

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, APRIL 11, 2000

**COMMISSIONERS PRESENT**

Donald Hammang, Chair  
Barbara Cartmill  
Tracy Cook  
Mike Miller  
Doug Ouderkirk

**COMMISSIONERS ABSENT**

Judith Borden  
Howard Steward

**STAFF PRESENT**

Alice Rouyer,  
Planning Director  
Doug Stickler,  
Associate Planner  
John Gessner,  
Associate Planner  
Gary Firestone,  
City Counsel  
Shirley Richardson,  
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:33 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 PLANNING COMMISSION MINUTES

**Mike Miller** moved to approve the Planning Commission minutes of March 28, 2000, as presented. **Tracy Cook** seconded. MOTION CARRIED 5-0.  
Ayes: Hammang, Cartmill, Cook, Miller Ouderkirk; Nays None.

4.0 INFORMATION ITEMS -- City Council Minutes

4.1 City Council Worksession Minutes

4.2 City Council Meeting Minutes

5.0 PUBLIC COMMENT -- None.

6.0 PUBLIC HEARINGS

**Chair Hammang** announced for the record that the Clackamas County Corrections hearing has been postponed indefinitely at the Applicant's request.

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- 6.1 Applicant: The Walter Group  
Owner: Shurgard Corporation  
Location: 3701 SE International Way  
Proposal: Install an 84-foot cellular tower at the Shurgard Storage site.  
File Numbers: Community Service Overlay (CSO-99-10)/Variance (VR-99-09)  
NDA: Bus Indus (Nbr: Lake Road/Hector Campbell)

**Chair Hammang** opened the public hearing on File Numbers CSO-99-10 and VR-99-09, an action to allow the installation of an 84-foot cellular communications tower. The criteria to be addressed are found in Sections 321, 324, 400, 500, and 702 of the Milwaukie Zoning Ordinance.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare. He noted that he is a volunteer with the wetlands that is to the north of this project. This is in no way a conflict of interest and he plans on voting on this issue. There were no other ex-parte contacts or conflicts of interest declared. **Chair Hammang** asked if any member of the Planning Commission visited the site; two 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

**Doug Strickler** reviewed the staff report with the Commission. Overheads were shown of the subject site and the surrounding area. This Application is for the siting of a communications tower at the northeast corner of the Shurgard Corporation lot at SE International Way and SE 37<sup>th</sup> Avenue. Storage units will be used to house equipment and the cellular pole will be adjacent to the units.

A main consideration for the Planning Commission is whether the public benefits of this Application outweigh the potential adverse impacts. Benefits include improved telecommunications for the travelers along Highway 224. There are visual impacts of an 84-foot cellular tower. There is potential impact for the wetlands, but the tower is 100 feet from the wetland area. There were concerns about the possibility of wild fowl flying into the pole. However, Oregon Department of Fish and Wildlife reported no incidents of fowl flying into other cellular towers. There is a potential impact of alternative development. The proposed tower is 84-feet. There is a 50-foot height limit for a Community

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Service Overlay (CSO). There was an indication at the last hearing that there may be alternative technology that would allow 50-foot towers.

Another issue to be considered is co-location. If this pole is allowed, AirTouch has made a commitment to make it available for co-location. At 50-feet, this option would not be feasible.

QUESTIONS FROM THE COMMISSIONERS

**Chair Hammang** asked what is the definition for feasible. If the Applicant claims there is no other way they can feasibly improve their radio signal, what test does the Commission use to apply to this statement? Does this determination require a Radio Frequency (RF) Engineer? **Gary Firestone** stated that Section 702.1C of the Zoning Ordinance states, "...requires mitigation to the extent feasible." The interpretation of feasible is largely a matter for the Commission. Other words can be used; practical, practicable, but there is still a judgement call to make whether it is appropriate. **Alice Rouyer** suggested that the Commission take in all the facts, written and oral testimony and find out if there are feasible alternatives. This question can be asked of both the Applicant and staff.

CORRESPONDENCE RECEIVED -- None.

APPLICANT'S PRESENTATION

Speaking: Shanin Prusia, Walter Group, 4520 SW Water Avenue, Suite H, Portland

**Ms. Prusia** stated that she represents AirTouch. They have tried to mitigate the effects of having the tower sited on the southeast corner of International Way by moving it to the northeastern corner of the property. At the last hearing, there was confusion on why AirTouch is hoping to install a cell tower in this area. One of the reasons for this location is that a dominant signal is needed. She explained that the term "dominant signal" is the language that your cell phone needs to execute a call. Without a clear and dominant signal you are subject to diminished call quality; i.e., call breakup, call interference, and amplified static. Other factors of call quality are topography, landscape issues, tower height, and the number of cell phones using the signal. The only alternative to improve call quality is to add another cell tower. Too many cell phone users are using the dominant signal.

There are seven different cell towers in this region which to date has been adequate. Customer complaints require that another pole be built.

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AirTouch makes every effort to co-locate. There is no room on the local AT&T tower to co-locate. The Planning Commission approved an application from Nextel for a cellular tower at Bob's Red Mill, but the property owner is not interested in building the Nextel tower, even though the Planning Commission did grant the variance for constructing a 100-foot tower.

The technology is not at a point yet where they can locate at lower levels (50-foot towers) and still achieve the broad area coverage. With this 84-foot tower, they will eliminate all of the call problems. With two 50-foot towers, one will have to be located where this tower is proposed and the other near the AT&T tower. One cell tower costs approximately half a million dollars to build. It is not feasible for AirTouch to spend one million dollars to fix this problem. Hopefully in the future, technology will be such that the towers will not be so tall.

Roof mounting would be less expensive than building a tower, but there are no buildings in the area that are tall enough. AirTouch is eager to put up the pole and eager to work with the Neighborhood Association. Wetlands have not been an issue because of the 100-foot setback. There is no evidence of waterfowl running into the poles.

#### QUESTIONS FROM THE COMMISSIONERS

**Doug Ouderkirk** asked what type of equipment would be stored in the storage unit? **Ms. Prusia** stated that the storage units would be used for the electrical equipment cabinets. If the site had been outside, as first proposed, there would have been exterior equipment cabinets that range in size of 4-feet to 8-feet. AirTouch will be renting two storage units and will put everything except the tower inside.

**Doug Ouderkirk** asked if the fire access gate would remain? **Ms. Prusia** stated that gate will remain and have full capacity to open all the way. This gated area is for a turn-around so those vehicles can back up and leave. The tower will not interfere with this process.

**Barbara Cartmill** asked about the capacity of this proposed 84-foot pole and whether AirTouch is willing to make the capacity available to other cellular communications companies? **Ms. Prusia** stated that making the tower available to others is part of the zoning review. There could possibly be two more carriers on the bottom of this antenna. At this time, technology is not going to allow more than three sectors on a pole.

**Mike Miller** stated that the Applicant's documentation states that the tower would accommodate six panel antennas. He asked if each antenna section represents one antenna? **Ms. Prusia** stated that each section represents one antenna.

**Mike Miller** noted that the Applicant is requesting six panel antennas with the possibility of adding twelve more. He asked how many antennas there would be? **Ms. Prusia** stated that there will be a total of twelve antennas. Two antennas are lined together resulting in six access points. AirTouch will occupy the top two and there will be room for two other carriers. They are not looking for a total of 18 antennas.

**Tracy Cook** asked if additional antennas would be added to the top portion? **Ms. Prusia** stated that any new antennas for AirTouch will be added to the top half.

**Mike Miller** stated that he could not find any documentation that shows that this is the only alternative to resolve this problem. There is no information on how the tower will change how customers will receive and make phone calls. **Ms. Prusia** indicated that a copy of a letter from the RF Engineer is included in the packet. This letter outlines why the tower needs to be at this location, "...I then concluded that the existing site will not fix our problem area and the site needs to be located as close to 37<sup>th</sup> Avenue and International Way..." A drive test was done for this area which substantiated the need for improved call quality.

**Chair Hammang** asked if AirTouch had considered the higher topography to the south as a solution to the problem? The RF Engineer stated last time that there are service problems along this corridor and that two 50-foot antennas will solve the problem. He also alluded to service in the downtown area. **Ms. Prusia** stated that the call quality problem is specific to this area. There is service, but it is of poor quality. The higher topography is above Lake Road and it is a residential area. A residential area is very un-welcoming to the siting of a cell tower versus a business-industrial area. The pole has to be at least 84-feet to cover the full area. Based on the radiation signals, they have to project above highway height.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF -- None.

#### QUESTIONS FOR CLARIFICATION

**Barbara Cartmill** asked staff if there is a condition in the zone that AirTouch has to allow access to other companies? **Doug Strickler** stated that he has seen this condition placed on previous approvals, but there is no authority to require them to co-locate. This is something that they could voluntarily agree to do.

**Barbara Cartmill** asked if the Nextel application could be revoked, so there would not be two high towers in the area? **Gary Firestone** stated that the Nextel application was for a variance, and under Section 1013, the authorization of actions covered by section 700 shall be void after six months unless substantial construction has taken place or additional time is requested. The Application remains, but the variance approved lapsed after six months, since no construction took place.

**Gary Firestone** stated that in regards to co-location, if the Applicant voluntarily agrees, and the record supports the condition, it could be imposed. An example cited is that if there is a request for a substantial height and the justification was that it would allow co-location, then it would be appropriate to impose the condition. **Alice Rouyer** stated that a finding could be included that it is in the general public interest and the public interest outweighs the adverse impacts. It would be in the interest of the community to have co-location.

APPLICANT'S CLOSING COMMENTS -- None.

#### DELIBERATION AMONG COMMISSIONERS

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

**Doug Ouderkirk** stated that he feels the relocation is an improvement. He is still concerned about the height of the poles and their impacts.

**Chair Hammang** stated that he is not sure how to analyze the diagram of signal strength. Is this enough information for a decision? He feels like he has to take on faith that this is the best possibility. His concern is that he would like to see the tower sited further east so that it is not as much in the viewscape.

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**Barbara Cartmill** voiced concern that two 50-foot poles are any more or less obtrusive than one 84-foot pole. She is concerned about the capacity or how many times this 84-foot tower can be improved.

**Mike Miller** stated that he is concerned that there is no documentation that the 84-foot tower is the exact height the tower should be. He is also concerned about the wetlands area and having this tower on the edge of the wetlands. This is the flyway for the waterfowl. He does not want this to set a precedent for siting of more towers in the future. Personally, he does not think cell towers will last longer than five to ten years. In the future, technology will rule them out. Possibly satellites will take over. **Gary Firestone** stated that Commission decisions do not set precedents. Every decision is based on the facts. A specific interpretation can be cited as a reminder that it was once important.

**Tracy Cook** stated that she would feel more comfortable if she knew for sure that the Nextel tower would not be built. Towers are going to exist until something else takes their place. She is glad that it has been sited back off of Highway 224 and International Way. She hopes that this taller tower will be more efficient and eliminate the possibility of a short-tower forest.

**Mike Miller** suggested that Condition #3 be changed to read, "Any future expansion or change in this facility from the approved plans for this project shall be submitted to the Planning Commission for review under the provisions of Section 321.4B and Section 321.4D."

**Mike Miller** suggested a new Condition #5, "The Applicant shall allow for co-location to the extent that tower space is not needed for Applicant's operations."

**Barbara Cartmill** moved to approve amended applications CSO-99-10 and VR-99-09 by the Walter Group for AirTouch Cellular requesting placement of a cellular communications tower at 3701 SE International Way; and adopt staff recommended Findings and Conditions of Approval with the addition of Condition #5 - "The Applicant shall allow for co-location to the extent that tower space is not needed for Applicant's operations." **Tracy Cook** seconded the motion.

**Mike Miller** asked if there is a provision that covers removal of the tower once it is no longer in use? **Gary Firestone** stated that the City does not normally require buildings be removed once they are not used. In this situation, it may be appropriate to impose a condition with a time period for the removal of the tower

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should it become abandoned. **Doug Strickler** stated that there is a condition in the contract that the Applicant has with Shurgard Corporation that the day the tower is no longer emitting a signal, a 60-day time period is allowed for removal of all remnants of the installation.

THE MOTION CARRIED 5-0.

Ayes: Hammang, Cartmill, Cook, Miller, Ouderkirk; Nays: None.

Recess was taken at 7:32 p.m. and the meeting reconvened at 7:40 p.m.

6.2 Applicant: Sharon and Gary Davidson  
Owner: Sharon and Gary Davidson  
Location: 4586 SE Ryan Court  
Proposal: Construct a 16 x 30-foot shed in the Natural Resource Overlay Zone.  
File Numbers: Natural Resource Review (NR-00-01)  
NDA: Lake Road

**Chair Hammang** opened the public hearing on File Number NR-00-01, an action to allow the construction of a shed building on their property at 4586 SE Ryan Court. The criteria to be addressed are found in Section 322, Natural Resource Overlay Zone of the Milwaukie Zoning Ordinance.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; two hands were raised. **Chair Hammang** noted that he visited the site today and visited with the Applicant who showed him around. The Applicant pointed out holes that were done for testing purposes, where some markers were, and perhaps where a flood boundary marker was located. There was no conversation on matters of fact. He encouraged the applicant to come forward and tell the Commission everything that he told them. **Mike Miller** stated that he too was along on that visit. He concurred with the remarks made by Chair Hammang. There was no discussion of the actual Application. No one who visited the site 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

**Doug Strickler** reviewed the staff report with the Commission. In the recommended findings, the Applicant's address is wrong and it should be changed

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to 4586 SE Ryan court. Overheads were shown of the project site and the surrounding area. The proposal is to build a shed building on property owned by Sharon and Gary Davidson.

There is an intermittent watercourse that drains storm runoff from Ryan Court and Bray Street. The drainage empties into a catch basin at the northern edge of the property, goes underground, and is daylighted on the applicant's property before going into Kellogg Creek. This watercourse has been constructed by the applicant.

**Chair Hammang** asked how much of the property infringed on the Natural Resource Zone? **Doug Strickler** stated that it is less than 10%, 28 sq.ft.

**Chair Hammang** asked if there is a road or driveway going to the site? Is it foot traffic only to the site? **Doug Strickler** stated that the applicant included a narrative of how the construction will be done and how they will deal with the materials.

CORRESPONDENCE RECEIVED -- None.

APPLICANT'S PRESENTATION

Speaking: Gary Davidson, 4586 SE Ryan Court, Milwaukie

**Mr. Davidson** stated that he is a retired educator who works part time consulting with Portland Public Schools. He also is a woodworker and bird carver. He introduced his wife Sharon, who resides at the same address. She is an artist and a part-time art teacher within the Metro school system. They have applied for a building permit for a 480 sq.ft. shed to be used for equipment and supplies for their hobbies currently stored in their one-car garage. They plan to convert the garage back into a garage.

Because they are within the Natural Resource Overlay Zone, the application for a permit must be reviewed. During the years that they have lived here, they have been conscientious caretakers of the property trying to enhance the habitat for animals and birds that exist along the creek. There has been an increase in the number of animals and birds along the corridor over the last several years.

They have minimized the use of concrete, allowing for ground water absorption, left snags for woodpeckers, and will continue to incorporate native plants in the yard and along the creek frontage. The shed proposed will fit into the

environment. It will be on posts and pier construction. No trees will have to be cut nor any soil removed at the site. The floor will be built one foot above the flood plain. The surveyors have verified this. They plan to build one foot above the flood plain.

The turnaround area at the lower end services the one-car garage. There will be no additional roadway or increased size of paths to access the site. Everything will be hand carried to the site. All materials will be removed by hand. There will be no equipment moving across the site, other than on the gravel driveway.

**Sharon Davidson** explained that the driveway is gravel because they didn't want to have concrete in this natural area. She pointed out the path of the driveway on the site map. There is a small pathway that accesses the area where they propose to build. They have spoken with the builder and explicitly stated that they didn't want to remove any of the existing landscaping. The builder stated that he has a small truck where he could access the site on the driveway, unload their equipment, and hand carry it to the construction site.

#### QUESTIONS FROM THE COMMISSIONERS

**Doug Ouderkirk** asked what kind of flooring would be used? **Mr. Davidson** stated that the floor would be post and beam construction with a wood floor. It will be slightly elevated and the ground will not be affected.

**Doug Ouderkirk** asked about the woodworking noise from the carving hobby. **Mr. Davidson** stated that his woodworking equipment he has is in the basement so it will not have any impact on the new construction site. There will be no heavy equipment in this shed.

**Doug Ouderkirk** asked how far the construction would be from the property line? **Mr. Davidson** stated that the east side of the proposed building would be three feet on one end and four feet at another point from the property line. This has been approved by the Planning Department.

**Mike Miller** asked where the access would be for the building? **Mr. Davidson** stated that the access would be from the west side.

**Chair Hammang** asked if there were any issues on the flood plain line. **Doug Strickler** stated that the City requires a Certificate of Elevation and Mr. Davidson has done the first step of that process.



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site improvements at 10505 SE Lava Drive. The criteria to be addressed are found in Sections 318, 320, 322, 500, 600, 700, 1011.3, and 1400 of the Milwaukie Zoning Ordinance.

**Chair Hammang** asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. He asked if any member of the Planning Commission visited the site; two 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 proposal is to make building, site, and right-of-way improvements for office occupancy of the former Pendleton site at 10505 SE Lava Drive. Overheads were shown of the subject site and surrounding area.

The variance requested is for absolute relief from the requirement to provide housing and to provide lower-floor retail service uses in the Mixed Use Zone. Staff has proposed a finding that the variance granted is allowing housing to not be built and allowing retail on first-floor offices to not be constructed. There are no adverse impacts for not doing these things. The development envelope of this proposal is within the envelope of the site. There will be some minor changes in the corner of the property to increase parking, provide for additional hedges, and a minor building addition. There are three major elements to the development proposal; interior and exterior renovations, demolition of a 2,200 sq.ft. prior addition, and creation of new space by enclosing approximately 15,000 sq.ft. of existing covered lower-level parking areas. Pictures were shown of the improvement sites. The trees that are to be preserved were pointed out.

The applicant is proposing to make transit improvements including a shelter. In Section 318, the Mixed-Use Overlay regulation has a list of essential design criteria. Each application for a mixed-use zone must meet at least six of the essential design criteria. Transit improvements have been offered as one of the means by which this application meets those design elements.

Staff feels that the variance criteria have been met and that the application with the recommended findings and conditions of approval meet the approval criteria. Staff recommends approval.

QUESTIONS FROM THE COMMISSIONERS -- None.

CORRESPONDENCE RECEIVED

**John Gessner** handed out a letter received today from the Chief Financial Officer at Pendleton Woolen Mills in support of the Application.

