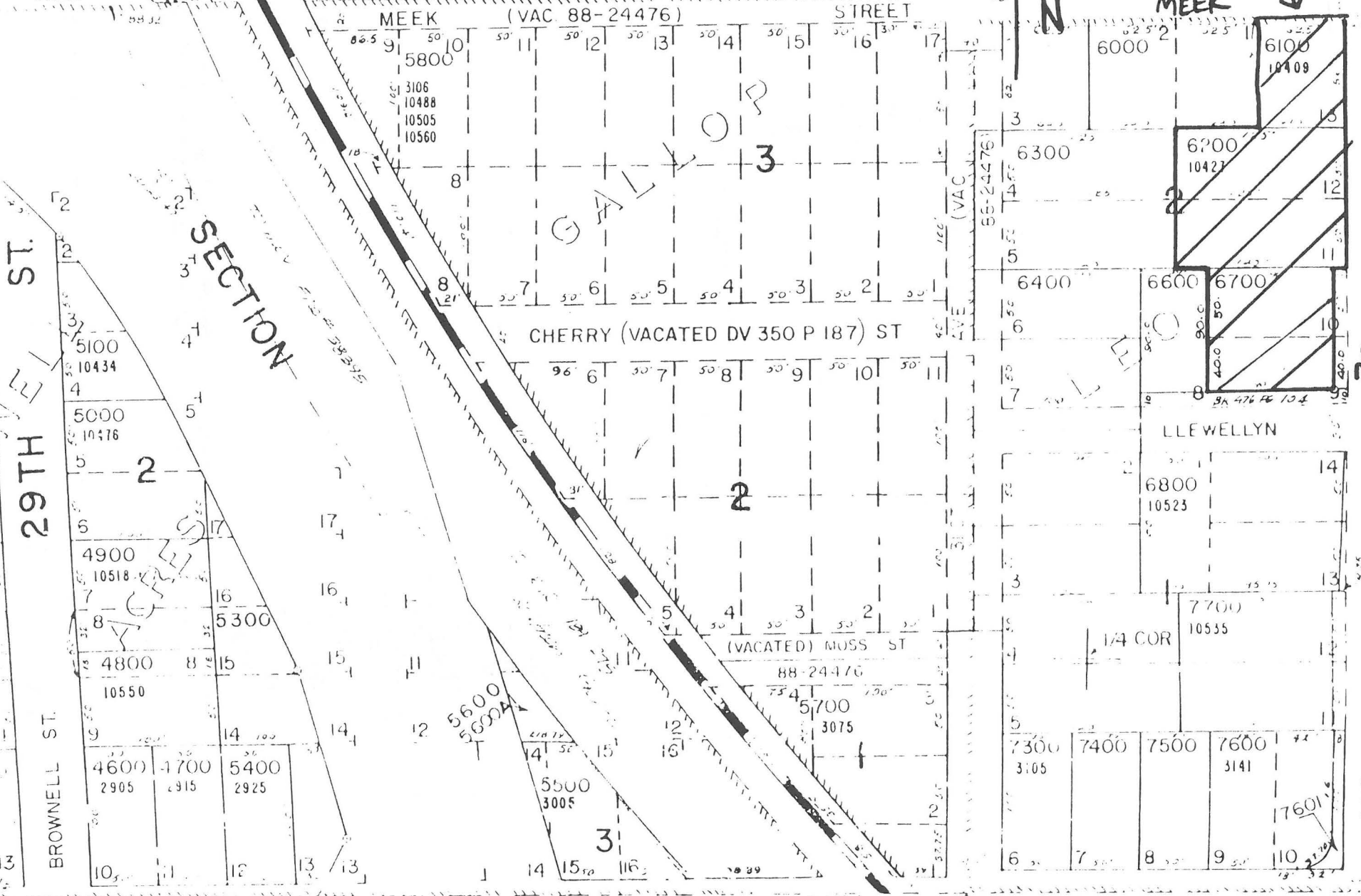
SE 1/4
134.38
217.8' W

ST.
40



SITE
↓

BROWNELL ST.



32ND AVE
SE

SEE
SW COR
SECTION CENTER

EXHIBIT 1

6.3

8

STREET

1 IF 25CD

EXHIBIT 3—STAFF ZONING COMPLIANCE REPORT

This report identifies how the project complies with applicable sections of the Zoning Ordinance that are not detailed in the staff report for VR-00-04.

1. Compliance with Section 1011.3—Minor Quasi-Judicial Review

The application meets, or will meet, all requirements of this section. The section includes requirements regarding pre-application conferences, mailed notice to neighbors, publication of a legal ad, and posting the site with a notice of public hearing.

2. Compliance with Section 309—Residential-Office-Commercial Zone R-O-C

The uses and processes stipulated in the MU Overlay Zone supersede those identified in the R-O-C Zone. No yards are required. The lot coverage requirement and transition area requirement are removed in favor of the site design process. Use restrictions are superseded by those in the MU Overlay Zone.

EXHIBIT 4—REVIEW COMMENTS**MEMORANDUM****TO:** COMMUNITY DEVELOPMENT**FROM:** Paul Roeger
Civil Engineer**RE:** VR-00-04
Meek and 32nd Avenue**DATE:** June 23, 2000

Public Works is working with Murphy Plywood to replace the driveway approach at Meek and C Street. The driveway approaches along the two lots that had houses on them must also be removed and replaced with full height curb and sidewalk.

The sanitary sewer laterals serving the two lots where the houses were demolished must still be cut and capped at the property lines and inspected by the City.

Public Works has no concerns about the placement of the new fence. The proposed ten foot setback provides for good clear vision from Meek Street south on 32nd Avenue. As long as low growing shrubs are planted in the setback area clear vision will be maintained.

An erosion control plan must be provided along with the grading permit application. This must include protection of the catch basins in the street.

MEMORANDUM**From:** Ernie Badeau, Deputy Fire Marshal, Clackamas County Fire District No. 1
Fire Prevention Office**Re:** VR-00-04**Date:** June 27, 2000

There are no Fire and Life Safety issues involved with this request.

Murphy Plywood Company
Portland, Oregon

REQUEST FOR
Major Variance Approval

PREPARED FOR
Murphy Company

PREPARED BY



June 9, 2000

PROPOSAL SUMMARY

OWNER: The Murphy Company
PO Box 2810
Eugene, Oregon 97402
(541) 459-4545

APPLICANT: The Murphy Company
PO Box 2810
Eugene, Oregon 97204
(541) 459-4545
Contact: John Murphy

CONSULTANT: Otak, Inc.
17355 Boones Ferry Road
Lake Oswego, OR 97035
(503) 699-4502
Contact: Simona LaMorticella

LOCATION: 10427 and 10409 SE 32nd Avenue, Milwaukie, Oregon 97222,
Township 1S Range 1E Section 25, Tax lots 6100, 6200, and
6700 Clackamas County, Oregon

ZONING: Residential-Office-Commercial (ROC)
Mixed Use Overlay (MU)

REQUEST: Major Variance approval is requested to Section 318.9.B.1
which requires a 20-foot setback from 32nd Avenue and on
Meek Street

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IV. COMPLIANCE WITH APPLICABLE APPROVAL CRITERIA
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V. CONCLUSION 6

VI. EXHIBITS
A — Copy of Property Owner Labels
B — Tax Assessors Map
C — Photos of Existing Site

VII. REDUCED SIZE PLANS
Figure 1 - Zoning/Vicinity map
Figure 2 - Aerial Photo
Figure 3 - Site/Landscape Plan

I. PROJECT DESCRIPTION

The applicant, The Murphy Company, owns approximately 7.10 acres of land, which is bounded by Meek Street to the north, 32nd Avenue to the east, Harrison Street to the south, and the railroad lines to the west. The applicant recently purchased two additional parcels along 32nd Avenue (Clackamas County Tax Lot Numbers 6100 and 6200) totaling approximately 0.41 acres. These parcels are included within the total 7.10 acre total site area.

The Murphy Company purchased the two new parcels with the intent of using them for additional lumber storage area. The existing lumber storage yard is just west of these recently purchased properties. The Murphy Company intends to pave over the newly purchased properties and continue the existing fence lines to the north and east. The grading and paving work will be processed as a separate building permit. The proposed fences will be modified from the design of the existing fences to comply with Section 318.B.1 of the code. The new fences will be installed at the 10-foot setback line. A new fence is proposed along Meek Street and will connect with the existing fence but will jog forward 10-feet. The new fence proposed along 32nd Avenue will replace the existing fence located on Clackamas County Tax Lot Number 6700. The site plan is attached as Sheet 3 and provides details of these proposed changes.

Modifications to the new fences include the use of concrete masonry block units rather than the chain link with wood slats of the existing fence. The use of masonry units will create a texture to the concrete fence which adds visual detail. The 6¼-foot tall masonry unit wall will be separated every 9-feet by 8-foot tall concrete piers and between each concrete pier will be galvanized wire. The details of the proposed masonry fence are included as Sheet 3.

The Murphy Company proposes enhanced landscaping in the 10-foot setback area between the property line and the masonry fence. Proposed landscaping improvements include an evergreen clematis to be planted every 9-feet along the mason walls. The multi-strand wire located between each pier will provide a place for the climbing clematis to grow. The evergreen clematis was chosen because the greenery on the wall creates a more pleasant pedestrian experience. In addition, Japanese Barberry will be used because their maroon colored foliage will add contrast to the proposed concrete fence and juniper trees. The applicant is also proposing down lighting at the top of the piers at a spacing of one every 30 feet. The proposed lighting will enhance pedestrian safety at night.