APPLICANT'S PRESENTATION

Speaking: Robert Gody, 9911 SE Cambridge Lane, Milwaukie

**Mr. Gody** stated that he is the President of Oregon Dental Service and a resident of Milwaukie. Oregon Dental Service has been a corporation since 1955. They provide medical and dental health insurance for Oregonians. They do not provide insurance to employers that are located outside of Oregon. There are about 600,000 people in the dental plans and 200,000 people in the medical plans. They have been in Oregon a long time and plan to stay in Oregon a long time. The main operation is in downtown Portland. There are 680 employees there. There are an additional 50 employees in LaGrande, Oregon. What is being proposed for the Pendleton site is paying medical or dental claims, mailing, and receiving documents. Out of the employees, 31 of them already live in Milwaukie and 65 live in Clackamas County. They have put a substantial amount of work, effort, and expense in demonstrating to the City of Milwaukie that they think this project is good for the community. They support the communities in which they work.

QUESTIONS FROM THE COMMISSIONERS

**Mike Miller** asked if the 600 employees at this site would be new employees or transfers from other sites? **Mr. Gody** stated that they will, for the most part, transfer. They are hiring a lot of people. They are adding about 70 people a year, so some of the employees will be new.

Speaking: Don Hanson, OTAK,

**Mr. Hanson** stated that his firm provides the architects and planners for the project. He has read the Staff Report and finds it very thorough as was John Gessner's presentation. The site is about 7-1/2 acres. It fronts on 17<sup>th</sup> Avenue, on the east, Lava Drive on the north with proposed half-street improvements, and River Way Lane to the west. Johnson Creek bisects a portion of the site on the

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southern edge. All the proposed improvements are inside the developed envelope on the site, existing parking lots, access points, and the existing building.

The building was constructed in 1959 and occupied by Pendleton until 1998. It has been vacant since that time. ODS is excited about activating this building again. On the lower level of the building, there will be about 22,000 sq.ft. This area will be enclosed and serve as the main entry facing east towards 17<sup>th</sup> Avenue. The upper level is about 36,000 sq.ft. There is a total of about 58,000 sq.ft. in the building. Currently there is a shed located on the loading dock which will be removed and reconstruct the loading dock. The shed area is about 3,800 sq.ft. The enclosure that will be added on the eastern portion of the building will be about 11,000 sq.ft.

Parking for the site is adequate. They are currently proposing parking for 177 cars on the site. Of the 177 cars, 18 will be car pool cars, 4 handicapped spaces, and 7 spaces for storing fleet cars.

The proposed pedestrian improvements on the site include a direct linkage to 17<sup>th</sup> Avenue, where transit is available. There is an entry plaza located on the eastern face of the building to have a direct link to the surrounding streets and transit in the area. This also enables employees to the bus stop on 17<sup>th</sup> Avenue and commute easily by foot into the core area of downtown Milwaukie.

The proposed landscape improvements will upgrade and repair the existing landscape area in the parking lots. More native landscaping is planned along Johnson Creek to provide a buffer. A bench will be provided along with a plaque that commemorates Pendleton as well as a drinking fountain near Lava Drive.

Concerns were raised about lighting. They are confident that the lighting will not impact the neighborhood. They are proposing an upgrade of the existing fixtures with cut-off lenses so only the parking lot areas are illuminated. There was a need expressed in the Staff Report for more parking lot islands on the east side parking area. They will meet these requirements.

Condition of Approval #16 references the access drive on 17<sup>th</sup> Avenue. They are reluctant to close this access point as requested. Currently this is a full-service access point, left and right turns out of the driveway. They are proposing a right-in and right-out configuration. This would resolve any conflict issues with vehicle movement on 17<sup>th</sup> Avenue. This driveway is 120 feet from the center of Lava Drive. This will queue up six cars between Lava Drive and the driveway. He read the language change that he proposes for this condition, "Prior to issuance of

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the building permit the applicant shall submit a plan to the satisfaction of the Public Work Director showing modification of the 17<sup>th</sup> Avenue curb cut to a right-in, right-out only access point.”

They would like to keep the driveway as it is another way to keep some of the traffic off of Lava and help the site ventilate better. The design is proposed to create a quality environment for the employees on the site and be a good neighbor to Milwaukie.

QUESTIONS FROM THE COMMISSIONERS

**Doug Ouderkirk** asked if there were any design issues associated with this proposal? **John Gessner** stated that there are no special design requirements that need to be met other than providing a minimum of six of the thirteen design elements. There is no special review for architectural treatment. **Mr. Hanson** gave a brief description of the proposed site improvements.

TESTIMONY IN FAVOR

Speaking: Jack Elder, 11298 SE 34<sup>th</sup> Avenue, Milwaukie

**Mr. Elder** stated that he is staff of the Milwaukie Downtown Development Association and he is here tonight to support the application. They believe that ODS, if approved, will become good citizens of the community of Milwaukie and the City of Milwaukie businesses. Eventually the citizens of Milwaukie will benefit by this application.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking Ed Zumwalt, 10888 SE 29<sup>th</sup>, Milwaukie

**Mr. Zumwalt** stated that Mr. Franklin contacted him to address the Historic Milwaukie Neighborhood Association. They visited and made a good presentation. After the presentation, there was a unanimous vote in favor of Oregon Dental Service.

He has talked to a lot of the citizens in the neighborhood and downtown and they are impressed that this site is back on the tax roles. This is a clean operation; there is no soil, air, water, or noise pollution. The citizens like the fact that this is an Oregon corporation and that they are interested in making this a long-term stay.

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They are making a commitment to the City that their employees will help with the revitalization of the downtown area.

QUESTIONS FROM THE COMMISSIONERS

**Doug Ouderkirk** asked if the traffic concerns stated in the neighborhood association's letter had been addressed. **Mr. Zumwalt** stated that he discussed the concerns with both the Applicant and staff. ODS will have staggered shifts and are proposing a right-in and right-out configuration. This should alleviate the problem of left turns onto Lava Drive during busy traffic times. There is a ten-year time frame before there are 400 employees at this site. There is time for improvements.

QUESTIONS OR COMMENTS

Speaking: Charles Bates, 10719 Riverway Lane, Milwaukie

**Mr. Bates** stated that he built a house on this property and has lived at this location for eleven years. ODS has proposed putting in taller trees and hedges that will give the neighbors more privacy and protection from noise. The walkway has been freshly paved. This appeals to the neighborhood and he is very relieved. The fact that there is someone in the building now will assist the area a lot. They were pleased with Pendleton, and they are glad that ODS is coming in.

QUESTIONS FROM THE COMMISSIONERS

TESTIMONY IN OPPOSITION -- None.

ADDITIONAL COMMENTS FROM STAFF

**John Gessner** reported that the actual required number of parking spaces is now 156. The actual provided spaces are 177. The regulations are adequately met.

Staff feels the closure of the curb cut is an important issue. 17<sup>th</sup> Avenue is a minor arterial under the Transportation System Plan. There are two Code criteria that must be addressed. Section 1404 requires that access be provided in compliance with the guidelines of the City's Transportation System Plan. The Plan calls for a minimum separation distance between roadways and private drives on minor arterials. There is a minimum of 300 feet. In this case, there is not sufficient frontage along 17<sup>th</sup> Avenue to put in a second curb cut. It is the City's

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position that the existing condition is substantially substandard with regard to the policies for curb cut separation in the Transportation System Plan .

The second issue deals with Section 503.12 which indicates that curb cuts should be minimized to the number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the streets. It is staff's judgment, in consultation with Public Works, that a single curb cut onto Lava Drive provides adequate access into and out of the site. Leaving the curb cut open represents a potential threat to safety. Closing the curb cut does not represent a threat to safety on 17<sup>th</sup> Avenue.

QUESTIONS FROM THE COMMISSIONERS

**Barbara Cartmill** asked what the distance is between the curb cut and Lava Drive. **John Gessner** stated that centerline to centerline the distance is about 90 feet. The applicant has indicated that it is 120 feet. They could be measuring it a little differently than staff. It is staff's view that this is a major redevelopment of the site and should be reviewed as new development. The regulation should be applied conservatively.

QUESTIONS FOR CLARIFICATIONS

**Chair Hammang** asked for the reasoning behind the 300-foot curb cut limitation. **John Gessner** stated that it has to do with the carrying capacity and managing traffic along high-volume streets. Minor arterials are specifically designed to carry a great deal of traffic and in order to do that, curb cuts must be minimized. Curb cuts slow traffic movement and impede efficiency.

**Mike Miller** asked how many handicapped parking spaces are required for 156 parking spaces? **John Gessner** stated that the handicapped parking space requirements are applied at the time of building permit issuance.

APPLICANT'S CLOSING COMMENTS

Speaking: Don Hanson, OTAK

**Mr. Hanson** stated that he is not proposing a full-service driveway. The Transportation Plans relate to spacing of 300 feet on arterials between full-service access points. Full-service access points cause congestion and safety hazards. He agrees with this requirement. In this case, they are 120 feet from the center of

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of April 11, 2000

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Lava to the center of their driveway. Because they are proposing a right-in and right-out, there is no conflict.

**Mr. Hanson** suggested deferring this issue and working with the Public Works Department. Another alternative is to monitor the traffic for six months to see if there is a conflict. If there is a problem, ODS will agree to close the driveway. He proposed a raised island that will channel the cars to turn right in and right out. This will be constructed to insure the adherence to the right-in and right-out traffic flow.

QUESTIONS FROM THE COMMISSIONERS

**Mike Miller** asked what percentage of the employees would use this right-in and right-out access? **Mr. Hanson** stated that this access would probably not be used much. There is twice as much parking accessing off Lava Drive as there is in the front parking lot. The total volume on 17<sup>th</sup> Avenue is 17,000 cars a day. Of this figure, their facility is using 588 trips in and out at total build-out. This is 3% of the volume on 17<sup>th</sup> Avenue. They are a small part of the whole picture, and even smaller part in regards to the driveway because of the way the parking is distributed in front of the building and behind the building.

**Alice Rouyer** stated that staff continues to recommend that the curb cut be closed.

DELIBERATION AMONG COMMISSIONERS

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

**Doug Ouderkirk** stated that he is very excited about the project. He complimented ODS on their presentation and professionalism. He feels this project will be an asset to the community. He asked if the six-month monitoring was an option for a solution to the curb cut situation? **John Gessner** stated that it would be a good way to ultimately resolve the concern. However, how do you specify a monitoring program that will adequately report back to the City all problem incidents. The test should not be the number of accidents caused, it should be the risk experienced by users of this stretch of roadway. Existing monitoring may suggest that there is no problem, but as traffic grows in the future, it may turn into a problem. Then there will be no recourse to change the curb cut.

CITY OF MILWAUKIE PLANNING COMMISSION

Minutes of April 11, 2000

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**Tracy Cook** noted that most of the parking would be in the back parking lot. Mostly visitors will use the front lot. The one entrance off of Lava Drive is adequate. She commended ODS on their landscaping, stating that it will be a nice addition to the community.

**Barbara Cartmill** stated that she is fine with the proposal. She also feels that one entrance off of Lava Drive is sufficient.

**Mike Miller** stated that he feels this is an excellent opportunity for the City to gain a very valuable business that will enhance downtown Milwaukie. He is comfortable with the application as written.

**John Gessner** suggested a revision to Finding #1 to change the 50,800 square footage to 58,000 sq.ft. as presented by the applicant.

**Mike Miller** moved to approve land use applications MU-00-01, TPR-00-02, WG-00-01, VR-00-01, and NR-00-02 of Health Services Group, Inc. d.b.a. ODS Health Plans authorizing building renovations and site improvements at 10505 SE Lava Drive with the findings and conditions of approval as stated in the staff report, with the change to Finding #1 from 50,800 sq.ft. to 58,000 sq.ft. **Tracy Cook** seconded. MOTION CARRIED 5-0.

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

Recess was taken at 9:03 p.m. and the meeting reconvened at 9:10 p.m.

7.0 WORKSESSION -- None.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None

10.0 OTHER BUSINESS/UPDATES

10.1 Matters from the Planning Director

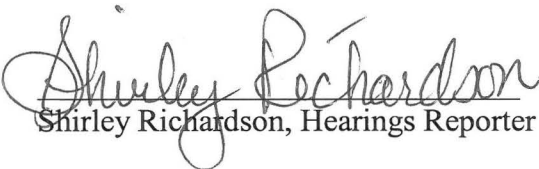
**Alice Rouyer** reminded the Commission that the next meeting would be a worksession on the Downtown/Riverfront Plan.

- 11.0 NEXT MEETING -- April 25, 2000
- 11.1 Worksession: Downtown/Riverfront Plan

**Mike Miller** announced that he will not be at the next meeting. He will be out of town.

**Doug Ouderkirk** moved to adjourn the last meeting of April 11, 2000. **Tracy Cook** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:22 p.m.

  
\_\_\_\_\_  
Donald Hammang, Chair

  
\_\_\_\_\_  
Shirley Richardson, Hearings Reporter

**AGENDA**  
**MILWAUKIE PLANNING COMMISSION**  
**Milwaukie City Hall**  
**10722 SE Main Street**  
**Tuesday, April 11, 2000**  
**6:30 pm**

		<b>ACTION REQUIRED</b>
<b>1.0</b>	<b>Call to Order</b>	
<b>2.0</b>	<b>Procedural Questions</b>	
<b>3.0</b>	<b>Planning Commission Minutes</b>	<b>Motion Needed</b>
3.1	March 28, 2000	
<b>4.0</b>	<b>Information Items</b>	
4.1	City Council Minutes (upon approval by Council) – to PC members only	<b>Information Only</b>
4.2	City Council Worksession Minutes (upon approval by Council) – to PC members only	
<b>5.0</b>	<b>Public Comment</b> This is an opportunity for the public to comment on any item not on the agenda	
<b>6.0</b>	<b>Public Hearings</b>	
6.1	<b>This Application is continued from 3/14/2000</b> Applicant: The Walter Group Owner: Shurgard Corporation Location: 3701 SE International Way Proposal: Install an 84-foot cellular tower at the Shurgard Storage site. File Numbers: Community Service Overlay (CSO-99-10) / Variance (VR-99-09) NDA: Bus Indus (Nbr: Lake Road/Hector Campbell) Staff Person: Doug Strickler	<b>Discussion and Motion Needed</b>
6.2	<b>This Application is continued from 3/14/2000</b> Applicant: Clackamas County Corrections Owner: Americold Location: 9501 SE McLoughlin Blvd Proposal: Construct and operate an 80-100 bed co-ed minimum security correctional facility similar to the facility located on McBrod Avenue. File Numbers: Community Service Overlay (CSO-99-04) / Minor Land Partition (MLP-99-07) / Transportation Plan Review ((TPR-99-04) / Natural Resource Overlay Review (NR-99-04) / Variance (VR-99-08) NDA: ALL Staff Person: John Gessner	
6.3	Applicant: Sharon and Gary Davidson Owner: Sharon and Gary Davidson Location: 4586 SE Ryan Ct Proposal: Construct a 16 x 30 foot shed in the Natural Resource Overlay Zone File Numbers: Natural Resource Review (NR-00-01) NDA: Lake Road Staff Person: Doug Strickler	
6.4	Applicant: ODS Health Plans Owner: Pendleton Woolen Mills Location: 10505 SE 17 <sup>th</sup> Proposal: Modify the former Pendleton Woolen Mill building and site for office use. File Numbers: Mixed Use Overlay Review (MU-00-01); Natural Resource Overlay Zone Review (NR-00-02); Transportation Plan Review (TPR-00-01); Willamette Greenway Conditional Use (WG-00-01); and a Variance (VR-00-01) NDA: Historic Milwaukie Staff Person: John Gessner	
<b>7.0</b>	<b>Worksession – None</b>	
<b>8.0</b>	<b>Discussion Items</b> This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	<b>Review and Decision</b>
<b>9.0</b>	<b>Old Business</b>	
<b>10.0</b>	<b>Other Business/Updates</b>	
10.1	Matters from the Planning Director	<b>Information Only Review and Comment</b>
<b>11.0</b>	<b>Next Meeting:</b> April 25, 2000	
11.1	Downtown Plan Work Session  The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

\*\*\*\*\*  
**The Milwaukie Planning Commission welcomes your interest in these agenda items. Feel free to come and go as you please.**

## 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:

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

#### Community Development Department Staff:

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



**To:** Planning Commission

**Through:** Alice Rouyer, Planning Director *AR*

**From:** John Gessner, Associate Planner *JG*

**Date:** April 11, 2000

**Subject :** Clackamas County Community Corrections,  
Land Use Applications:  
CSO-99-04, NR-99-04, MLP-99-07, VR-99-08, TPR-99-05

---

**ACTION REQUESTED**

None, this memo is to update the Commission on the applications of Clackamas County Correctional Facility.

**BACKGROUND**

**Rescheduling of the March 14, 2000 Hearing**

The public hearing on this item was originally scheduled for March 14, 2000. Prior to that hearing adjoining property owner requested the hearing be rescheduled due to his inability to make the March 14 hearing. The applicant agreed to rescheduling the item and waived of the time period in which the City must take final action. See attached waiver by Mark Rasmussen, Clackamas County Community Corrections, March 9, 2000 and correspondence of Howard Dietrich, March 9, 2000, Mark Whitlow, March 7, 2000, and Daniel Stark, Fishman Environmental Services, LLC, March 8, 2000.

**Additional Information**

The applicant has submitted an engineering report in support of their delineation of the 100-year floodway boundary and to demonstrate that the project would comply with Metro Functional Plan Title 3 stream setbacks, if adopted by the City. The City has not yet adopted Title 3 provisions, which seek to protect wetlands and watercourses by establishing minimum development setbacks. All jurisdictions in the Metro region are required to adopt regulations that implement Title 3. The City is presently working developing draft Title 3 regulations.

Clackamas County Corrections  
April 11, 2000  
page 2 of 2

See attached March 3, 2000 letter of Laura Cociasu, EIT of Kurahashi & Associates, and the March 24, 2000 letter of Gregory T. Kurahashi, PE, Kurahashi & Associates.

#### Floodway Location

The applicant has submitted an engineering report that establishes the 100-year floodway boundary (Kurahashi & Associates, March 3, 2000). The floodway boundary largely determines the location of buildings and other construction due to restrictions of the City's flood regulations. The site plan submitted with the application is based on the applicant's engineering analysis, which has been accepted by the Public Works Department.

#### "No Rise" Analysis

The applicant has submitted an engineering analysis of the impacts of required right-of-way improvements on the floodway (Kurahashi & Associates March 3, 2000 and March 24, 2000). The Public Works Department is satisfied with the analysis submitted. See attached memo of Paul Roeger, PE, Civil Engineer, March 30, 2000.

#### Title 3 Setbacks

The applicant has submitted an analysis to demonstrate that the proposed location of the corrections building meets Metro Title 3 setbacks from Johnson Creek. The City has not adopted Metro Title 3 setbacks. The analysis indicates that the required setback is 50 feet from the 2-year storm elevation. Plans show that the Title 3 setback is less than the required floodway setback along most of the creek.

According to staff review of Title 3 regulations, it appears that the building setbacks exceed Title 3 requirements.