II. REQUESTED APPROVALS

The applicant requests Major Variance approval to continue the existing fence line, with modifications, along both Meek Street and 32nd Avenue at the 10-foot setback line. Section 318.B.1 normally requires a 20-foot setback along both Meek Street and 32nd Avenue. However, Section 318.B.1 of the Code states that the Planning Commission may allow a 10-foot setback along both streets if the applicant proposes a buffer of high quality, including a masonry wall of up to 8-feet in height, additional landscaping improvements, and one of the elements listed in Section 318.8.A.19. There are thirteen elements listed in Section 318.8.A.19. Of the elements listed, it appears that a portion of the second item relates the most to this type of use. Element "b" includes additional landscaping and pedestrian-scale lighting.

The existing fence along Meek Street is located right up against the northern property line and will remain in its present location. The proposed fence along Meek Street will be setback 10-feet from the property line. The existing fence along 32nd Avenue is setback 18 feet from the property line. This fence will be replaced by the proposed masonry fence and will be setback 10-feet from the property line.

III. EXISTING CONDITIONS

The subject site is bounded by Meek Street to the north and 32nd Avenue to the east. The existing storage yard used for the storage of lumber by the Murphy Company, is located to the west of the subject parcels and there is an existing parking lot to the south of the subject site. To the north and east of the subject site are residential neighborhoods. The site of the storage yard extension and new fencing is located on tax lots 6100, 6200, and 6700 of Clackamas County Assessors Map 1S 1E 25CD. A copy of the tax assessors map illustrating the site is included as Exhibit B.

The land which was recently purchased had two residential housing units located on each parcel, but they have since been demolished. The land is currently vacant except for a portion of the old concrete foundations for the residential housing units. There is also a curb to the north of the property which was a private access drive to one of the residential properties. The two parcels are covered with grass, photos of the existing condition of the two recently purchased parcels are included as Exhibit C.

IV. COMPLIANCE WITH APPLICABLE APPROVAL CRITERIA

A. Compliance with Variance Criteria

Section 701 provides that variances may be granted to the standards of the Zoning Ordinance. A variance may be granted only when the Planning Commission finds

that all of the criteria of Section 702.1 A. through C. are satisfied.

The applicant requests a variance to specific setback standards of the MU Overlay zone. Specifically, a variance is requested to the following standard:

1. To Section 318.8.B.1. which requires a 20-foot setback to the 32nd Avenue and Meet Street property lines. The Planning Commission may allow the setbacks to be reduced to 10 feet, where the proposed design of the buffer is of a high quality and includes 1) the use of masonry walls, or other acceptable material, of up to 8 feet in height 2) enhanced landscaping; and 3) the elements listed in 318.8.A.19.b.

Following are responses to the Variance Approval Criteria:

- A. *The property in question has unusual conditions over which the applicant has no control. Such conditions only relate to the physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.*

Response: The unusual physical condition of the property which justifies approval of the requested variance is the existence of an approximately 180-foot long fence along Meek Street. The existing fencing and outdoor storage area are prior legally developed improvements. The extension of the existing outdoor storage area and the existing fence line can be readily converted from the previous residential uses on the two parcels. The site was not well suited for residential use due to the International Paper Mill located adjacent to the subject parcels.

- B. *There are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant to use the property in a manner substantially the same as others in the surrounding area.*

Response: The applicant needs as much additional outdoor storage area as possible for lumber storage. A 20-foot setback for the two proposed fences would significantly impact the total usable outdoor storage space. The applicant purchased the two additional parcels with the understanding that he would be allowed to continue the existing fence lines in the same setback locations. Requiring the proposed fences to be installed at the 20-foot setback will not provide the additional outdoor storage area that the applicant needs to accommodate his expanding business operations. The Murphy Company does not believe that the loss of an existing investment and other improvements is a feasible alternative to the requested variance.

- C. *That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.*

Response: We are unaware of any significant adverse effects upon other nearby properties which would result from approval of the requested variance. Approval of the requested variance will result in a substantial investment in upgrading the existing fencing and landscaping. The fence improvements should have a beneficial impact on the aesthetic value of the subject property as well as other nearby properties.

To the extent that the variance will have any adverse impact within the public right of way and to the surrounding neighborhood as a result of the fence line and proposed outdoor storage area being setback only 10 feet from the property line, the applicant's plans to significantly improve the landscaping, the addition of lighting, the enhancement of the buffers on the north and east sides of the site, and the significant upgrading of the fence will help mitigate any possible adverse impacts of the use upon the neighborhood.