**KURAHASHI**  
 & ASSOCIATES, INC.

March 3, 2000

Mr. Steve Bracey  
 Clackamas County  
 9101 SE Sunnybrook Boulevard, #441  
 Clackamas, Oregon 97015

RECEIVED  
 MAR 08 2000  
 CITY OF MILWAUKIE  
 PLANNING DEPARTMENT

**Subject; Clackamas County Corrections No-rise Analysis (1805)**

Dear Steve:

The attached report contains the Floodway Boundary and Title 3 Analyses completed for the Clackamas County Correction Facilities.

The Floodway Boundary Analysis addresses the floodway mapping procedure and results. In order to map the floodway line and cross sections from FEMA maps, the following steps had to be taken by KAI:

1. Obtained flood computer model data from FEMA to confirm floodway base information.
2. Developed an accurate water surface profile during a 100-year flood adjacent to the site.
3. Confirmed the location of sections and their relationship to roads and other features.
4. Checked accuracy of model assumptions.
5. Mapped the floodway with respect to the creek centerline, creek cross sections, and field-surveyed property (to ensure an accurate location for development of the property), using landmarks on the map.
6. When there were discrepancies, made a conservative evaluation of where the floodway should be located.

A large-scale AutoCAD map has been provided so that the locations, with respect to the topographic map prepared by Gaylord Land Surveying, Inc., can be used for site planning. This drawing was prepared on the same coordinate base as the topographic survey. The primary feature used to establish the location of the floodway was McBrod Avenue. The other feature utilized was the north edge of the abutment of Milport Road. This provided an accurate river mile location at one end of the site, checked well with the sections, and is a reasonable fit to the topographic information.

The Title 3 Buffer objective is to protect the water quality and flood management areas. The requirements are to provide a vegetated corridor next to primary protected water features. The vegetated corridor is based on the 2-year storm creek edge water level.

Development of 2-year flows had been calculated by KAI in a previous Johnson Creek Study to be 805 cubic feet per second in the area. In order to locate the 2-year storm event on the Clackamas County Corrections property, a computer modeling study completed by FEMA was utilized. FEMA has a completed study of multiple channel cross-sections and flows at various storm events analyzed using the Hydraulic Engineering Center (HEC) of the U.S. Army Corps of Engineers (Model HEC-2).

Steve Bracey, Clackamas County Corrections  
 March 3, 2000  
 Page 2

Since the FEMA study was completed in 1978, several computer programs were designed to update and improve the same hydrologic models as HEC-2. HEC-RAS is a River Analysis System released in 1998 and also developed by HEC. This hydrologic computer model allows the HEC-2 formatted data from the FEMA study to be entered and analyzed, and it was adopted due to its ease of analysis and graphic capabilities.

In order to demonstrate that the HEC-RAS model was programmed to adequately simulate the 2-year storm level for Johnson Creek, we calibrated it to match the HEC-2 FEMA results. FEMA did not have a 2-year flow in their analysis. Therefore, the 10-year event was chosen to be compared between the FEMA and HEC-RAS models, since it was closest to the 2-year event. HEC-RAS created a hydrologic model of Johnson Creek and produced the same results for the 10-year flow as FEMA. (See attached report)

The following table shows the comparison between the FEMA and HEC-RAS results. Please note that the largest percent difference is less than 0.5%.

#### 10-year Storm Water Surface Elevations

Section	HEC-RAS (ft)	FEMA (ft)	% Difference (%)
0.850	35.50	35.53	0.08
0.701	32.40	32.28	0.37
0.686	32.20	32.05	0.47
0.680	31.46	31.46	0.00
0.669	31.19	31.19	0.00
0.555	28.05	28.04	0.04
0.415	25.25	25.25	0.00

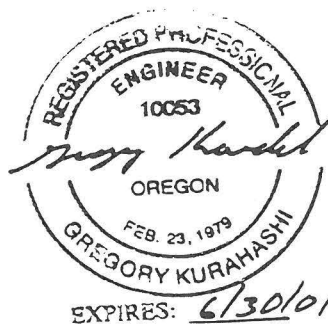
After the 2-year storm event results were obtained, it was determined that the buffer width was 50 ft along the entire length of the property since 50 ft from the 2-year storm water's edge the bank rose less than 12.5 feet. (See attached Map for Title 3 Compliance)

In conclusion, we have confirmed that the proposed improvements are outside of the floodway and Title 3 Vegetated Corridor. If there are any questions regarding this information, please contact me.

Sincerely,

*Laura Cociasu*

Laura Cociasu, EIT  
 Civil Design Engineer





KURAHASHI  
& ASSOCIATES, INC.

March 24, 2000

Paul Roeger  
City of Milwaukie  
6101 SE Johnson Creek Boulevard  
Milwaukie, Oregon 97206

RECEIVED  
MAR 28 2000  
CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

**RE: Clackamas County Corrections (1805)**

Dear Mr. Roeger:

The proposed improvements on the corner of McBrod Avenue and Milport Road are within the FEMA floodway. Improvements have not been designed, but conceptually we know that no curb improvements can be made at the bridge and that all grades should be lower than the existing street.

As a preliminary design, we plan to make improvements below the existing elevations. The road cross section will be sloped to cut in the area within the floodway. The curb height is included in the cut and will have to match the grade of the existing street. Curb, asphalt, and sidewalk improvements or asphalt and sidewalk improvements only, separated by a landscape strip, may be appropriate as an alternative design. Also, a concrete gutter may substitute for a curb and could make the edge of roadway more maintainable.

If final street design does not allow for the amount of cut we need, standard improvements cannot be made without affecting the floodway. Therefore, we recommend that the city be flexible in its conditions of approval.

If you have any questions please feel free to give me a call.

Sincerely,

Gregory T. Kurahashi, PE  
President

CC: Steve Bracy, Clackamas County

John Gessner, City of Milwaukie

**MEMORANDUM**

**TO:** COMMUNITY DEVELOPMENT

**FROM:** Paul Roeger, P.E. *PR*  
Civil Engineer

**RE:** CSO-99-04/NR-99-04/MLP-99-07/TPR-99-05/VR-99-08  
9501 SE McLoughlin Blvd.  
Clackamas County Corrections  
Supplemental

**DATE:** March 30, 2000

In response to the City's concerns about requiring public improvements on Milport Road without blocking the floodway, the developer's engineer has made some conceptual alternative design recommendations for installation of those improvements. All improvements in the floodway will be below the existing elevations, thus not increasing the amount of blockage Milport Road already creates.

Public Works is pleased with the response from the design engineer and will work with them to insure "no rise" in the floodway elevation.



9701 S.E. McLoughlin Blvd. • P.O. Box 82098  
Portland, Oregon 97202  
(503) 786-1234 • Fax (503) 786-2022

4955 S.W. Western Avenue  
Beaverton, Oregon 97005 • (503) 646-3000

March 9, 2000

Mr. Donald Hammang  
Chairman  
Milwaukie Planning Commission  
Milwaukie, Oregon

Ms. Martha Bennett  
Director of Community Planning  
City of Milwaukie, Oregon  
774-8238

Re: Attached request

Dear Ms. Bennett,

I enclose a copy of a request and a reply from John Gessner regarding our request for a continuance.

The hearing is scheduled for March 14, 2000. I will be out of town from March 13 through April 3, 2000.

We own in one entity or another substantial properties which will be effected by this proposed Development and I need to study and hear the presentation by the applicant and our own environmental consultants to make an informed decision as to benefits of this Development.

Mr. Gessner suggests that I reply in written form. Although the original application was made some time ago, I just recieved notice. The staff report was just issued. I have hired Fishman Environmental Services to make an environmental assessment of the proposed Development as the report from the City does not include such a report. (I realize that the cities' resources are limited so I do not mean to criticize the report ) Since I will be out-of-town beginning Monday, March 13, I will not have the benefit of their report to frame any response that I may make.

If the hearing cannot be continued, I can hire an Attorney to appear and take notes at the hearing and report to me as to what occurs. Would it be possible to have the March 14 Hearing continued for oral testimony at the following meeting at which time I could appear and give testimony in support or against the Development?

Sincerely,

  
Howard N. Dietrich  
Property Manager

**PERKINS COIE LLP**

March 8, 2000

**TO:** Mark D. Whitlow  
**FROM:** Voicemail message of 3/7/00 from John Gessner/City of Milwaukie  
**RE:** Oregon Worsted Company/City of Milwaukie

---

Hi Mark, this is John Gessner. I just received your fax concerning the requested rescheduling of - this must be the Clackamas County Corrections Applications. I don't think that we can, I think at the staff level, make that decision right now, because of extenuating circumstances regarding notice and the continuing workload that must be managed in meetings to follow this. We will refer this to the Planning Commission.

The best advice that we can give you is to enter written testimony and give that to staff so that it can be incorporated in the records on the hearing. Otherwise, obviously, Howard could have you attend the meeting in his absence. So please give me a call back to discuss this further 786-7652.

MDW:djf

**PERKINS COIE LLP**

1211 SOUTHWEST FIFTH AVENUE, SUITE 1500 - PORTLAND, OREGON 97204-3715  
TELEPHONE: 503 727-2000 - FACSIMILE: 503 727-2222

MARK D. WITLOW  
(503) 727-2073  
whitma@perkinscoie.com

March 7, 2000

SENT VIA FACSIMILE

Mr. John Gessner  
Planning Staff  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206


Re: SCO-99-04/NR-99-04/MLP-99-07/TRP-99-05/VR-99-09

Dear Mr. Gessner:

This office has been retained to represent Oregon Worsted Company regarding the above application. Oregon Worsted owns property at 9701 SE McLoughlin, Milwaukie, Oregon, which is situated immediately across the street from the proposed development site.

Mr. Howard Dietrich, the Property Manager of Oregon Worsted, will be out of town and unavailable to attend the hearing now scheduled for March 14, 2000. Because of that, we respectfully request that the hearing be continued to another date to allow Mr. Dietrich to attend and present testimony to the Commission.

Thank you for your consideration of this matter.

Very truly yours,  
  
Mark D. Whitlow

MDW:djf  
cc: Oregon Worsted Company

[33180-0001/PA003677.889]

Fishman Environmental Services, LLC  
CONSULTANTS IN ECOLOGY AND NATURAL RESOURCE MANAGEMENT

March 8, 2000

Mr. John Gesner  
Planning Staff  
City of Milwaukie  
6101 Southeast Johnson Creek Boulevard  
Milwaukie, Oregon 97206

Re: SCO-99-04/NR-99-04/MLP-99-07/TRP-99-09

Dear Mr. Gesner:

We have been hired by Oregon Worsted Company to make an Environmental Assessment of the proposed above referenced project.

We would ask that you grant a continuance of the Hearing on March 14, 2000, to give us time to complete our assessment.

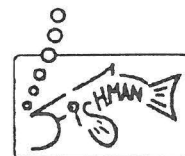
Thank you for your prompt attention to this matter.

Sincerely,



Daniel Stark  
Natural Resource Planner  
Fishman Environmental Services

(mh)





Date March 9, 2000

City of Milwaukie  
6101 SE Johnson Creek Blvd  
Milwaukie, OR 97206

Re: Waiver of 120 Day Processing Time for File # 99-04

I hereby request a waiver of the 120 day processing time for the application I have submitted as specified in Section 1002 of the City Zoning Ordinance. I acknowledge that the length of time for the City to complete processing of this application may exceed the normal limit of 120 days.

Sincerely,

Applicant

Mark Rasmussen, Director, Clackamas County Community Corrections

cc: File # \_\_\_\_\_

PS: John - We would like to reschedule our public hearing before the Planning Commission to April 11, 2000.

RECEIVED

MAR 10 2000

PUBLIC WORKS

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



**To:** Planning Commission

**Through:** Alice Rouyer, Planning Director *ACA*

**From:** Doug Strickler, Associate Planner

**Date:** April 11, 2000

**Subject:** Sharon and Gary Davidson, 4586 SE Ryan Ct.  
Application NR-00-01

**I. REQUESTED ACTION**

Approve application NR-00-01 by Sharon and Gary Davidson to build a shed building on their property at 4586 SE Ryan Ct., and adopt the recommended Findings and Conditions of Approval.

**II. CODE AUTHORITY AND SUBSTANTIVE CRITERIA**

**Milwaukie Zoning Ordinance Sections:**

301 - Residential Zone R-10  
322 - Natural Resource Overlay Zone - NR

**III. EXECUTIVE SUMMARY**

The applicant proposes to build a 16' x 30' (480 square foot) shed building along the eastern boundary of their property. The southern boundary of their property abuts Kellogg Creek. In its proposed location, a corner of the building (approximately 28 square feet) encroaches into the boundary of the Natural Resource Overlay Zone, which is the same as the boundary for the 100-year floodplain. Consequently, the project requires a review under the criteria of the Natural Resource Overlay Zone. The applicant is proposing to build the shed on piers and to elevate the floor of the structure one foot above the floodplain elevation to comply with the City's floodplain regulations. The proposed project meets all of the applicable criteria for the underlying zone.

As conditioned, the proposal meets the requirements and criteria of the Natural Resource Overlay Zone.

**IV. BACKGROUND INFORMATION**

**Statistics**

Location: 4586 S.E. Ryan Court, Milwaukie  
NDA: Lake Road  
Zone: Residential, R-10  
Lot size: .68 Acres  
Map and Tax Lot: 22E6BC-1700

**Summary Project Description**

The Davidsons are proposing to build a 16' x 30' working shed/studio on the southeast side of their property. The building site was the site of composting activity and is clear of trees and brush. No additional trees or brush will need to be removed for the project and no fill is to be added to or removed from the site.

**Project Details**

The applicant's property is a substantially wooded residential site in the R-10 zone. The southern boundary of the property is defined by Kellogg Creek. The existing house occupies approximately 5% (1,520 square feet) of the site. The rest of the site is either lawn, other landscaping (including trees, shrubs and groundcover), walking paths, gravel driveway and parking area.

The site of the proposed shed/studio is south and east of the existing house, three feet from the eastern edge of the property. It is 77 feet from the creek at its nearest point. As currently proposed, the southwest corner of the shop/studio would encroach into the identified 100-year flood plain of Kellogg Creek. The applicant proposes to erect the building using post and pier construction to enable the finish floor level of the structure to be raised one foot above the level of the 100-year floodplain.

The site is also 3 feet from an intermittent water course that transmits street run-off from a catch basin at the northern boundary of the applicant's property to Kellogg Creek. The water course was constructed by the applicant prior to the annexation of the property into the City of Milwaukie.

**V. ANALYSIS OF PROPOSAL**

**Zoning Authority**

This proposal is subject to Milwaukie Zoning Ordinance Section 322 - Natural Resource Overlay, Section 301-Residential Zone R-10, and Section 1011.3 - Minor Quasi-Judicial Review. (See Attachment A - Staff Zoning Compliance Report and Attachment B - Applicant's Zoning Compliance Report).

Section 1011.3 governs public notice and the application process

Section 322 provides protection for areas with natural resource values that have been identified by the City. It also provides for a review procedure that authorizes the Commission to impose conditions of approval to ensure compatibility with the natural resource.

Section 301 specifies R-10 zoning standards such as setbacks, building height and minimum vegetated area.

### **Evaluation of Zoning Criteria**

This section addresses specific aspects of the proposal that either require conditions be imposed to insure compliance with performance standards, or require conditions to bring the application into compliance with zoning criteria. A checklist showing staff analysis of compliance with all other standards is included in Exhibit 4. A summary of key issues follows:

#### **Compliance with the provisions of the Natural Resource Overlay Zone**

The Natural Resource Overlay Zone is intended to provide protection for natural resource sites. This site qualifies for designation as part of the City's Natural Resource Inventory because it fronts on Kellogg Creek and, consequently, has been identified as a riparian area. The boundary of the overlay zone is the same as that of the 100-year floodplain, therefore the encroachment into the overlay zone is about 28 square feet. The applicants have submitted a site plan identifying the location of the boundary of the 100-year floodplain on their property.

The Zoning Ordinance requires the applicant to provide a written report identifying how the development complies with the standards of the Natural Resource Overlay Zone. That report is included as Exhibit #2. Important points of the Natural Resource development standards include:

#### **Section 322.7 - Development Standards**

1. *Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent natural resource location.*

The applicant has indicated that he will follow construction practices including, but not limited to, hand carrying of all building materials from the delivery area on the driveway, the exclusion of vehicles or heavy machinery from the building site, and daily site clean-up in order to comply with the above requirement. In order to ensure the resource is protected after completion of the project, the rain drains for the new structure should be daylighted to the south of the structure with riprap and a grassy swale to disperse the storm water and filter it before it enters Kellogg Creek.

This standard is met.

2. *A development setback which adequately protects the resource site is required.*

The site for the new shed is 77 feet from the creek at its closest point. The applicant proposes storage of construction materials more than 100 feet from the Kellogg Creek. In addition he proposes that all building materials will be hand carried to the construction site.

This standard is met.

3. *Development consisting of vehicle maneuvering and parking areas, outside storage and display areas, and trash collection areas shall also be screened from the natural resource location by sight-obscuring vegetation or fencing.*

No expansion of the existing driveway and parking area is proposed. There will be no additional development that requires screening.

This standard is met.

4. *Outdoor activities, including open fabrication or operations which create large amounts of noise, dust or glare, except for river-related and river-dependent uses, are not allowed due to their higher potential for adverse impacts on adjacent natural resource locations.*

The noise generated during the construction of the building is anticipated to last about two weeks. No other such outdoor activities are proposed.

This standard is met.

5. *The types, sizes, and intensities of lights must be placed so that they do not shine directly into the natural resource locations.*

No lighting is proposed at this time. Any lighting that may be installed shall conform to this standard.

This standard is met.

There are two further standards for development in the Natural Resource Overlay Zone that merit consideration with regard to this application.

Section 322.7.B, subsections 2-5 are concerned with maintaining as much of the vegetation on the site as possible. This development does not propose the removal of any vegetation on the site. The building site has been a composting area and does not have any existing vegetation. None of the proposed construction activity should disturb any of the vegetation on the remainder of the site.

Section 322.7.B.8 requires the development to be designed to have the least amount of impact on the natural features/values of the site as possible and for the applicant to explore alternatives to mitigate the impact.

The current site is an alternative to the applicant's first choice which was closer to Kellogg Creek and posed more of a threat to one of the major trees on the site. Building on the current site will not require the removal of any additional vegetation. There are few alternative sites for a building of this size. Any possible alternative site on the northern portion of the property would require the removal of one or more trees.

The only other clear site on the property is immediately south of the existing house where there is currently a driveway, the entrance to the garage (underneath the house), and a vehicle turn around area. Location of the building on this part of the property would mean the loss of the use of the garage and much of the vehicle maneuvering area. The current site appears to have the least impact on the natural features and values of the property while retaining the owner's ability to use it.

## **VI. Alternatives**

1. Approve the application as submitted.
2. Approve the application and adopt conditions to remedy its deficiencies and bring it into compliance with applicable standards and ensure compatibility with surrounding uses.
3. Denial of the application.

## **VII. Recommendation**

Staff recommends that Application NR-00-01 be approved as conditioned.

## **VIII. Recommended Findings in Support of Approval for NR-00-01**

1. The applicants, Gary and Sharon Davidson, have proposed to construct a shed/workshop on their property at 5325 SE Ryan Court. The property borders on Kellogg Creek, and is a riparian area lying within the City's Natural Resource Overlay Zone. The boundary of the Natural Resource Overlay zone is the same as the 100-year floodplain as established by FEMA.
2. The proposed development complies with the standards of the underlying zone, R-10 as found in Section 301 of the Milwaukie Zoning Ordinance.
3. Milwaukie Zoning Ordinance Section 322.6 authorizes the Planning Commission to review development requests within the Natural Resource Overlay Zone. This review process is to be the same as that for the Minor Quasi-judicial Review for Community Service Overlay uses as described in subsection 1011.3.
4. Application NR-00-01 has been processed and public notice provided as required by Milwaukie Zoning Ordinance Section 1011.3.
5. The applicants have provided a written report, identifying how the activity complies with the development standards of the Natural Resource Overlay Zone as required by Section 322.7 of the Milwaukie Zoning Ordinance.
6. As amended by the conditions of approval, the proposed development is found to be in compliance with the development standards of the Natural Resource Overlay Zone, Section 322.7 of the Milwaukie Zoning Code.
7. Obtaining a Certificate of Elevation showing that the floor of the proposed building is at least one foot above the 100-year Floodplain will satisfy the requirement of the National Flood Insurance Program for such documentation.

## **IX. Recommended Conditions of Approval for NR-00-01**

1. The plans submitted in applying for a building permit shall be in substantial conformity with the plans reviewed in recommending this approval. (Reference Site Plan - Exhibit #1)
2. Prior to issuance of a Certificate of Occupancy, an elevation certificate must be provided showing that the finish floor of the new building is at least one-foot above the 100-year flood elevation.

3. Prior to the issuance of a building permit and subject to the Public Work's Director's approval, an erosion control plan and application shall be submitted to the Public Works Department.
4. Prior to the issuance of a building permit, the applicant shall submit plans to the satisfaction of the Public Works Director showing the rain drains for the new structure daylighted below the structure toward the creek with riprap and a grassy swale to disperse the storm water and filter it before it enters Kellogg Creek.
5. Any lighting that is installed on or around this building shall be placed in such a way that it does not shine directly into the natural resource location.

**ATTACHMENT A** - Staff Zoning Compliance Report

**ATTACHMENT B** – Applicant's Written Project Description and Compliance Statement

**EXHIBITS**

Exhibit #1 - Site Plans

Exhibit #2 – Review Comments

Exhibit #3 - Letter from Lake Road NDA Land Use Chair

Exhibit #4 – Response form City of Milwaukie's Program Services Coordinator

Exhibits #5-10 – Site Photos (to PC members only)

**ATTACHMENT A:****ZONING COMPLIANCE REPORT FOR NR-00-01**

The following report identifies how the project complies with the applicable sections of the Zoning Ordinance that are not detailed in the staff report for Gary and Sharon Davidson's Application NR-00-01.

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

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

**2. Compliance with Section 301 – R-10**

The application complies with the applicable provisions of Section 301 as shown in the following narrative.

**Section 301.3.A – Lot Size:**

This application does not propose the creation of any new lots. This standard is not applicable.

**Section 301.3.B – Front yard:**

The project has a setback of more than 20 feet. This standard is met.

**Section 301.3.C – Side Yard:**

Required side yard setback is 10 feet. The side yard setback for this project is 3 feet. This is permitted under Section 401.1.D, which allows the reduction of a side yard setback to 3 feet for an accessory structure erected more than 60 feet from the street. The location for this structure is approximately 220 feet from the street. This standard is met.

**Section 301.3.D – Rear Yard:**

The project is set back approximately 77 feet from the rear property line. This standard is met.

**Section 301.3.E – Yard abutting a major street:**

This standard is not applicable.

**Section 301.3.F - Off-street parking and loading:**

There will be no change to the principal use of the site. This standard is met.

**Section 301.3.G – Height restriction:**

The standards of this zone limit the height of a structure to 2 ½ stories or 35 feet, whichever is less. The proposed structure will be 14 feet high. This condition is met.

**Section 301.3.H – Lot Coverage:**

The combined coverage of the principal dwelling and this accessory structure will be less than 10% of the total lot area. This condition is met.

**Section 301.3.I – Minimum Vegetation:**

The minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. is 35%. The amount of the property that will be left in the above condition will exceed 70%. This standard is met.

**Section 301.3.J – Access Requirements:**

There is no proposed change for in the lot configuration. This standard is not applicable.

**Section 301.3.K - Minimum Density:**

There is no proposed change for in the lot configuration. This standard is not applicable.

**3. Compliance with Section 322 – Natural Resource Overlay**

*See Staff Report, Section V. Analysis of Proposal*

APPLICATION FOR NATURAL RESOURCE REVIEW RELATING TO  
APPLICATION FOR LAND USE ACTION

Submitted by : Sharon and Gary Davidson  
4586 S.E. Ryan Court  
Milwaukie, Oregon 97222  
(503)654-8478  
Reference: Tax Lot 1700  
Date: February 25, 2000

**A. PROPOSAL DESCRIPTION**

**Introduction: History**

In the early 1960's lots 1700 and neighboring lots 1800 and 1900 were zoned as residential lots including access to sewer, water and electric utilities. We purchased the vacant 1/2 acre (1700) in 1985 and began construction on our home there in 1986. During our construction in 1986 the city of Milwaukie absorbed lots 1700, 1800 and 1900 into the city's boundaries.

**Property Description:**

The property is edged on its southern boundary by 150' of Kellogg Creek running from east to west. It is home to scattered deciduous trees such as maples, alders and cottonwood and conifers as well as native bushes and shrubs which provide habitat. The city sewer runs 15 feet below Kellogg Creek and the street water off Brae and Ryan Avenue runs north to south on the east side of the property during rainy season emptying into the creek. There is no standing water, open water or ground water present (See attachment #1 for chart of test holes dug in footprint of proposed building site to a depth of 20" to test water drainage. This would indicate that this is not a wetland.

There is a small grassy area next to the creek, habitat for blackberry vines, cottonwood, alders and cedar. The upper part of the property contains a 1900 square foot house, fir trees, western maple, red cedar and hawthorn. Most trees are 6" or more in diameter and greater in height than 10' above ground.

The natural footprint of both the existing house and this new structure constitute less than 10% of the total site area (less than 10% impervious surface), that driveways and pathways are pervious surfaces, and that semi-natural vegetation and naturalistic landscaping presently account for a large percentage of the total site area (roughly 70% of the site, thus enhancing infiltration and local ground water replenishment). No site-generated runoff (from roofs) is now or will in the future be discharged directly into the creek.

Attachment B to Application addressing 322.7 of ordinance:

Development Standards Compliance Report

A. We have conferred with Mr. Todd Moses, Environmental Rehabilitation and Conservation Specialist and president of Watershed Applications, Ltd. . He has observed our property and agrees that though it lies within the Natural Resource Overlay zone, our building site will comply with the following standards:

1. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the creek. There are currently no shrubs, plants, or trees in the proposed building area.
2. All construction materials will be stored on the gravel driveway, more than 100' from the creek frontage. 3. There will be no machines or vehicles needed on the building site and those delivering building materials will drop off and hand carry them to the site. Vehicles will be parked well above the site of the creek. Scrap lumber will be cleared and taken off the site each day by the owner of the property, Mr. Davidson, a retired school teacher who will remain on site during the entire construction period of 2 weeks (This time period has been promised by the contractor).
- 4 & 5. The time frame requiring sawing of wood will be limited to short periods during the 10 day period. There will be no dust or night noise or lights which would adversely impact the natural resource location.

B. Most of this section is not applicable to the small size of the building we are proposing.

1. N/A - no trails or facilities are proposed.

2,3,4 & 5. We will not be harvesting of any trees surrounding the building site

The only preparation required for the building is the spreading of dirt which was mounded since the building of the house in 1987 and cleaning up of wood debris. This is a negligible amount of dirt. No new fill will be added to the building site. No shrubs or trees have to be removed. (see photos of site). After the building is up, we propose to add native plants and riparian vegetation around the perimeter to create a natural connection to the surrounding area. (See item 11 )

**D. OTHER SPECIFIC REQUIREMENTS**

Note: a preapplication conference was held with Mr. John Gessner, Associate Planner with the Community Development staff on Monday, January 31st. Mr. Gessner inspected our site and agreed that we should be able to meet the criteria needed to build within the Natural Resource Overlay Zone.

**322.8 from the Zoning Ordinance:**

It does not appear that a further on-site survey to inventory the location, nature and characteristics of the natural resource zone is required based on items A, B, or C which do not apply.

**322.9 Site survey content**

A 1. In spite of the above, we are providing a list of natural species observed on our site herewith:

**Birds:** Mallard duck, wood duck, red tailed hawk, brewers blackbird, blue herons, belted kingfisher, junco, evening grosbeak, Mountain chickadee, Sparrow, migrating Canadian Geese, pileated woodpecker, northern flicker, hummingbird, finche, American crow, steller jay, scrub jay, American robin, varied thrush and warbler.

**Animals:** grey squirrels, racoons, occassional possums

**Trees:** western maple, western red cedar, douglas fir, hawthorns, Indian Plum, native vine maples, dogwood, star magnolia, oriental lace leaf maple, apple, cherry, plum, and pear. .

**Shrubs:** many varieties of rhododendrun, azaleas, Oregon grape, cotoneaster, hydrangeas, quince, daphne, blueberries.

**Ferns:** horse ferns, swordleaf ferns, five fingered ferns, Japanese painted fern.

In addition, there are a variety of cultivated plants such as Japanese Iris, bearded Iris, groundcovers such as vinca minor, sweet woodruff, lamium and wild strawberry, roses, and peonies.

A2,3 and 4: See attached site plan and descriptions

B. See narrative at the beginning of the application (addendum to proposal)

GROUND WATER CHECK ON TAX LOT 1700  
THE ATTACHED CHART INDICATES THE INVESTIGATION OF  
AVAILABLE STANDING WATER AND DRAINAGE ON THE SITE

This test took place from February 11 to February 22, 2000.

6 Holes were dug 20" deep 8"-10" in diameter. These holes were located on building sites 1 and 2 (see site map) and south of site 2. The time frame over several days, during periods of heavy rain, light rain and sunshine were identified on the chart.

Holes 4-5 were located in site #1 (approx. 90'+ from the creek)  
Holes 1-2-3 were located in site #2 (approx. 75'-80' from the creek)  
Hole 6 was located south of site #2 (approx. 20" from the creek)

Sites #1 and #2 have no trees, shrubs or any native plants

From the bottom of site #1 to the top of site #2 there is a 2' elevation increase.

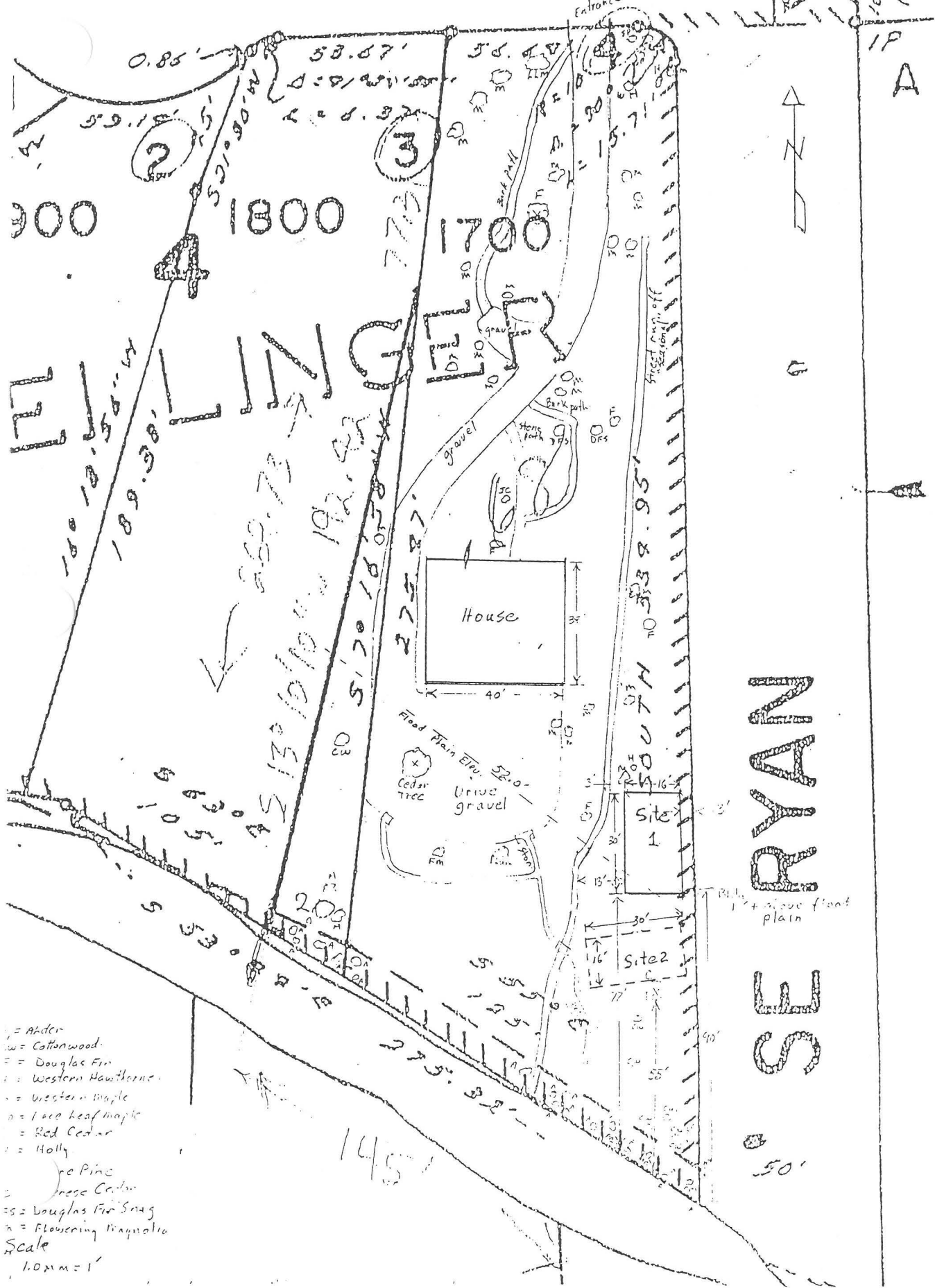
**Conclusion:** Over the 12 days the weather varied from sunny, light rain to heavy rain with 3 days of heavy rain at the beginning of the test. At no time was there any measurable water standing in any of the 6 holes. During the rainy days no water accumulated in the holes. The captured water in the hole immediately drained into the soil at the bottom of the holes.

By observation, the soil consists of gravel/cobble alluvium with interstitial silt.

This test proves that the soil is draining well. There is no indication of surface water.

Landscape

SE RYAN CT 50'



City of Milwaukee Community Development Department

Title: Site Plan Submitted by: Applicant Date: 4/11/00 # Pages: 1  
 File Numbers: NR0001 Applicant: Davidson Exhibit #: 1

**EXHIBIT #2 - Review Comments of Davidson Application: NR-00-01**

**1. Public Works: Paul Roeger, P.E., Civil Engineer, March 27, 2000**

The existing house is out of the 100-year floodway and above the 100-year floodplain. It appears that the proposed building is also well outside the 100-year floodway, but partially within the 100-year floodplain or floodway fringe. The National Flood Insurance Program (NFIP) requires that an elevation certificate must be provided for the finish floor of all new structures to show that it is at least 1-foot above the 100 year flood elevation.

Since the original house had to have an Elevation Certificate, it will be easy to have one done for this proposed structure. The applicant shows a benchmark that was set on site. If they hired the same surveyor to do this new Elevation Certificate, he would have all the necessary information.

The rain drains for the new structure may be daylighted below the structure toward the creek with riprap and a grassy swale to disperse the storm water and filter it before it enters the creek.

An erosion control plan and application must be submitted along with the building permit application, even though the building is under 500 square feet. This is near Kellogg Creek and an environmentally sensitive area.

**City of Milwaukie Community Development Department**

Title: Review Comments Submitted by: Staff Date: \_\_\_\_\_ # Pages: 1  
File Numbers: NR-00-01 Applicant: Davidson Exhibit #: 2



March 24, 2000

Planning Dept.  
6101 SE Johnson Cr. Blvd.  
Milwaukie, OR 97206

RECEIVED  
MAR 24 2000  
CITY OF MILWAUKIE  
PLANNING DEPARTMENT

Att: Doug Strickler

Regarding NR-00-01 S & G Davidson

Having read the application and viewed the property and the surrounding area, I think that the Davidsons are responsible, considerate and ecologically inclined in this request. I can see no harm that will ensue if their plan is followed.



Forris Frick, Chr  
Lake Road Land Use Committee

**City of Milwaukie Community Development Department**

Title: NDA Response Submitted by: NDA Date: 4/1/00 # Pages: 1  
File Numbers: NR-00-01 Applicant: Davidson Exhibit #: 3



**Strickler, Doug**

**From:** Herrigel, JoAnn  
**Sent:** Tuesday, March 21, 2000 12:23 PM  
**To:** Strickler, Doug  
**Cc:** Richards, Charlene  
**Subject:** Nat Resource Rev - 4586

I think the Davidson's have done a fairly good job of assuring that the Natural resources are cared for while and after they build their shed.

The Land Use Referral I reviewed did not include the location of the proposed shed, however, unless I missed it.

Is there any concern for flooding (100 year flood) in the area they've chosen?

I am confident that the Planning Commission Chair and members will adequately address all pertinent restrictions appropriate for this shed and its construction.

I think the Davidsons should be commended for such a thoughtful submission.

JoAnn Herrigel  
Program Services Coordinator  
City of Milwaukie  
10722 SE Main St.  
Milwaukie, OR 97222  
ph 503-786-7508  
fax 503-652-4433  
e-mail [herrigelj@ci.milwaukie.or.us](mailto:herrigelj@ci.milwaukie.or.us)

**City of Milwaukie Community Development Department**

Title: Petty Referral Resp Submitted by: Staff Date: 4/1/00 # Pages: 1  
File Numbers: NR-00-01 Applicant: Sharon & Gary Davidson Exhibit #: 4





**To:** Planning Commission

**Through:** Alice Rouyer, Planning Director *AR*

**From:** John Gessner, Associate Planner *JG*

**Date:** April 11, 2000

**Subject:** Land Use Applications:  
 MU-00-01, TPR-00-02, WG-00-01, VR-00-01, and NR-00-02  
**Applicant:** Health Service Group, Inc d.b.a. ODS Health Plans  
**Site Address:** 10505 SE Lava Road

**I. REQUESTED ACTION**

Approve land use applications MU-00-01, TPR-00-02, WG-00-01, VR-00-01, and NR-00-02 of Health Service Group, Inc d.b.a. ODS Health Plans authorizing building renovations and site improvements at 10505 SE Lava Drive.