VI. Conclusion

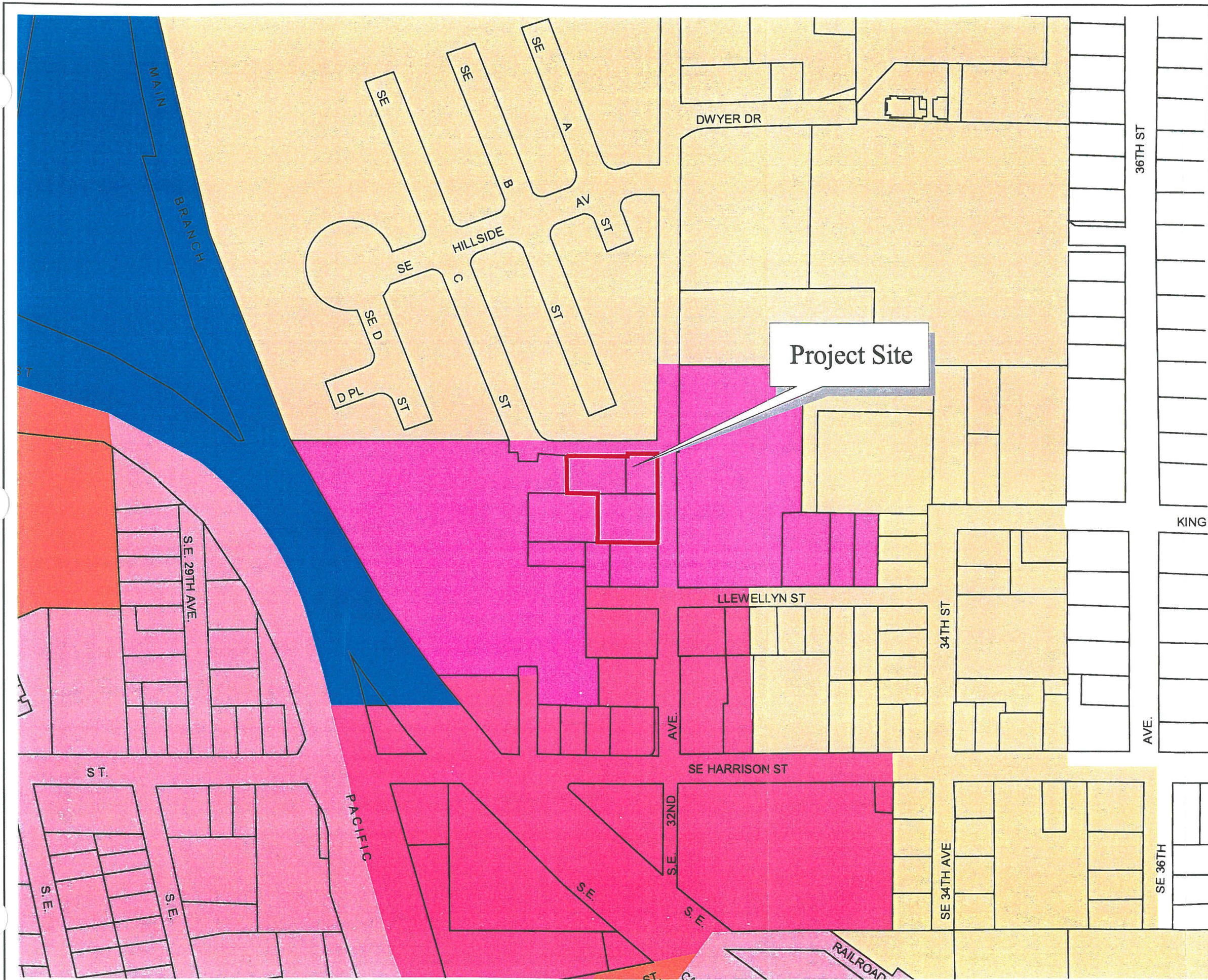
This application narrative and the attached plans demonstrates that all applicable provisions of the City of Milwaukie Zoning Ordinance are satisfied by the landscape and site plan for the extension of the outdoor storage area and existing fence of the Murphy Plywood site. Murphy Plywood and Otak, Inc. therefore respectfully request approval of the Variance application.

Murphy Company Vicinity/Zoning Map

Sheet 1

LEGEND

- General Commercial
- Heavy Industrial
- Multi Family (low density)
- Multi Family (medium density)
- Mixed Use (low density)
- Single Family (medium density)
- Single Family (highest density)



200 0 200 Feet

Plot Date June 9, 2000
10429\gis\murphy.aprzoning map





Project Site

LLEWELLYN ST

AVE.

SE HARRISON ST



100 0 100 Feet



Designed	JL	6-9-00
Drawn	JL	6-9-00
Checked		

Revisions

Revisions	Date

Revisions	Date

Revisions	Date

Revisions	Date

Revisions	Date

Revisions	Date

Revisions	Date

Revisions	Date

Murphy Plywood Milwaukie, Oregon	
otak Incorporated <small>1728 S.W. Duane Hwy. Milwaukie, OR 97132 (503) 638-8900</small>	
3	Project No. 10429