**II. CODE AUTHORITY & SUBSTANTIVE CRITERIA**

- Milwaukie Zoning Ordinance Sections:
- 318-Mixed Use Overlay Zone MU
  - 320-Willamette Greenway Zone WG
  - 322-Natural Resource Overlay Zone NR
  - 500-Offstreet Parking and Loading
  - 600-Conditional Uses
  - 700-Variances, Exceptions, and Home Improvement Exceptions
  - 1011.3- Minor Quasi-Judicial Review
  - 1400-Transportation Planning, Design Standards and Procedures

**III. SUMMARY OF KEY ISSUES**

1. *The applicant is seeking approval to make building, site, and right-of-way improvements for office occupancy of the former Pendleton site at 10505 SE Lava Drive.*

2. *All applications related to this project are subject to quasi-judicial review, which requires the Commission to evaluate the approval criteria against the facts of the application.*
3. *The applicant is requesting a variance from Mixed Use zone requirements to construct housing and provide first floor retail or service uses. Staff believes the application meets the approval criteria.*
4. *As conditioned, the related Transportation Plan Review, Willamette Greenway, Natural Resource, and Mixed Use applications meet applicable approval criteria.*

#### **IV. BACKGROUND INFORMATION**

##### **Statistics**

Location:	10505 SE Lava Drive (Pendleton site) See Exhibit 1-Vicinity Map
NDA:	Historic Milwaukie
Zone:	Residential-Office-Commercial, R-O-C Mixed Use Overlay Willamette Greenway Natural Resource Overlay
Lot size:	8.23 Acres
Map & Tax Lot	11E 35AA 03500

##### **Summary Project Description**

ODS Health Plans is proposing to make building, parking, and landscaping improvements to the former Pendleton site for office occupancy. The renovated 50,800 square foot building will house executive offices, reception lobby, document storage, lunchroom, and office spaces. A detailed description of proposal is found at page 2 of applicant's narrative report in Exhibit 3.

##### **Existing Site Conditions**

The existing building and site improvements are located in the northeastern portion of the 8.23 acre, "L" shaped lot. The southerly portion of the site contains maintained lawn and a stand of trees. The site is bounded easterly by 17<sup>th</sup> Avenue and Johnson Creek, westerly by single family residences on Riverway Lane, and northerly by Lava Drive and multifamily housing. A portion of the site along the Johnson Creek is within the 100-year flood plain. No development is proposed within the flood plain or southerly of the existing development envelope.

### Building Renovations

The major elements of the project include interior and exterior renovations, demolition of a 2,200 square foot prior addition, and creation of new space by enclosing approximately 15,000 square feet of the existing covered, lower level parking area. Exterior architectural treatment includes painting of existing concrete, new windows, new entrances at the west and east elevations, a one story canopied addition on the west elevation for the lunchroom, and installation of five new roof mounted light wells to provide natural interior illumination.

### Site, Parking Lot and Landscaping Improvements

The site now has two parking lots: one located on the east side of the site between the building and 17<sup>th</sup> Avenue, the other on the west side of the site between the building and Riverway Lane. The lots, which will provide parking for 177 vehicles, are to be modified by minor reorientation of parking and addition of new parking and loading spaces. Redesign of the parking lots will result in loss of eight trees, which will be replaced by nine tree located within the lots' planter islands.

Access to the site is provided by curb cuts on 17<sup>th</sup> Avenue and Lava Drive. Walkways are provided between the building, parking lot and Lava Drive and 17<sup>th</sup> Avenue.

New landscaping is proposed within parking areas, along street frontages, and between the building and the top of slope along Johnson Creek.

### Street Improvements

The site plan shows street and sidewalk improvements along the 700-foot frontage of Lava Drive. These improvements include curb, sidewalk, and drainage. Street improvements will also include dedicated eastbound right and left turn lanes on Lava Drive at the 17<sup>th</sup> Avenue intersection. The applicant is also proposing to construct a bus shelter in front of the site on the southbound 17<sup>th</sup> Avenue.

## V. ANALYSIS OF PROPOSAL

### 1. **Zoning Authority**

The proposal is subject to sections of the Zoning Ordinance shown above in Section II. A brief description of how each section is applied to this case follows.

- **318-Mixed Use Overlay Zone MU** implements the land use provisions of the Regional Center Master Plan by specifying application review procedures, permitted uses, and design standards for the R-O-C zone and Pendelton site.
- **320-Willamette Greenway Zone WG** is designed to protect, conserve, enhance, and maintain the natural, scenic, historic,

recreational, and economic qualities along the Willamette River and major tributaries.

- **322-Natural Resource Overlay Zone NR** is intended to protect natural resource values of land identified by the City as warranting environmental protection.
- **500-Offstreet Parking and Loading** specifies parking requirements for land uses, and design and landscaping requirements for parking lots.
- **600-Conditional Uses** specifies procedures and supplemental criteria for review of the Willamette Greenway Overlay application.
- **700-Variances, Exceptions, and Home Improvement Exceptions** specifies the criteria and process for granting variance from the requirements of the Zoning Ordinance.
- **1011.3- Minor Quasi-Judicial Review** describes the procedure public notice, neighbor notification, conduct of public hearings, and notice of decision for certain types of land use applications.
- **1400-Transportation Planning, Design Standards and Procedures** specifies required transportation improvements.

## 2. Evaluation of Zoning Criteria

### Summary Conclusion

This section addresses specific aspects of the project that either require conditions be imposed to ensure compliance with performance standards, or require conditions to bring the application into compliance with zoning criteria.

The applicant has submitted a narrative report in support of its conclusion that the proposal meets applicable approval criteria. *See Exhibit 3.* Staff believes that as conditioned, the applications meet the relevant criteria of the Zoning Ordinance. However, since all of the applications involve minor quasi-judicial review, the Planning Commission must exercise its discretion in evaluating the approval criteria against the relevant facts.

### Compliance with ZO Section 320-Mixed Use Overlay Zone

***The application meets the Mixed Use Overlay zone approval criteria except for requirements to provide first floor retail or service uses and provide residential units.***

The applicant is seeking a variance of the residential and first floor retail or service uses requirements. A discussion of compliance with variance standards follows.

ZO Section 318-Mixed Use Overlay specifies application procedures and design standards for development that triggers the Mixed Use design and review process. This development proposal is subject to the Mixed Use regulations due specifically to the proposed exterior alterations and increase in intensity of use. The applicant's written narrative and explanation of compliance with the Section 318 is found at page 4 of Exhibit 3.

Compliance with ZO Section 700-Variances

The applicant is seeking relief from provisions of the Mixed Use Zone that require a residential use be developed, and that restrict first floor uses to retail or service only. Three criteria must be satisfied in order to grant an approval. The full text of the applicant's response is found on page 17 of their application narrative, which is found in Exhibit 3. The staff analysis of the variance criteria follows this section.

- a. 702.1.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.

*Summary of Applicants Response*

- 1 *The building and parking area are legally conforming uses.*
- 2 *The building and parking are readily convertible to office use.*
- 3 *The building is not suitable for conversion to residential use due to significant expense of renovation.*
- 4 *The building is configured such that adequate emergency access can not be provided to residential units centrally located within the building.*
- 5 *Residential parking can not be located at adequate proximity to the building.*
- 6 *The building is not well positioned for retail or service use due to setbacks.*

- a. 702.1.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.

*Summary of Applicants Response*

- 1. *Redevelopment of the site that includes first floor retail or service uses and residential uses would appear to require total demolition of the building and the parking.*

2. *The loss of investment in the existing building and other improvements represents an unacceptable economic loss.*
3. *The requested variance allows the site to be used in a manner substantially the same as other large existing buildings constructed for industrial or commercial use in the Milwaukie area, but which have not been encumbered by mixed use regulations.*
4. *The requested variance will promote the City's objectives of developing a mixture of uses in the Regional Center better than would occur through strict compliance with the Zoning Ordinance.*

- b. 702.1.C, That adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.

*Summary of Applicants Response*

1. *ODS is unaware of any significant adverse impacts upon other nearby properties resulting from the variance.*
2. *The planned improvements will have a beneficial impact on nearby property values.*
3. *The proposed use will bring 200 to 250 employees in close proximity to downtown shopping and services.*
4. *To the extent that traffic could be considered an adverse effect resulting from the variance, mitigation is being provided by ODS's promotion of transit by providing a bus shelter and sidewalks; encouraging carpooling; and providing covered bike parking.*
5. *To the extent that the variance will continue to allow a non-residential use in the neighborhood, landscaping and building improvements will mitigate any adverse impacts.*
6. *ODS plans to enhance vegetation along Johnson Creek and therefore provide an enhanced buffer between the proposed use and the natural resource values found elsewhere on the site.*

Staff Analysis of the Variance Application

***Staff believes the application meets the criteria for granting a variance. However, the Commission must apply the variance criteria against the facts of the case, and adopt findings accordingly.***

The Mixed Use Zone constrains development by limiting by-right building improvements and by requiring that certain land uses be provided with

development proposals. The regulations provide few exceptions to the requirement for residential-use and first floor retail or service use, thereby restricting use of properties located in the mixed use zone. Where market and other economic conditions are not ripe for residential-mixed use development, owners who wish to improve their property have two options: defer improvements or seek variances

Staff believes that the residential and first floor use requirements of the Mixed Use Overlay Zone, *as applied to this site*, inhibit the reasonable use of the property. Staff further believes that the variance criteria are met by the particular circumstances of the site and development plan.

Lastly, according to the purpose statement of Section 318.1, the Mixed Use Overlay Zone was adopted as an interim regulation pending final adoption of regulations that comprehensively implement the Regional Center Master Plan. The City is presently engaged in drafting a downtown and riverfront land use plan. This project is expected to result in adoption of new implementing regulations that will replace the current Mixed Use Overlay Zone.

Staff believes the application meets the requirements of variance criteria as follows.

- 1 702.1.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.

This criterion involves consideration of the physical characteristics of the property in relation to zoning provisions that require first floor retail or services uses require development of housing.

The applicant states that the building and location are inappropriate and unsuitable for purposes of the regulations due to the expense of required improvements, the design characteristics of building, and the site location. These physical conditions relate to "prior legally existing structures" as required by Section 702.1.

The "unusual conditions" requirement is satisfied to the extent that physical characteristics of building and design that are required for mixed use development pursuant to Section 318 can not be met without significant expense and alteration of the site.

A related part of the "unusual conditions" requirement is that the applicant "has no control over the unusual conditions". Although, the applicant does not specifically address this part of the criterion, the unusual conditions (existing development) are pre-existing and

therefore beyond the applicant's control, except through site modification.

2. 702.1.B, There are no feasible alternatives, and the variance is the minimum needed to allow use of the property similar to others in the surrounding area.

The Mixed Use regulations trigger first floor and residential use requirements based on the scale of any proposed building alteration. All development activities in the Mixed Use Overlay require development review unless exempted by Section 318.5. The proposal does not meet exemption criteria.

The applicant has stated that there are no economically feasible alternatives to the variance based on their proposition that that conformance with Mixed Use zone would require demolition of the existing structure.

Development proposals that involve exterior alteration, increase in floor area, or increase in the intensity of use requires a review and compliance with first floor and residential use requirements. This requirement significantly narrows the type of improvements that can be made, as well as alternatives to variances.

The second part of this criterion that the variance be the minimum necessary to allow use of the property in a fashion comparable to other properties in the area. There are no properties in the surrounding area to which this site can be compared for the purposes of this criterion.

Reuse of the building for any permitted occupancy is expected to require substantial improvements to meet building code requirements, modernize the building, or make it functional for the intended occupancy.

3. 702.1.C, That adverse effects upon other properties resulting from the variance shall be mitigated to the extent feasible.

Analysis of this criterion is complicated by the fact that the regulations, (from which relief is sought), require that particular land uses be provided. Consequently, the key issue is what are the impacts on other properties associated with *not* providing the uses?

Staff believes there will be no discernable adverse impacts to other properties resulting from not providing the required first floor and residential uses. The proposed uses on the site will continue to be non-residential as they have been since the building was originally constructed.

Compliance with Section 320-Willamette Greenway & Section 600-Conditional Use

***The application complies with Section 320-Willamette Greenway Overlay Zone and Section 600-Conditional Use.***

The applicant's narrative explanation of how the application meets the WG zone is found at page 20 of Exhibit 3. A brief description of the zoning analysis follows.

1. The Willamette Greenway Overlay boundary bisects the lot so that the southern dogleg of the site is within the zone. Proposed improvements to the portion of the parking lot that is within the WG zone include re-paving, curbing, and landscape plantings. The work is minor and does not raise any issue with regard to Willamette Greenway or conditional use approval criteria. The purpose of the Willamette Greenway Zone is to protect, conserve, enhance, and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River and major courses flowing into the Willamette River (ZO Section 320.1).
2. Section 320.5.F requires that the application be referred to the following agencies: Oregon Parks and Recreation Department, Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and the State Marine Board. The City referred the application in accordance with procedures of Section 320.5. Review comments of agencies that have responded are provided in the Comment section of this report; no substantive comments have been raised by the review agencies.

Compliance with Section 322-Natural Resource Overlay

***As conditioned, the application complies with Section 322-Natural Resource Overlay Zone.***

Staff has recommended conditions of approval concerning location and design of structures, erosion control, excavations and fill, and plantings as needed for compliance with Section 322. The applicant's narrative explaining how the application meets the approval criteria of Section 322 is found in Exhibit 3 at page 23. A brief description of the zoning analysis follows.

1. The site is listed in the Comprehensive Plan Appendix 2-Natural Resources Inventory and is therefore subject Natural Resources Overlay Zone. The site has been previously reviewed under Natural Resource Overlay applications for improvements to 17<sup>th</sup> Avenue and for installation of utilities. Under these previous reviews, the Natural Resource Boundary was established at the

location of the 100-year flood elevation, which is elevation 32.5 feet. A site survey identifying resources (wetlands, upland habitat, and riparian areas) was not prepared since the NR boundary was established under prior reviews.

2. No work is proposed within the mapped natural resource area. The lunchroom addition and related grade level terrace is to be setback 12 feet from the existing NR boundary. At its closest point, the internal sidewalk located south of the front parking lot is setback within a few feet of the NR boundary. The development plans do not indicate proposed grading. Construction of the proposed walkway may require fill within the NR area.
3. Construction of the southern internal walkway appears to require removal of 30 feet or more of the concrete vehicle barrier located along the south side of 17th Avenue sidewalk. Final construction details need to be resolved. Fill within the natural resource boundary is permitted under Section 322 provided impacts are mitigated. A direct pedestrian connection is required pursuant to Section 1400-Transportation Planning, Design Standards, and Procedures. The southern sidewalk is desired since it provides the shortest walking distance to downtown. Staff believes the sidewalk can be constructed without resulting in adverse impacts to the natural resources. Conditions have been recommended to ensure that construction complies with standards of Section 322.
4. Stormwater collected in the parking lots will be discharged to existing at-grade out falls located above the slope along Johnson Creek. The development plans show installation of new rip rap outfall pads. The pads are not located in the natural resource area and will discharge into existing surface drainage swales.
5. The applicant has proposed a landscaped buffer, which includes native tree and shrub plantings between the building and top-of-bank along Johnson Creek.

Compliance with Section 1400-Transportation Planning, Design Standards, and Procedures

***As conditioned, the application complies with Section 1400-Transportation Planning, Design Standards, and Procedures.***

Staff has recommended conditions of approval concerning curb cuts, parking lot design, lighting and landscaping as needed for compliance with Section 1400. The applicant's narrative explaining how the application meets the approval criteria of Section 322 is found at page 16 of Exhibit 3 at page 2. A brief description of the zoning analysis follows:

Section 1400 requires evaluation of transportation facilities. Transportation improvements are required when existing facilities do not conform to design specifications for pedestrian connections to streets, right-of-way or travel lane width, and sidewalks.

1. Section 1400 also requires that applications be referred to ODOT, Metro, and TRI-MET. All required referrals were made as required by Section 1403.2.
2. The applicant has indicated that half-street improvements along the Lava Drive frontage shall be provided to satisfy requirements of Section 1400. These improvements include curb, sidewalk, and dedicated turn lanes at the intersection of 17<sup>th</sup> Avenue. The applicant has requested that curb-tight sidewalks be approved to help preserve the existing trees along Lava Drive.
3. The applicant has indicated that right-of-way can be dedicated to accommodate half-street improvements. The depth of dedication has not been determined, but is expected to be the minimum necessary to accommodate public facilities.
4. The applicant is proposing to relocate the southbound 17<sup>th</sup> Avenue Tri-Met bus stop to the front of the ODS site and construct a bus shelter and ADA accessible bus stop. Relocation of the stop requires TRI-MET approval.
5. Although a traffic study is not required by the Zoning Ordinance, the applicant has submitted a traffic analysis of the possible impacts to 17<sup>th</sup> and Lava, 17<sup>th</sup> and 224, 17<sup>th</sup> and the site drive, and 17<sup>th</sup> and McLoughlin. The study indicates there will be no adverse impacts to level of service at these intersections. A copy of the study has been submitted to the Planning Commission under separate cover.

Compliance with Section 500-Offstreet Parking and Loading

***As conditioned, the application complies with Section 500-Offstreet Parking and Loading.***

Staff has recommended conditions of approval concerning curb cuts, lighting, walkways, lot design, and landscaping as needed for compliance with Section 500. The applicant's narrative explaining how the application meets the approval criteria of Section 500 is found at page 14 of Exhibit 3. A brief description of the zoning analysis follows.

Section 500 specifies the number of required parking spaces, parking lot design standards, lighting and parking lot landscaping requirements.

1. The minimum required parking is 137 parking spaces. Parking provided is 177 spaces, which includes 18 carpool/van spaces and 4 ADA spaces. Six parking spaces are reserved for ODS fleet vehicles. Section 500 establishes a maximum number of parking spaces for development located within ¼ mile walking distance of a transit stop that provides 20-minute peak hour service. Sites like Pendleton that meet this criterion are located in "Parking Zone B". Accordingly, the maximum allowable parking is 172 spaces. Parking for fleet vehicles is exempt from maximum permitted parking requirements. Required loading and bicycle spaces have been provided. In addition, 18 carpool/vanpool spaces have been provided in accordance with Section 506.
2. Parking lot landscaping requirements include specifications for planter islands and landscaping. The front parking lot does not meet requirements for interior islands, which are required every 8 parking spaces pursuant to Section 503.19 B.1. The parking plan can be revised to meet this requirement, but the total number of parking spaces may be reduced. The landscaping plans indicated shrubbery and trees within landscaped buffers in accordance with Section 503.19.
3. Section 503.15 specifies parking lot lighting requirements to ensure safe access for pedestrians and vehicles. In order to protect adjoining properties from lighting impacts, the regulations also require that lighting be situated to avoid glare and be deflected so light does not shine on adjacent properties. The applicant's lighting plan shows 25-foot pole mounted and 42-inch bollard mounted lighting in the front and rear parking lots. The specific fixture and lamp-types of the pole mounted lighting has not been specified. It is understood however, that the applicant intends to control lighting impacts.
4. The residential properties to the west of the site located on Riverway Lane at a higher elevation than the rear parking area. Special consideration must be given to the lighting design in order to ensure compliance with Section 503.15. Existing and proposed plantings shown along the western property line may alleviate concerns about offsite lighting impacts to the west.
5. The lighting plan does not show lighting along the southern walkway that provides direct access to 17<sup>th</sup> Avenue. Lighting should be provided along this walkway since direct pedestrian connections are required under Section 1400 and since it is expected that the site will generate pedestrian traffic seeking

downtown destinations. The walkway is located near the Natural Resources boundary. The Natural Resource regulations prohibit the placement of lights that shine into natural resource areas. Any lighting installed to along the walkway must comply with this requirement.

6. Section 503.12 specifies that curb cuts shall be the minimum number necessary while not inhibiting the safe circulation and carrying capacity of the street. The proposal calls for retaining the existing curb cuts on 17<sup>th</sup> Avenue and Lava Drive. Staff is concerned that use of the Lava Drive curb cut may compromise traffic safety for pedestrians, cyclists and vehicles due to the short distance between the curb cut and the Lava Drive intersection. Accordingly, staff is recommending the curb cut be closed.

#### Compliance with 1011.3- Minor Quasi-Judicial Review Regulations

Section 1011.3 specifies procedures for pre-application conferences, neighborhood and public notices, and issuance of decisions for applications that require minor quasi-judicial review. The applications have been processed in accordance with section 1011.3

### VI. RECOMMENDED FINDINGS IN SUPPORT OF APPROVAL

1. The applicant is proposing to make building improvements of 50,800 square feet for office use and related parking and site improvements for office occupancy at 10505 SE Lava Drive. The improvements involve architectural alterations including enclosing approximately 15,000 square of covered parking, demolition of 2,200 square feet, new offices spaces, executive offices, conference center, lunchroom, new windows, skylights, and exterior finishes. Site improvements include parking, lighting, and landscaping, pedestrian walkways, half-street improvements, and right-of-way dedications on Lava Drive.
2. All applications have been processed, and public notice provided, in accordance with Zoning Ordinance (ZO) Section 1011.3-Minor Quasi Judicial Review.
3. All applications have been processed in accordance with specific procedural requirements of each applicable zoning section.
4. The applicant has requested a variance of the requirements of ZO Section 318.8.A.2 and 318.9.D to provide first floor retail or service uses and to provided housing as part of the development proposal.
5. Application VR-00-01 meets ZO Section 702.1-Criteria for Granting Variances as follows:

- a. The Commission accepts the applicant's explanation of compliance with 702.1.A and finds that the characteristics of building design and building placement are unusual conditions over which the applicant has no control. The existing building is unsuitable for development of required first floor and residential uses due to its physical constraints, and significant cost of renovation to make it suitable for the required first floor and residential uses.
  - b. The Commission finds that there are no economically feasible alternatives to the variance and that the variance does not allow greater use of the property than similarly situated properties. Reuse of the building for any occupancy is expected to require improvements as needed to meet code requirements or make the building functional for the intended occupancy. Since any building improvement that either changes the exterior of the building or results in an intensification of use, requires compliance with first floor and residential use provisions of Section 318.8.A.2 and 318.8.D, there are no alternatives that allow reasonable economic use of the building.
  - c. The Commission finds that there will be no discernable impacts on other properties as a result of granting the variance of the requirement to provide first floor retail or service uses and residential uses.
6. Except for the first floor and residential use requirements, for which a variance has been granted, application MU-00-01 meets the requirements of the ZO Section 318-Mixed Use Zone.
  7. Application WG-00-01 meets the requirements of ZO Section 320-Willamette Greenway Zone and ZO Section 600-Conditional Uses.
  8. As conditioned, application NR-00-02 meets, or can meet, the requirements of ZO Section 322-Natural Resource Overlay. With proper location and design of structures and control of construction activities, setbacks are adequate to ensure protection of resources. Compliance with Section 322.7.A.5 provisions that require protection of natural resource areas from site lighting is feasible with proper design and location of lighting. Compliance with Section 322.7.B.8 requirements to minimize adverse impacts on natural features is feasible with proper design and placement of stormwater drainage out falls.
  9. The applicant has proposed improvements that include the following:
    - a. pedestrian connection between the building and 17<sup>th</sup> Avenue located along the southern side of the parking lot;

- b. half street improvements along the property frontage on Lava Drive that include curb, curb tight sidewalk, paving, striping, dedicated left and right turn lanes;
  - c. relocation of a TRI-MET bus stop and construction of a bus shelter, bench and other reasonable transit facilities;
  - d. landscape planting to establish a buffer between the building and Johnson Creek;
  - e. site lighting that does not create glare or shine on adjacent properties;
  - f. required design elements of Section 318.8.19 as follows:
    - 1. pedestrian scale lighting along walkways,
    - 2. historical plaque recognizing Pendelton's historical use of the site,
    - 3. street furniture (benches) on Lava Drive,
    - 4. enhanced transit amenities,
    - 5. enhanced pedestrian walkways, and
    - 6. decorative drinking fountain along Lava Drive.
  - g. interior storage of refuse and recycling containers ; and
  - h. covered bicycle parking.
10. As conditioned, the parking plan complies with parking lot design, lighting, and landscaping requirements of Section 500-Offstreet Parking and Loading. The proposed parking plan does not meet requirements for interior landscaping islands. Modification of the parking plan to meet interior island requirements of Section 503.19 is feasible. Parking lot lighting is required to be located and designed to ensure safety while not resulting in impacts to adjoining properties pursuant to ZO Section 503.15. Site lighting required by Section 503.15 can be provided reasonably and feasibly.
11. As conditioned the site plan complies with ZO Section 503.12 concerning number of curb cuts. The existing curb cut on 17<sup>th</sup> Avenue is deemed potentially unsafe due to its proximity to Lava Drive. Under congested conditions the driveway intersection may cause traffic, pedestrian, or cyclist safety hazards. Accordingly, abandonment of the driveway curb cut is warranted.
12. The applicant is proposing to save certain existing trees located within parking areas. Preservation of existing trees is encouraged under ZO 503.19.D.

13. Section 1405-Transportation Planning, Design Standards, and Procedures, Sidewalks allows for sidewalks to be curb-tight when adequate right-of-way is not available. The applicant has indicated right-of-way will be dedicated as needed for required half-street improvements. Curb tight sidewalks are acceptable along Lava Drive in order to minimize the area of dedication for right-of-way.

#### **VI. RECOMMENDED CONDITIONS OF APPROVAL**

1. Final site and architectural development plans shall be in substantial conformance with plans submitted for land use approval. Reference is made to development plans entitled Figure 4 through Figure 11, architectural drawings entitled Figures A through E (composite), application submission materials, and minutes of the Planning Commission's public hearing.
2. Prior to issuance of a building permit the applicant shall submit to the satisfaction of the Planning Director, a detailed narrative description of all actions taken to comply with conditions of this approval. The report shall address each condition and describe changes made in response. The report shall also describe all changes that were made, but which were not required by this approval. Any changes deemed to be in excess of, or that are inconsistent with this approval may require review by the Planning Commission subject to the Planning Director's discretion.
3. Prior to issuance of a building permit, final development plans shall be submitted to the satisfaction of the Planning Director for determination of consistency with the plans approved by the Planning Commission.
4. Prior to issuance of a building permit, a grading plan showing existing and proposed grades and elevations of all retaining walls shall be submitted to the satisfaction of the Planning Director.
5. Prior to issuance of a building permit, development plans showing final design details of the southern sidewalk and its intersection with the 17<sup>th</sup> Avenue sidewalk and the existing vehicle barrier along the Lava Drive sidewalk, shall be submitted to the mutual satisfaction of the Public Works Director, Planning Director, and if required, Oregon Department of Transportation. The plans shall indicate all required fill, structures and drainage facilities. Fill within the Natural Resource area shall be minimized to the greatest extent practicable. Construction impacts shall be mitigated by erosion control methods. Any earth disturbance within the NR boundary shall be restored with native plant materials, including but not limited to native ground cover.

6. Prior to issuance of a building permit the applicant shall submit approval of Tri-Met to relocate the bus stop.
7. Prior to issuance of a building permit, the applicant shall submit transit stop construction plans to the mutual satisfaction of the Public Works Director, Planning Director, and if needed, Tri-Met. The facility shall include ADA improvements.
8. Prior to the issuance of building permit, the applicant shall submit a detailed and dimensioned parking plan. All spaces, aisles, planter islands, wheels stops, and other required features shall be provided and designed in accordance with ZO Section 500-Offstreet Parking and Loading.
9. Prior to issuance of a building permit, the applicant shall submit a detailed parking lot and pedestrian walkway lighting plan. Lighting shall be provided along the southern sidewalk pursuant to Section 500. Trespass lighting on the Natural Resource area is prohibited pursuant to Section 322-Natural Resource Overlay Zone. Glare and trespass lighting impacts on adjoining properties is prohibited pursuant to Section 503.15. The lighting plan shall specify mounting height, fixture and lamp types. Photometrics shall be provided for each type of installation.
10. Prior to issuance of a building permit the applicant shall submit a tree preservation plan for all areas affected by parking lot construction. The plan is to identify appropriate tree protection measures, excavations, fills, utility trenches, material and equipment storage, and tree protection measures.
11. Prior to issuance of a building permit, the applicant shall submit an erosion control and construction barrier plan to the mutual satisfaction of the Planning Director and Public Works Director. Construction barriers shall be located at appropriate locations along the top-of-bank of Johnson Creek to prevent encroachment within the natural resource area. Construction barriers shall be of substantial construction and shall be securely installed.
12. Prior to issuance of a building permit, the applicant shall submit construction plans to the mutual satisfaction of the Fire Marshal and Building Official.
13. Prior to issuance of a building permit, all required permit and system development charges shall be paid.
14. Prior to issuance of a building permit, the applicant shall submit instruments for dedication of Lava Drive right-of-way to the mutual satisfaction of the Public Works Director, Planning Director, and City Attorney.

15. Prior to issuance of a building permit, the applicant shall submit to the mutual satisfaction of the Planning Director and Public Works Director, construction plans for Lava Drive half street improvements including curb tight sidewalk, curb, drainage, paving, striping, and dedicated north and south bound turn lanes. The sidewalk shall be no less than 6 feet in width exclusive of the curb pursuant to ZO Section 1405. The plans shall also indicate appropriate tree preservation measures.
16. Prior to issuance of a building permit the applicant shall submit a plan to the satisfaction of the Public Works Director showing abandonment of the 17<sup>th</sup> Avenue curb cut and restoration of curb and sidewalk.
17. Prior to issuance of building permit, all public improvements shall be bonded to the satisfaction of the Public Works Director.
18. Prior to issuance of a building permit, the applicant shall submit detailed construction plans for all elements proposed under Section 318.8.A.19- Design Standards, "essential elements".
19. Prior to inspections for final occupancy, the dedication of land for public right-of-way shall be executed. Copies of all related maps and filings be submitted to the Planning Director, and Public Works Director, and City Attorney.
20. Prior to any inspection for final occupancy, all landscaping improvements shall be completed unless, bonding of landscaping improvements is submitted to the satisfaction of the Planning Director pursuant to Section 503.19.E.
21. Prior to issuance of a building permit, the applicant shall submit instruments for dedication of Lava Drive right-of-way to the mutual satisfaction of the Public Works Director, Planning Director, and City Attorney.
22. Prior to any inspections for temporary occupancy, all public improvements shall be completed and inspected to the satisfaction of the Public Works Director.
23. Prior to approval being issued for temporary or final certificate of occupancy, the applicant shall submit to the Planning Director a detailed narrative of all actions taken to comply with all conditions of this approval. The Planning Director shall conduct a site inspection and other investigations as needed to ensure compliance with conditions of this approval prior to granting occupancy approvals.
24. Prior to issuance of final occupancy approvals, all improvements proposed to meet design criteria of Section 318.8.A.19 ("essential requirements")

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shall be completed and inspection to the satisfaction of the Planning Director.

**EXHIBITS**

1. Vicinity Map
2. Review Comments
3. Applicant's Narrative Report (appendices omitted)



6.4 20

**City of Milwaukie Community Development Department**

Title: Vicinity Map Submitted by: Staff Date: 4/11/00 # Pages: 1  
 File Numbers: MU-00-01 / TPR-00-02 / Applicant: ODS Exhibit #: 1  
WG-00-01 / VR-00-01 / NR-00-02



**Historic Milwaukie NDA: Ed Zumwalt, Land Use Committee Chair, 3/29/00**

CEO Robert Gootee and Project Manager Andrew Franklin appeared at our 3/9/00 NDA meeting and made a presentation regarding the Pendelton site. Several neighbors of the site from Waverly Greens Apartments (adjacent to the site) were also present. Everything about their presentation, and the whole concept of their business being in our City was overwhelmingly well received. The one question is the traffic exiting from the site. When Pendelton was still in operation, Traffic was a major problem at closing time.

**Clackamas County Fire District #1: Tom Crowder, Deputy Fire Marshal, 3/23/00**

After careful review the Prevention Division of Clackamas County Fire District #1 wishes to report that the above application is not in conflict with the Uniform Fire Code adopted by the city of Milwaukie as long as it meets the following requirements.

Before any and all construction a full set of plans will be sent to my office for review. All construction will comply with the 1997 Uniform Fire Codes as adopted by Clackamas County Fire District #1

**Oregon State Marine Board: Doug Baer, 3/23/00**

"No comment"

**Public Works Department: Paul Roeger, PE, Civil Engineer, 3/29/00**

The site is at the southwest corner of 17<sup>th</sup> Avenue and Lava Drive. The City classifies 17th Avenue as an arterial and Lava Drive is classified as a local residential street. The traffic study indicated a volume on 17<sup>th</sup> Avenue of 17,000 vehicles per day. The added trips generated by this office building per the Trip Generation handbook from the Institute of Transportation Engineers is anticipated to be 588 trip per day. This is an increase of approximately 3.5%. With only 28% of those trips going south to McLoughlin Blvd., it adds approximately 165 vehicles per day through that intersection. This should not significantly effect that intersection.

Transportation system development charges will be assessed for the increase in trips generated by the new use over the old use. The new use has been determined to be a "Single Tenant Office Building" which generates 11.57 trips per 1000 square feet. The old use was "Manufacturing" which generated 3.82 trips per 1000 square feet of floor area. There also appears to be an increase in the floor area with the conversion of approximately 15,000 square feet of the parking area under part of the building to an employee lunchroom, training rooms, and recreation facility. Exact increases will be determined at the time of

**City of Milwaukie Community Development Department**

Title: Review Comments Submitted by: Staff Date: 4/11/00 # Pages: 4  
 File Numbers: MU-00-01 | TPR-00-02 | Applicant: \_\_\_\_\_ Exhibit #: 2  
WG-00-01 | VR-00-01 | NR-00-02



building permit review. The SDC is \$140 per additional trip generated. The estimated additional SDC for Transportation is approximately \$63,000.

17<sup>th</sup> Avenue has curb and sidewalk along the frontage of this site that was constructed as part of the McLoughlin Blvd. project done by ODOT in the early '90's. There is one double wide driveway approach onto 17<sup>th</sup> Avenue from this site. Vehicles using this driveway approach will encounter difficulty during peak use times because of the near proximity to Lava Drive. Public Works recommends removal of this driveway approach to improve traffic safety in this area. Although this will put more traffic on Lava Drive, it will reduce the conflicts and thus improve safety.

Lava Drive must have a full half-street improvement along the entire frontage of this site, including curb, sidewalk, storm drainage and appurtenances. It also includes a three-lane configuration on the approach to 17<sup>th</sup> Avenue with a right lane and a left turn lane. The traffic engineer must determine the length of these lanes. It appears that additional right-of-way dedication or an easement may be required to have the sidewalk and curb on public right-of-way.

Riverway Lane also borders the site on the west. This is a private local residential street and does not require any public improvements as a result of this development.

Full-engineered construction plans for the public improvements along Lava Drive must be submitted to the Engineering Department for review and approval before the building permit will be issued.

The existing building is served by City water. The plumber must determine the adequacy of the existing meter and service line. If a larger meter is needed additional fees will be assessed at the time of building permit review. Credit will be given for the existing plumbing fixtures in the building. Additional system development charges (SDC's) will be assessed based on the number of fixtures added to the building and determined at the time of building permit review.

City sanitary sewer serves the existing building. In fact an existing line goes directly under the building. . Credit will be given for the existing plumbing fixtures in the building. Additional system development charges (SDC's) will be assessed based on the number of fixtures added to the building and determined at the time of building permit review.

On site storm drainage is directed toward Johnson Creek to the south. Pipes are daylighted to the grassy area between the creek and the building and parking lot so that it may be filtered before entering the creek. This is an effective practice to improve storm water quality. The addition of impervious surface to the site may lead to additional SDC's for storm water. Additional SDC's are based on the number of square feet of impervious surface added to the site. 2706 square feet

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equals one connection unit. Credit toward impervious surface added will be given for impervious surface removed.

The building is above the elevation of 36 feet above sea level, which is well above the 100-year flood level of 32.5 feet.

An erosion control plan and application must be submitted along with the building permit application for any soil disturbance of 500 square feet or more.

**Oregon Division of State Lands, Tami Hubert, Natural Resource  
Coordinator, March 30, 2000**

DSL did not raise any substantive comments about the proposal. See attached letter.



# Oregon

John A. Kitzhaber, M.D., Governor

6.4 24

## Division of State Lands

775 Summer Street NE

Salem, OR 97301-1279

(503) 378-3805

FAX (503) 378-4844

TTY (503) 378-4615

March 30, 2000

JV02  
JOHN GESSNER  
CITY OF MILWAUKIE  
6101 SE JOHNSON CREEK BLVD  
MILWAUKIE OR 97206

RECEIVED

MAR 30 2000

CITY OF MILWAUKIE  
COMMUNITY DEVELOPMENT

## State Land Board

John A. Kitzhaber  
Governor

Bill Bradbury  
Secretary of State

Jim Hill  
State Treasurer

RE : **ODS Health Plans**  
**File Numbers: .MU-00-01, TPR-00-01, NR-99-02, WG-00-01 and VR-00-01**

Dear Mr. Gessner:

I have received and reviewed a copy of the application referral for ODS Health to redevelop the Pendleton Woolen Mills building for general office use, located in Township 1 South, Range 1 East, Section 35AA, Tax Lot 3500 in the City of Milwaukie in Clackamas County. While a change in county zoning does not fall within our jurisdiction, the proposal may eventually involve lands or interests managed or regulated by the Division of State Lands (Wetlands). If a change in the current land use evolves from this zone change, we will need to be kept informed.