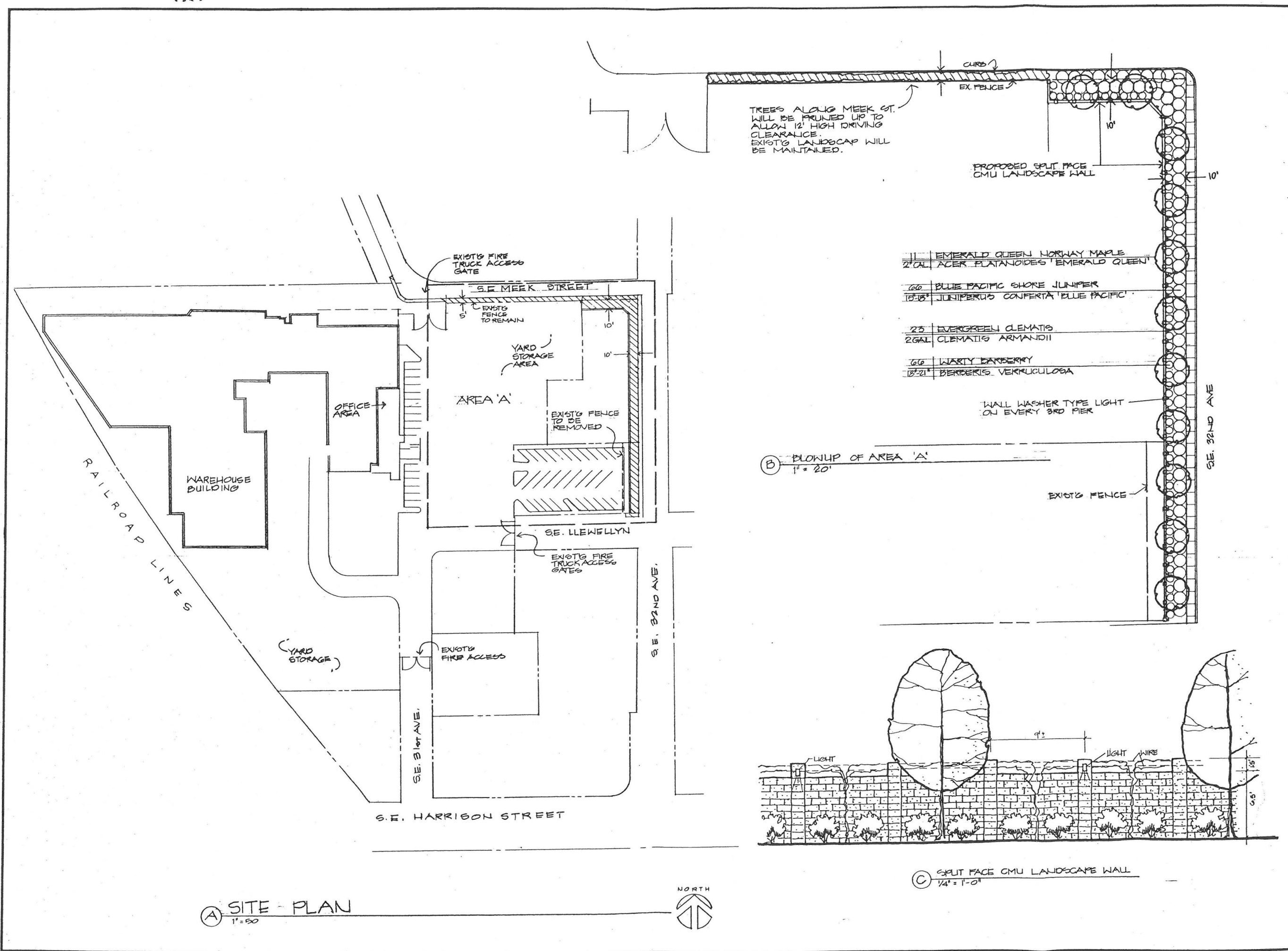


EXHIBIT A

R11E25CD00100
HOUSING AUTHRTY CO CLACK
PO Box 1510
Oregon City, OR 97045

R11E25CD05800
MURPHY COMPANY
PO Box 2810
Eugene, OR 97402

R11E25CD06300
THE MURPHY CO
PO Box 2810
Eugene, OR 97402

R11E25CD06400
THE MURPHY CO
PO Box 2810
Eugene, OR 97402

R11E25CD06600
THE MURPHY CO
PO Box 2810
Eugene, OR 97402

R11E25CD06700
THE MURPHY CO
PO Box 2810
Eugene, OR 97402

R11E25CD06800
CAR MEL ENTERPRISES INC
PO Box 68328
Oak Grove, OR 97268

R11E25CD07700
THE MURPHY CO
PO Box 2810
Eugene, OR 97402

R11E25DC04300
SISTERS OF PROVIDENCE IN OR
PO Box 13993
Portland, OR 97213

R11E25DC05600
SISTERS OF PROVIDENCE IN OR
1235 NE 47Th Ave
Portland, OR 97213

R11E36AB01300
Josef Liberman
3250 SE Llewellyn St
Milwaukie, OR 97222

R11E36AB01400
MARLEY & ASSOCIATES LLC
10735 SE Stark St #200
Portland, OR 97216

R11E36AB01500
SISTERS OF PROVIDENCE IN OR
1235 NE 47Th Ave
Portland, OR 97213

R11E36AB01600
MARLEY & ASSOCIATES LLC
10735 SE Stark St #200
Portland, OR 97216

R11E36AB01600E1
MARLEY & ASSOCIATES LLC
10735 SE Stark St #200
Portland, OR 97216

R11E36AB01301
Lance L Hess
3228 SE Llewellyn St
Milwaukie, OR 97222

SE 1/4 SW 1/4 SEC. 25 T. 1 S.
CLACKAMAS COUNTY

WILLIAM MEEK NO. 50 MILWAUKIE

This map was prepared for assessment purpose only.