If a review finds the plan includes wetlands, under the Oregon Removal-Fill Law (ORS 196.800 - 196.990), removal, filling, or alteration of 50 cubic yards or more of material within the bed or banks of the waters of this state requires a permit from the Division of State Lands. Waters of the state include the Pacific Ocean, rivers, lakes, most ponds and wetlands, and other natural water bodies.

Thank you for the opportunity to comment. For further information and assistance, please feel free to contact me at the Salem Office, 775 Summer St. NE, Salem, OR 97310, or by calling 378-3805 extension 272.

Sincerely,

Tami S. Hubert  
Natural Resource Coordinator  
Clackamas and Yamhill Counties

PROPOSAL SUMMARY

**REQUEST:** Mixed-Use Overlay site plan and Transportation Plan Review approval is requested for the preliminary plans for ODS Health Plans to redevelop the approximately 50,800 square foot Pendleton Woolen Mills building for general office use. In addition, Major Variance approval is requested to: 1) to Section 318.8.A.1 which requires a floor area ratio of 1:0.5 to 1:2.0 of commercial to residential uses for development in the MU overlay zone; 2) to Section 318.8.A.2 which requires that retail and/or service uses are required for the on-street level of any development in the MU overlay zone; 3) to Section 318.9.D which requires that the Pendleton site be developed to include medium- to high-density residential uses at up to 40 units per acre in a mixed-use setting.

In addition, Willamette Greenway conditional use review and Natural Resource review approval is requested.

**LOCATION:** 10505 SE 17th Avenue. SE Lava Drive is immediately north of the site. Tax lot 3500 of Clackamas County assessors map, T1S R1E WM 35AA

**ZONING:** Residential-Office-Commercial (R-O-C)  
Mixed Use Overlay (M-U)  
Willamette River Greenway Overlay  
Natural Resource Overlay

**APPLICANT:** ODS Health Plans  
601 SW 2nd Avenue  
Portland, OR 97204-3156

Contact: Andrew Franklin  
(503) 228-6554

**OWNER:** Pendleton Woolen Mills  
220 NW Broadway  
PO Box 3030  
Portland, OR 97208-3030

Contact: Robert Mathis  
(503) 226-4801

**ARCHITECT/  
PLANNER:** Otak, Inc.  
17355 Boones Ferry Road  
Lake Oswego, OR 97035

Contact: Jerry Offer (503) 699-2417

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Figures 3 through 11 and A through E has also submitted in a larger format.  
One material and color sample board has also been submitted to the City.

## I. PROJECT DESCRIPTION

ODS Health Plans requests Mixed Use Overlay site plan approval to redevelop the existing approximately 50,800 square foot Pendleton Woolen Mills building into general offices. Proposed improvements include enclosing approximately 15,000 square feet of the existing covered ground floor parking area and storage areas into an employee lunchroom, training rooms, and possible recreation facility; major facade changes; enhancement of the existing building entrances on the eastern and western sides of the building; and enhancement of the existing parking areas and landscaping on the site. An earlier addition to the west side of the existing building will be removed.

The proposed changes would involve three new additions to the building. The first is an aluminum and tinted glass entry area on the eastern face of the building. This entrance will be the primary client entrance and provide the main ODS identification from SE 17th Avenue. The second addition will be a less grand but similar entry structure on the western face of the building towards the western parking area. The third addition is a ground floor extension off the southern face of the building overlooking Johnson Creek for a lunch room. This extension will provide a significant solar exposure to the south. The proposed changes would result in approximately 2,500 square feet of additional gross building area and approximately 1,000 square feet of additional impervious area on the site.

All three building additions will be faced with aluminum and tinted glass. These materials will provide a contrast to the rougher texture of the scored concrete surface of the existing building. The existing concrete shell will be cleaned and then painted or stained to enhance the building's presence to the public.

In addition, a number of lightwells will be added to the roof of the structure. The lightwells will bring natural light deep into the interior of the building. The building's existing windows are small in relation to the size of the building walls, and therefore interior natural light in the building is limited. The overall design approach to the building and site design is to transform an existing manufacturing facility into a modern corporate office with an appropriate and compelling contemporary public image.

It is anticipated that the proposed redevelopment of the site and building will begin construction in Summer 2000, with completion later this year.

Figure 1 in Section VII of this report illustrates the location of the site and the zoning of the site and neighboring properties.

Figures 2-4 in Section VII illustrate the existing site improvements as well as improvements on adjacent properties and roadways.

Figures 5-11 illustrate the proposed development plan. Figures A-E provide floor plans and elevation drawings illustrating the proposed changes to the building.

## II. REQUESTED APPROVALS

The site is designated by the City of Milwaukie Zoning Map with the Residential Office Commercial (R-O-C) zone, with the Mixed Use (MU) overlay zone. Mixed Use overlay zone uses and review processes supersede those identified in the R-O-C zone. Mixed Use overlay zone site plan review approval is therefore requested for the proposed development plans, along with Transportation Plan Review of the proposed roadway and pedestrianway modifications associated with the proposed redevelopment plans.

Three variances are requested to the following Mixed Use overlay zoning district development standards: 1) to Section 318.8.A.1 which requires a floor area ratio of 1:0.5 to 1:2.0 of commercial to residential uses for development in the MU overlay zone; 2) to Section 318.8.A.2 which requires that retail and/or service uses are required for the on-street level of any development in the MU zone; 3) to Section 318.9.D which requires that the Pendleton site be developed to include medium- to high-density residential uses at up to 40 units per acre in a mixed-use setting.

Willamette River Greenway conditional use review and Natural Resource District review are also requested although no significant development is proposed in the portions of the subject site covered by these two overlay zones.

## III. EXISTING CONDITIONS

The 8.23-acre site is bounded by SE 17th Avenue on the east, SE Lava Street on the north, and a private street, SE Riverway Lane, on the west. The site consists of tax lot 3500 of Clackamas County Assessors map 1S 1E 35AA. A legal description of the site and the assessors map illustrating the site are included as Appendix Two.

The site is currently developed with the two-story Pendleton Woolen Mills building and associated parking. The building was constructed in 1959 and functioned as a woolen goods factory for Pendleton Woolen Mills until approximately 1998. The building has since been vacant. The building and related improvements are located only on parcel I of the site. All of parcel I is landscaped.

Parcel II is a wooded area which provides a buffer between the uses on parcel I and single-family homes to the south. Parcels III and IV are located on the east side of Johnson Creek, which passes through the site. Parcel V is a wooded area on the southern-most portion of the site. Parcel VI is a narrow strip of land adjacent to SE Riverway Lane. Parcel VII is a wooded strip which crosses Johnson Creek from east to west. This area was previously the right-of-way for River Vista Drive.

Figures 2 through 4A provide details on the existing site improvements and neighboring properties.

#### IV. COMPLIANCE WITH APPLICABLE APPROVAL CRITERIA

##### A. Compliance with Development Standards of the MU (Mixed Use Overlay) Zoning District - Chapter 318

The purpose of the Mixed Use overlay district is to provide assurance that the downtown area and specific undeveloped sites within the Regional Center area will be developed under interim mixed use development guidelines and requirements prior to final adoption of all of the implementing regulations of the Regional Center Plan. (Section 318.1). The Pendleton property is site 6-1 of Subarea 6 of the Regional Center Plan and therefore this overlay zone applies (Section 318.2).

Section 318.3 lists primary uses which are intended to be allowed in the MU overlay zone, subject to the development standards of Section 318.6. Professional offices are listed as a primary use. ODS's proposed office use of the former Pendleton Woolen Mills site is therefore consistent with the primary use standards of the MU overlay zone.

Section 318.6.B – Development Review Process and Criteria of the Milwaukie Zoning Ordinance requires Planning Commission review of development requests within the MU zone. This application has been prepared based upon an understanding that the project will be reviewed by the Planning Commission.

Section 318.6.C of the Zoning Ordinance states that the Planning Commission may grant approval of a MU review upon a determination that:

1. *The proposed project is in compliance with the Milwaukie Comprehensive Plan,*
2. *The proposed project is in compliance with the Regional Center Master Plan,*
3. *The proposed project is in compliance with the guidelines and requirements of the MU Overlay Zone.*
4. *The proposed project complies with any requirements of the underlying zone which have not been superseded by the provisions of the MU Overlay Zone.*
5. *The proposed project complies with Sections 400, 500, and 1400 of the Zoning Ordinance.*

Proposed findings are offered below to the applicable portions of the Comprehensive Plan, Regional Center Plan, underlying zoning districts, and Sections 400, 500, and 1400 of the Zoning Ordinance in the sections of this report which follow. Due to overlaps between some of these approval criteria, responses are combined, such as for the Regional Center Plan which has essentially been incorporated into the Comprehensive Plan and MU overlay zone standards.

All of the application material requirements of Section 318.7 have been incorporated in this application narrative and the accompanying plans.

Section 318.8 provides a number of development standards for all projects within the MU overlay zone. The standards of this section are cited below in *italics*, followed by a response explaining either how the standard is satisfied by the ODS plans, or else it is explained why the standard is not applicable to this application.

A. *Commercial and commercial/residential mixed use (office uses are included in the Commercial designation).*

1. *Floor Area Ratio (1:0.5 to 1:2.0) commercial to residential development.*

**Response:** Per Section 318.9.D, this does not apply to site 6-1, the Pendleton site.

2. *Retail/service uses are required for on-street level of any development.*

**Responses:** Retail or service uses are not included in the current proposal for the following basic reasons: 1) the ODS proposal would reuse an existing building which is set back from SE 17th Avenue by approximately 200 feet. This amount of setback from a public street is not desirable for smaller retail or service uses which might be anticipated to locate within a mixed use development; 2) the building is located on SE Lava Drive which does not have on-street parking or sufficient pedestrian or vehicular traffic to support retail or service uses; and 3) because the existing structure is not readily adaptable for retail or service uses at street level. Therefore, a variance to this standard has been requested. The variance request is addressed below.

3. *Angled parking shall be developed where street right-of-ways are wide enough.*

**Response:** SE 17th Avenue is fully improved with two lanes of traffic, a turn lane, and no on-street parking. SE Lava Drive is currently of variable width of approximately 22 to 34 feet of pavement with two lanes of traffic and no area for even parallel on-street parking. Therefore, it is not practical to develop angled parking on the right-of-ways adjacent to the Pendleton site.

4. *Parking for commercial/residential uses shall be located to the rear or side of proposed development. Where parking is located on the side of a structure, an 8-foot wide landscape strip shall separate the parking area from the sidewalk.*

**Response:** The Pendleton building fronts on SE Lava Drive to the north. Parking for the ODS usage of the site will continue to use the existing surface parking lots which are located to the east side and the west side and west rear of the existing building. Due to the location of Johnson Creek on the property, there is no opportunity to locate parking directly to the rear of the building.

5. *Shared parking shall be provided where feasible. Shared bicycle parking shall be permitted when primary pedestrian entrances are located not more than 100 feet from the shared bicycle parking area. The shared bicycle parking must be located in a area of high visibility adjacent to a pedestrian walkway or sidewalk.*

**Response:** There are no obvious opportunities for shared parking with nearby uses. This standard is therefore not applicable to the current request.

6. *All primary ground floor common residential entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. Projecting features such as porches, balconies, bay and dormer windows, and roof pediments are encouraged for structures facing a street.*

**Response:** This standard is not applicable. No residential units are included in the proposed redevelopment project.

7. *Where structured parking is proposed, it shall be placed in the middle of a block, with commercial and retail uses at the street level. Innovative decorative designs are required to mask any portions of the upper structure which is visible from the street. Parking dimensions shall not include support posts of the underground or above-ground parking structure.*

**Response:** This standard is not applicable. No parking structures are included in the proposed redevelopment project.

8. *Parking which is provided without a parking structure shall comply with the dimensional and landscaping requirements of Section 500 of the Zoning Ordinance.*

**Response:** This standard is not applicable. No parking structures are included in the proposed redevelopment project.

9. *Within subarea 1, any development which includes the construction of a new structure or the gutting of an existing structure for*

*redevelopment, and requires 20 or more spaces, shall include underground and/or below-grade parking or incorporate a parking structure consistent with Subsection 318.8A.7.*

**Response:** This standard is not applicable. The subject site is not included within sub-area 1.

10. *Auto-oriented and drive-in uses are prohibited, except for service stations without related mini-marts when a conditional use has been approved.*

**Response:** This standard is satisfied. The proposed office use of the site is not an auto-oriented use or drive-in use.

11. *A minimum of 60% of the ground floor wall area in retail development abutting pedestrian ways and plazas shall consist of non-reflective windows and doors.*

**Response:** This standard is not applicable. The proposed redevelopment project does not include any retail uses.

12. *Outdoor displays and café areas shall be permitted subject to City right-of-way permits and related standards. If an outdoor display is located on private property adjacent to the right-of-way, the display shall not impede traffic on the public sidewalk, and the displays and daily display signs shall be removed each evening. Café seating shall be permitted on private property adjacent to the public sidewalk with approval under the site design/conditional use permit process. Outdoor café seating on private property need not be removed each evening.*

**Response:** This standard is not applicable. No outdoor displays or café areas are proposed.

13. *Residential development shall incorporate shared parking, circulation and bike parking opportunities whenever possible. A planting strip shall separate the right-of-way and the sidewalk. High- and medium-density residential development is encouraged to have an articulated front facade which makes the building appear to be segmented or similar to the size and bulk of single-family residential units, where possible.*

**Response:** This standard is not applicable. No residential units are included in the proposed redevelopment project.

14. *Owners of existing single-family homes within the Mixed Use Overlay Zone may apply for a conditional use permit to allow a detached secondary living unit, an attached secondary living unit, or conversion to a duplex or triplex, provided that one of the units shall remain owner-occupied. Sound insulating and energy-efficient materials shall be provided in any of the above conversions of existing space. Setbacks and development standards of the underlying zone must be met.*

**Response:** This standard is not applicable. No single-family residential homes are present on the proposed redevelopment project site.

15. *No outside storage is allowed, with the exception of garbage dumpsters, which are screened by a solid wood fence with a gate, or fully contained individual storage units associated with residential uses.*

**Response:** This standard is not applicable. No outdoor storage is proposed. All trash and recycling awaiting pick-up will be contained within the building.

16. *If a project maximizes the residential density allowed in this overlay zone and by the Comprehensive Plan Regional Center designation, additional retail or office uses can be permitted on the site through the site design/conditional use review process.*

**Response:** This standard is not applicable. No residential development is included in the proposed redevelopment project.

17. *Projects accommodating a combination of residential, with retail or office uses, may cluster, combine or separate uses on portions of a single property, or a series of properties which are in the process of merger.*

**Response:** This standard is not applicable. No residential development is included in the proposed redevelopment project.

18. *Residential densities between 25 and 50 dwelling units per acre shall be permitted within the mixed Use Overlay Zone if the proposed project incorporates 7 out of 13 of the requirements listed in 318.8.A.19.*

**Response:** This standard is not applicable. No residential development is included in the proposed redevelopment project.

19. *All new development shall comply with at least 6 of the following "essential" requirements:*
- a. *Special awning treatment.*
  - b. *Special grate or paving treatment, landscaping, planter boxes or pots, and pedestrian-scale lighting between sidewalk and entrance of the building.*
  - c. *Provision of public art or historical reference in the form of a plaque or public display.*
  - d. *Special street lighting or other custom designed street furniture or similar amenities.*
  - e. *Development of public space, including, but not limited to, plazas, gathering areas, or special landscaped areas.*
  - f. *Residential uses above ground-level retail space.*
  - g. *Enhanced transit amenities such as covered bus shelters or bike lockers.*
  - h. *Upgraded noise buffering on attached residential units.*
  - i. *Provision of protected play area in residential development.*
  - j. *Provision of enhanced pedestrian accessways from rear parking areas to frontage street.*
  - k. *Provision of decorative drinking fountains or other custom-designed street furniture.*
  - l. *Additional setbacks from street frontages on development proposed in subarea 1 in order to maintain adequate viewsheds along street corridors. Stepped setbacks above the ground level may be considered.*
  - m. *Structured parking consistent with subsection 318.8A.7.*

**Response:** The proposed ODS redevelopment plans for the Pendleton building and property incorporate the following: 1) pedestrian scale lighting and walkways between the proposed public sidewalk along SE Lava Drive and the main building entrances; 2) a historical reference marker will be placed along the building's SE Lava Drive sidewalk regarding Pendleton's use of the site from the 1950s to 1998; 3) street furniture will be provided along the SE Lava Drive sidewalk adjacent to the northeastern corner of the building; 4) a transit shelter and bench will be provided at the bus stop along SE 17th Avenue; 5) an enhanced pedestrian walkway will be provided along the southern edge of the western parking lot to the western building entrance and on to SE Lava Drive; and 6) a decorative drinking fountain will be provided in the area adjacent to the northeastern corner of the building. Inclusion of these six design features satisfies this standard.

20. *If a property to be developed includes an historic structure or a single-family home which is in good repair or can be easily repaired, the applicant may propose a density transfer in conjunction with a PD*

*development in order to retain the single family housing stock while allowing some higher density development on the same or an adjacent parcel, which in combined with the parcel on which the single-family home is located.*

**Response:** This standard is not applicable. The site does not include any historic structures or single-family residences.

21. *In areas where new development abuts existing single-family development, a 20-foot buffer area of landscaping shall be provided and consideration shall be given to additional setback of second, third, or fourth stories.*

**Response:** This standard is satisfied by the approximately 25-foot wide hedge and enhanced landscape buffer provided along the western edge of the site which will provide a buffer between the proposed office uses on the site and the single-family residential uses on the opposite side of Riverway Lane. The existing two-story building is set back approximately 250 feet from Riverway Lane.

Section 318.9 provides additional requirements which apply to proposed development in specific subareas and on specific sites. Subsection D applies to the subject site:

D. *Site 6-1 (Pendleton site)*

*This site shall be developed to include medium- to high-density residential uses up to 40 units per acre in a mixed-use setting. The provisions of subsection 318.8.A.1 shall not apply to Site 6-1. The Planning Commission may review development applications for Site 6-1 to determine whether the proposed residential to commercial floor area ratio meets the intent of this Section. All new development on the site shall require review under the Willamette Greenway and Natural Resource Overlay requirements. Such review shall comply with Title 3 of the Regional Functional Plan.*

**Response:** A request for a variance to the requirements of the portion of this section which requires residential uses on this site is addressed separately below. The proposal's compliance with the applicable requirements of the Willamette Greenway and Natural Resources overlay zones is also described below.