12-02

CANCELLED TAX LOTS

- 200 Hwy 2200
- 2302
- 2303
- 2304
- 2305
- 2306
- 2307
- 2308
- 2309
- 2310
- 2311
- 2312
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SEE MAP I IE 25CA SUPPL.

PACIFIC HWY. EAST CASCADE HWY.
224

CLACKAMAS COUNTY HOUSING AUTHORITY

HILLSIDE AVENUE

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This map was prepared for assessment purpose only.

SW 1/4 SE 1/4 SEC. 25 T. 15. R. 1 E. W.M.
CLACKAMAS COUNTY

D.L.C.
WILLIAM MEEK D.L.C. NO. 50
HECTOR CAMPBELL D.L.C. NO. 59
DANIEL HATHAWAY D.L.C. NO. 60

1 IE 25DC
MILWAUKIE

1"=100'

SEE MAP 1 IE 2508

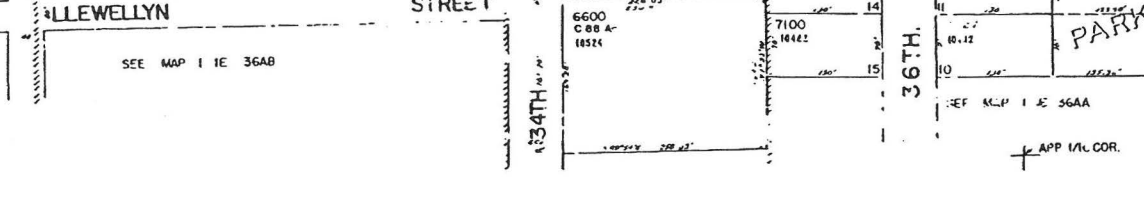
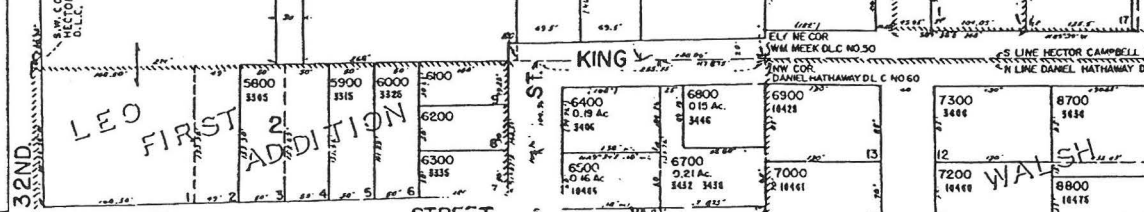
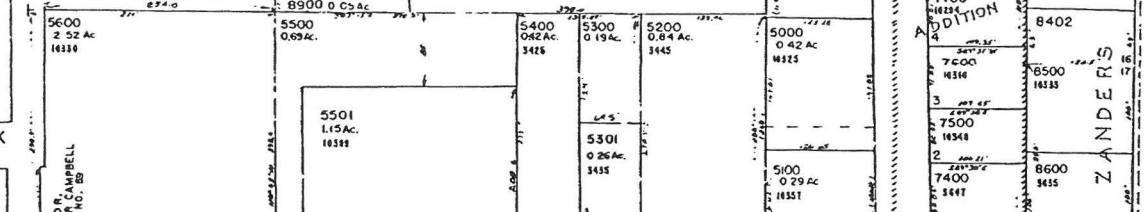
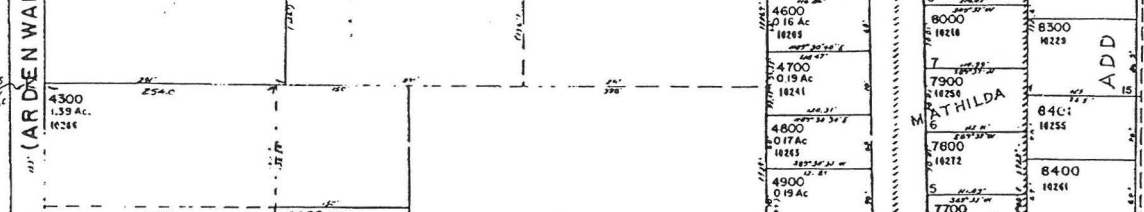
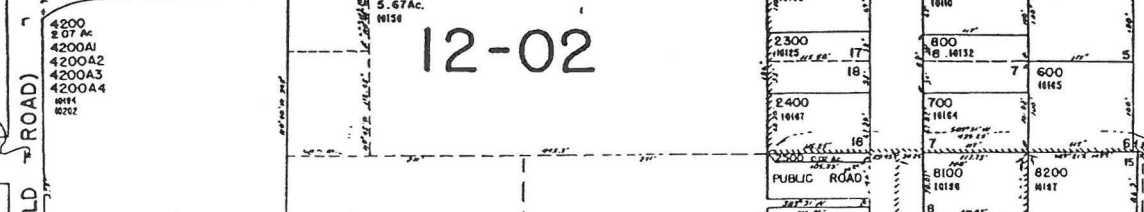
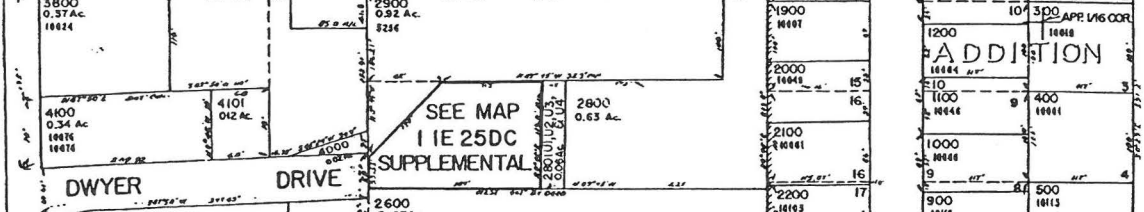
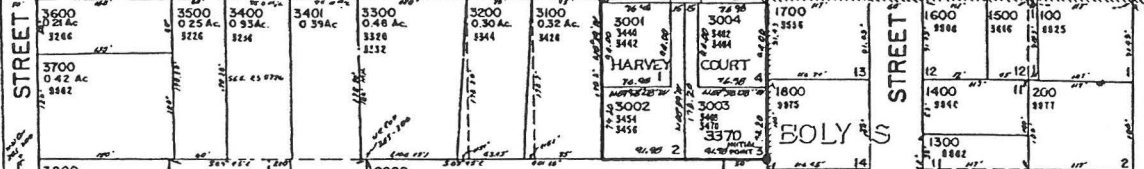
390

3200

3600

HARVEY STREET

STREET



12-02

LEO FIRST ADDITION

WALSH PARK

ZANDERS ADD

MATHILDA

ADDITION

APP. 1/16 COR.

SEE MAP 1 IE 25CA

HILLSIDE STREET

32ND STREET (ARDEN WALK ROAD)

MEEK ST.

SEE MAP 1 IE 25CD

LLEWELLYN STREET

SEE MAP 1 IE 36AB

34TH STREET

KING STREET

36TH STREET

SEE MAP 1 IE 36AA

APP. 1/16 COR.

STREET

37TH STREET

1 IE 25DC MILWAUKIE

CANCELLED 1L'S
3900
2700
5700
4390
4500E1
4500
4200E1
5500A1
4490
4400
3000

SEE MAP 1 IE 25DD

1020

104

This map was prepared for assessment purpose only.

NW 1/4 NE 1/4 SEC. 36 T. 1 S. R. 1 E. W. M.
CLACKAMAS COUNTY

LOT WHITCOMB NO. 38
WILLIAM MEEK NO. 50

1 IE 36 AB
MILWAUKIE

3000

SEE MAP 1 IE 36 BA

SEE MAP 1 IE 36 AA

SEE MAP 1 IE 36 CA

SEE MAP 1 IE 36 DA

SEE MAP 1 IE 36 EA

SEE MAP 1 IE 36 FA

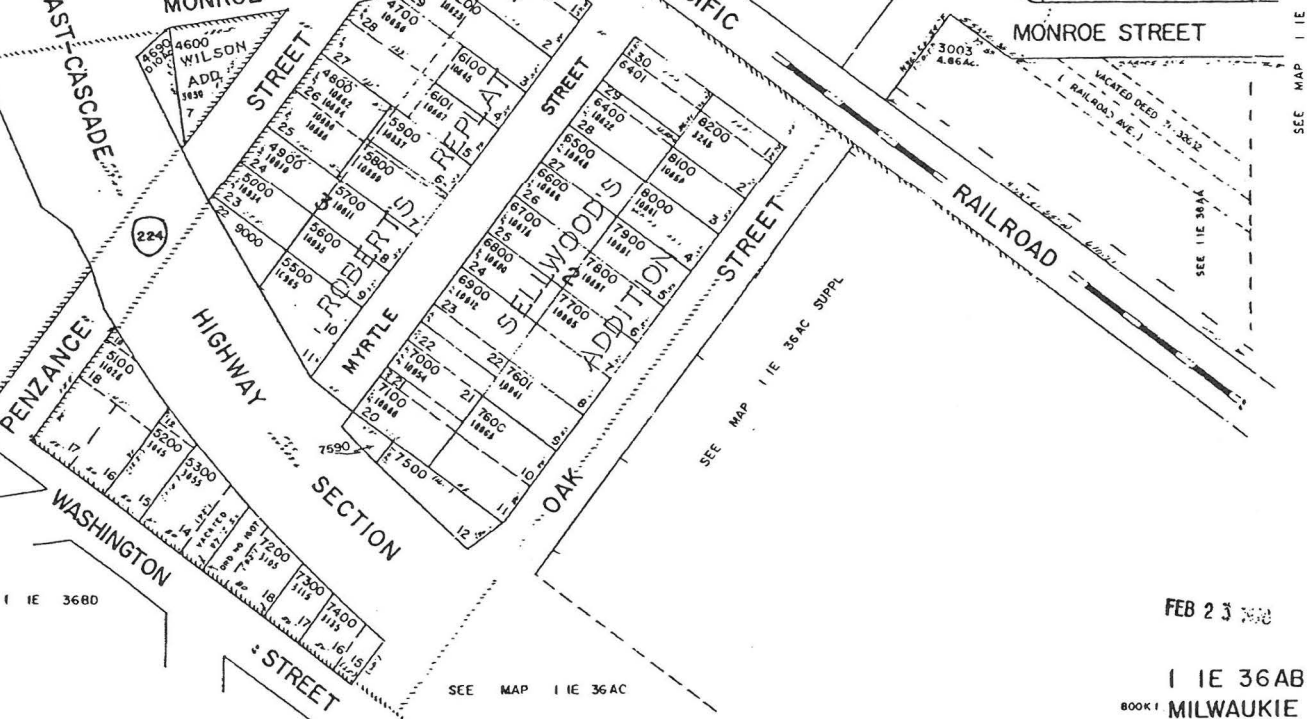
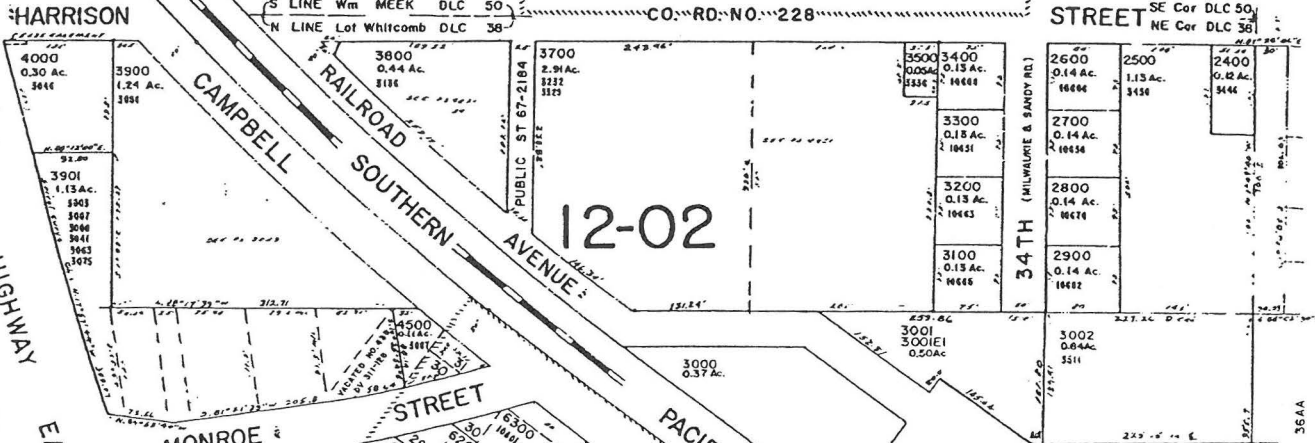
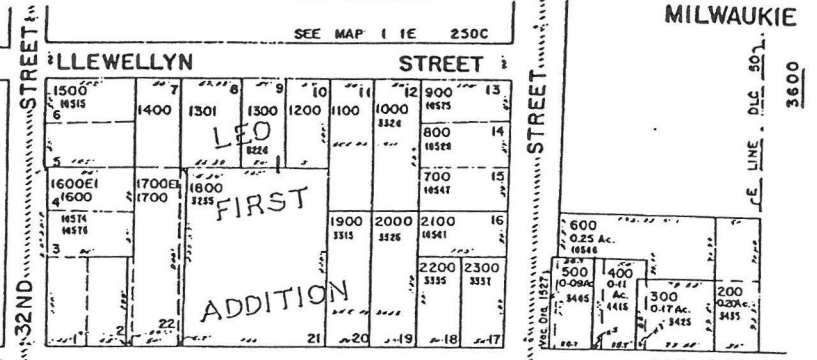
1" = 100'

N 1/4 Cor

SEE MAP 1 IE 250C

SEE MAP 1 IE 250D

CANCELLED NO	8300	3004
3800A1	4100	8500
6000	4200	8500
8400	4300	8600
100	4400	8700
490	8100	8600
3801	8400	8900
3600		



SEE MAP 1 IE 368D

SEE MAP 1 IE 36 AC

FEB 23 1902

1 IE 36 AB
BOOK 1 MILWAUKIE



Existing Fence along 32nd Avenue at 18-Foot Setback -
To be Replaced with Masonry Fence at 10-Foot Setback.



Existing Fence along Meek Street at Property Line- Fence
to Remain.



Existing Condition of Parcels to be Redeveloped as Outdoor
Lumber Storage Areas.
Above: Corner of Meek Street and 32nd Avenue
Below: View of Tax Lots 6100 and 6200