Section 318.10.A provides the following special regulations where the MU overlay overlays the R-O-C zoning district:

*The uses and processes stipulated in the MU Overlay Zone supersede those identified in the R-O-C Zone. The minimum lot size shall be 5,000 square feet, and the density shall be controlled by the MU Overlay and the Comprehensive Plan alone. No yards are required. The height restriction is based on the MU Overlay height allowance. 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 Zone.*

**Response:** As noted above, the proposed use is a primary use in the MU overlay zone. The 8.23-acre site is substantially larger than the 5,000 square foot minimum lot size standard. Since no residential use is proposed, density is not an issue with this request. The building will be approximately 30 feet tall after renovation. Therefore, the applicable portions of Section 318.10.A are therefore satisfied.

#### **B. Compliance with Comprehensive Plan Policies/Regional Center Plan**

The site is designated Regional Center on Map 7 of the Comprehensive Plan, with the exception of the southeastern portion of the site across Johnson Creek which is designated Commercial and the southern-most portion which is designated High Density Residential. The portions of the site which are excepted from the Regional Center designation are not proposed for any development or other changes at this time. The following Comprehensive Plan policies apply to the ODS redevelopment plans for the Regional Center designated portion of the site.

##### *1. Land Use Element — Residential Land Use Element Objective 1:*

- a. *Regional Plan Areas are those sites identified within the six subareas depicted on the Subareas Map in the Regional Center Master Plan as suitable for redevelopment. Within the Regional Center areas designated on Map 7, mixed use development combining residential high density housing with retail, service commercial, and/or offices is encouraged. This is intended to foster a Regional Center environment in accordance with the Regional Center Master Plan.*
- b. *A mixed use zone will be applied to designated Regional Center Areas to implement the Regional Center Master Plan.*
- c. *In mixed use developments that include retail and/or office and residential, the retail and/or office are to occupy the first level and residential uses are to be placed above. Specific ratios of retail and office to residential shall be specified by the Mixed Use Zone.*

- d. *The Residential-Office-Commercial (R-O-C) Zone is the most appropriate zone for the Regional Center Area.*
- e. *The Regional Center Area shall be served by multimodal transportation options; therefore, on-street parking, shared parking, and enclosed parking are the most appropriate parking options in the Regional Center Area. Off-street surface parking is to be discouraged.*
- f. *A variety of higher density housing is desired in a designated Regional Center Area, and the City shall work cooperatively with the private sector to provide a diverse range of affordable housing.*
- g. *Residential densities in the Regional Center are in the range of 25 to 50 units per net acre.*

**Response:** As noted throughout this report, the proposed ODS development is requesting a variance from the development standards which require that this site be redeveloped with a mixture of residential and commercial development. The most basic reason supporting the variance request is that allowing reuse of the substantial investment represented by the existing Pendleton building and associated site improvements such as parking and utility lines does not waste this prior investment and materials. Redevelopment of the site with residential uses would likely necessitate removal of all of these existing improvements at a prohibitive cost for a residential developer. ODS is not opposed to the idea of mixing uses; in fact, redevelopment of this site with a substantial employment base within this neighborhood which includes existing multifamily and single-family housing will provide a mixed use neighborhood, as compared to the minimal mixing of uses in this area which would occur if additional multifamily housing is added to this site with a lesser commercial use component. Therefore, allowing the variances will help the City achieve the Regional Center Plan and Comprehensive Plan's objectives of mixing uses much better than would be achieved by following the Code requirements strictly and mixing uses within just the ODS/Pendleton building.

Although ODS will initially utilize the existing surface parking lots on the site, conceptual future development plans for the site would replace the surface parking lots with structured parking if ODS chooses to expand the building in the future.

*1. Land Use Element — Economic Base and Industrial Commercial Land Use  
Element Objective 1: To encourage an increase in the overall economic development activity in the City.*

**Response:** The proposed redevelopment of the Pendleton building with office uses will provide approximately 200 to 250 additional jobs on a site which has previously been committed to employment uses. The proposed ODS redevelopment will be located within a short walking distance of restaurants, shops, and various services

which would stand to have increased economic activity resulting from ODS employee business. Therefore, redevelopment of the Pendleton site according to the proposed ODS plans will result in an increase in economic activity in the City.

*2. Land Use Element – Economic Base and Industrial Commercial Land Use Element Objective # 1, Policy 10. The City will implement the Regional Center Master plan to promote economic development based on compatible mixed uses within the Regional Center.*

**Response:** The Regional Center Plan Land Use Concept Plan Map designates the subject site for Medium Density Residential use, but the application of the Residential-Office-Commercial base zone and the Mixed Use overlay zone to the site indicate that the City is intending for a mixture of office, commercial, and residential uses to this area. The Regional Center Plan's intention of converting this site to residential use was clearly based upon an assumption that the existing building would need to be removed and the site totally redeveloped. The current ODS plan, however, chooses to reuse the substantial physical investment represented by the existing building, parking area, and infrastructure to promote economic development in order to add approximately 200 to 250 jobs in close proximity to the city center. The proposed redevelopment of the Pendleton Woolen Mills building with clean, desirable employment opportunities need not contradict City desires to see additional housing in the area of the site. The increased job opportunities at the subject site may act as a catalyst for development of additional housing in the general area of the site.

*3. Land Use Element – Economic Base and Industrial Commercial Land Use Element Objective #2, Employment Opportunity: To continue to support a wide range of employment opportunities for Milwaukie citizens.*

**Response:** As noted above, the proposed redevelopment of the Pendleton building with office uses will provide 200 to 250 additional jobs on a site which has previously been committed to employment uses and is now vacant. Because other nearby restaurants, shops, and various services would stand to have increased business from ODS employees, these businesses may also add jobs. Therefore, redevelopment of the Pendleton site according to the proposed ODE plans will result in an increase in employment opportunities for Milwaukie residents.

*4. Land Use Element – Economic Base and Industrial Commercial Land Use Element Objective # 12 Regional Center – To emphasize downtown Milwaukie and the expanded city center as a Regional Center with the major concentration of mixed use and high density housing, office, and service uses in the City.*

**Response:** The project as proposed by the applicant meets this Comprehensive Plan criteria, providing increased office employment in the downtown area with

anticipated associated increased demand for housing, retail and service uses within the expanded city center.

**C. Compliance with the R-O-C (Residential Office Commercial) Zoning District - Chapter 309; the CL/MC (Limited Commercial-McLoughlin Blvd. With Overlay District) Zoning District - Chapter 311; and the R-2 (Residential-2) Zoning District - Chapter 306**

The subject site is zoned with all three of these base zoning districts, as illustrated on Figure 1. No portion of the site within the CL/MC portion of the site south and east of Johnson Creek nor any portion of the R-2 zoned portion of the site will be modified or used as a result of the proposed development plans. Therefore, compliance with the use and development standards of these districts is not affected by the current application.

The portion of the site which is proposed for redevelopment by ODS is all zoned R-O-C. However, the site is also overlain with the MU overlay zone which supercedes both the use and development standards of the R-O-C district. Therefore, the proposal need not be consistent with the standards of the R-O-C zoning district. Nevertheless, the proposed office use of the developed portion of the site would be permitted in the R-O-C zoning district.

**D. Compliance with Sections 400, 500, 1400**

**Compliance with Section 400 - Supplementary Regulations**

The provisions of Section 400 have been reviewed for applicability to the proposed ODS redevelopment plan for the Pendleton Woolen Mills property. The only subsection of Section 400 which would apply to the subject parcel is Subsection 414 - Transition Areas. However, Section 318.10.A states that the transition area requirements are removed for properties with R-O-C underlying zoning with MU overlay zoning in favor of the site design review process. Therefore, no portion of Section 400 applies to the current proposal.

**Compliance with Section 500 - Parking**

Figure 8, the Parking and Streetscape Plan, illustrates the proposed revisions to the two parking areas on the site including provisions for lighting, landscaping, walkways, parking lot layout, and bicycle parking.

The proposed use of the site is for the offices of ODS health plans. Section 503.9 provides minimum parking space requirements for various uses. These standards are based upon either square footage of individual uses or number of employees. Section 503.9 requires a minimum of 1 parking space per every 370 feet of gross

floor space for office uses and allows a maximum 1 parking spaces for every 295 of gross floor area. The site plan and parking plan provide for 178 parking spaces or one parking space for every 286 square feet of gross floor area. However, six of the parking spaces will be reserved for ODS fleet vehicles and should be exempted from this calculation. Exempting the fleet spaces, there will be one parking space per every 295 feet, thereby satisfying Section 503.9.

Section 503.10 allows up to 50% of parking spaces to be compact spaces. Approximately 57% of the parking spaces to be provided will be standard sized spaces of 9 feet wide by 18 feet long or larger (includes disabled person and carpool spaces) with the other 43% to be compact spaces of 7.5 feet by 15 feet.

Four disabled person parking spaces will be provided in locations convenient to main building entrances. The number of disabled person spaces is consistent with the Uniform Building Code standards and thus is also consistent with Section 503.10.

The parking lot is designed consistent with the dimensional standards specified and illustrated by Section 503-10 of the Zoning ordinance. Minimum aisle widths are consistent with the 24-foot minimum width standard so as to assure adequate emergency vehicle access throughout the site. All exterior portions of the existing building will be located within 150 feet of an accessway accessible to emergency vehicles. Parking areas will be constructed of asphaltic concrete and will be designed in accordance with the standards of Section 503.11.

Section 504.2 requires that two loading spaces be provided for commercial uses with between 25,000 and 60,000 square feet. Three 30 by 12 foot wide loading spaces are provided consistent with this standard. The loading spaces are adequately sized for the type of delivery vehicles that typically visit ODS's current facility. The loading spaces are located so as not to interfere with parking lot aisles and are located distant from the site's boundaries.

Section 505 sets standards for required bicycle parking for commercial uses. Section 505.2 requires that bicycle parking spaces be provided in a number that is at least 10 percent of the number of automobile parking spaces which are provided. The Parking Plan provides for 18 bicycle parking spaces, thereby satisfying this requirement.. The proposed bicycle rack location is within fifty feet of the primary building entrance, covered, out of pedestrian aisles and motor vehicle parking areas, and will be well-lighted.

Consistent with the requirement of Section 506, 18 parking spaces or 10% of the total parking spaces provided will be designated for carpool/vanpool parking.

## E. Compliance with Section 1400 - Transportation Planning

The approval criteria for Transportation Plan Review require the applicant to show that the proposed expansion will:

- a. *Be in compliance with the standards and procedures of Section 1400;*
- b. *Be in compliance with standards of the applicable zoning district;*
- c. *Be in compliance with the supplementary standards (Section 400) and parking standards (Section 500) and*
- d. *Comply with standards and policies of any applicable corridor plan.*

The preceding sections of this application narrative have demonstrated compliance with the applicable standards of the MU Overlay zone, the R-O-C zoning district and the supplemental regulations of Sections 400 and 500 of the Zoning Ordinance. There is no applicable corridor plan which affects the site. Therefore, the proposal must be shown to satisfy the applicable standards of Section 1400 in order to satisfy the approval standards for Transportation Plan Review.

SE 17th Avenue adjacent the site is designated as an arterial street by Figure 6.1 of the Transportation System Plan. SE Lava Drive is not classified and therefore is a local street. SE 17th Avenue adjacent the site has approximately 30 feet of roadway width with sidewalks with both sides. These improvements are recently constructed and are generally consistent with the Transportation Improvement Standards of Table 1405 of the Zoning Ordinance. No further improvements are proposed along this street except for a transit shelter at the existing bus stop. The existing driveway from the eastern parking lot on the site will be converted to a right-in/right-out driveway in order to avoid conflicts with turning movements at the SE 17th and SE Lava Drive intersection.

SE Lava Drive Avenue adjacent the site has approximately feet of right-of-way and 22 to 34 feet of roadway width with partial sidewalks on the north side of the street. The proposed development plans call for adding half street improvements including a six- to eight-foot wide curb-tight sidewalk along the site's SE Lava Drive frontage. Additional right-of-way can be dedicated from the ODS/Pendleton site as needed. It is requested that an adjustment to the typical setback sidewalk requirement be granted to allow the sidewalk along SE Lava Drive to be curb-tight. The sidewalk needs to be curb-tight east of the building in order to avoid having to remove the two existing trees located just to the east of the entrance driveway. The sidewalk needs to be curb-tight along the building frontage due to inadequate right-of-way and the inability to dedicate additional right-of-way. The sidewalk needs to be curb-tight west of the building to avoid significant filling which would be necessary to set the sidewalk back from the street. The proposed improvements are generally consistent with the Transportation Improvement Standards of Table 1405 of the Zoning Ordinance.

Consistent with Section 1406, internal site sidewalks will be developed to provide convenient connections to the public sidewalks along SE 17th Avenue and SE Lava Drive; to provide safe, convenient sidewalks through or adjacent to the parking areas; and to provide for an east-west connection through the site along the top of the bank along Johnson Creek - - although setback from the actual break at the top of the bank. All sidewalks will be hard surfaced. There are no opportunities for providing internal sidewalk connections to adjacent properties.

ODS plans to request that Tri-Met relocate the existing transit stop along the SE 17th Avenue frontage of the site, as shown on the site plan. A transit shelter, bench, and other reasonable transit amenities can be provided by ODS if desired by the City and Tri-Met, as requested by Section 1407.

Section 1408.1 states that *new* buildings should be oriented toward a transit street. We are not dealing with a new building on the ODS/Pendleton site. Nevertheless, the proposed eastern building entrance will be oriented towards a transit street, SE 17th Avenue, even though the entrance and building are set back a fair distance from that street. Convenient private and public sidewalk connections will be provided on the site to the public sidewalk and transit opportunities on SE 17th Avenue.

#### **F. 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.

Several variances are requested to specific development standards of the MU Overlay zone – all generally related to the requirement that residential development be included as part of a mixed use development on this site. Specifically, variances are requested to the following standards:

1. To Section 318.8. A.1. which requires a floor area ratio of 1:0.5 to 1:2.0 of commercial to residential uses for development in the MU overlay zone.
2. To Section 318.8.A.2 which requires that retail and/or service uses are required for the on-street level of any development in the MU overlay zone.
3. To Section 318.9.D which requires that the Pendleton site be developed to include medium- to high-density residential uses at up to 40 units per acre in a mixed-use setting.

Because of the similarity of the provisions which are requested to be varied, one response is provided below to each of the variance approval criteria of Section 702.1:

- 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 conditions of the property which justify approval of the requested variance is the existence of the approximately 51,000 square foot industrial building and the approximately 70,000 square feet of paved parking area. The building and parking areas are prior legally developed improvements. The building and parking area are readily converted to the proposed office usage with relatively minor cosmetic and structural upgrades. The building would not be at all suitable for conversion to residential use due to the significant expense of adding numerous windows, entrances, interior walls, plumbing, etc. The approximately 260 by 137 foot building is configured such that the central portion of the building could not be usable for residential use due to the inability to provide adequate means of emergency egress from residential units. In addition, while the existing parking areas are well laid out for industrial or office uses, the same parking layout is not suitable for residential uses which tend to locate parking spaces relatively close to individual units.

The building is setback approximately 200 feet from SE 17th Avenue, a major collector street with significant amounts of vehicular and pedestrian traffic. The building is located immediately adjacent to the SE Lava Drive right-of-way, but SE Lava Drive is a low traffic volume local street. Because of the location of the existing building, it is not well positioned to have retail or service uses located at the level of SE Lava Drive.

- 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 approximate value of the building and parking lots on the site is approximately \$1.5 million. Requiring redevelopment of the site with residential uses and/or ground floor retail uses would appear to necessitate total demolition of the existing building and all or most of the parking areas at a total loss of that estimated value. ODS does not believe that such a substantial loss of an existing investment in a building and other improvements is a feasible alternative to the requested variance.

The requested variance is the minimum variance from the various residential mixed use development standards which would allow the building and parking areas to be used in a manner substantially the same as other large existing buildings

constructed for industrial or commercial use in the Milwaukie area which have not been encumbered by mixed use requirements.

In addition, the requested variance actually will promote the City's objectives of developing a mixture of uses in the Regional Center area better than would occur through strict compliance with the Zoning Ordinance. This is because the requested variance would bring a substantial amount of employment opportunities into an otherwise purely residential neighborhood providing a real mixing of uses, whereas strict compliance with the Zoning Ordinance mixed-use-in-a-single-building provisions would result in only a small proportion of the total uses in the neighborhood being other residential uses.

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 building and site. These improvements should have a beneficial impact on the values of the subject property as well as other nearby properties. As noted in the response to the economic development policies of the Comprehensive Plan above, the proposed ODS use of the site will bring substantial employment opportunities to the City of Milwaukie and will place 200 to 250 ODS employees in close proximity to the shopping and service uses in the downtown area.

To the extent that traffic from the proposed office use could be considered an adverse effect resulting from the variance, mitigation is being provided by ODS's promotion of transit use through providing a bus shelter and sidewalks between the bus stop and building entrance; by ODS encouraging carpooling through the provision of conveniently located carpool parking spaces; and by ODS encouraging bicycle use by its employees by providing covered bicycle parking. These measures are intended to encourage employees to use other autos for commuting, thereby lessening traffic impacts on the neighborhood.

To the extent that the variance will allow a non-residential use in the neighborhood which some could view as an adverse effect, ODS's plans to improve the landscaping, enhance the buffer on the western side of the site, and the significant upgrading of the building will help mitigate any possible adverse impacts of the use upon the neighborhood.

In addition, ODS plans to enhance vegetation along Johnson Creek and therefore provide an enhanced buffer between the proposed use and the natural resource values found elsewhere on the site. Parcels II, III, IV, V and VII are proposed to remain undeveloped. The enhanced buffer plantings should serve to mitigate

adverse impacts upon the resource values of those parcels, and other neighboring parcels, that might result from intensification of usage of the subject site.

#### G. Willamette Greenway Conditional Use Review

A portion of the site is designated with the Willamette Greenway overlay zone. The boundary of the Greenway overlay zone is illustrated on the site plans. The purpose of the Greenway zone is to protect, conserve, enhance and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River and its tributaries.

Section 320.3 states that changes or intensifications of use, or development permitted in the underlying zone, are conditional uses subject to Section 600. Although the existing Pendleton building is not located within the Greenway zoned portion of the site, the western parking lot and areas where additional landscaping is to be placed are located within the Greenway zone. To the extent that these activities are a change of use or development, Greenway conditional use approval is required.

The general approval criteria for a conditional use are found in Section 601.2. These criteria are cited below in *italics* with a response following each criteria:

- A. *The use meets the requirements of a conditional use in the zone currently applied to the site.*

**Response:** Section 320.6 provides the following criteria to be taken into account in the consideration of a Greenway conditional use.

- a. *Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan.*

**Response:** The area of the site within the greenway which is to be utilized under the proposed plan already includes a paved parking lot and landscaping which are associated with an existing urban type of building elsewhere on the site. Therefore, the land is already committed to an urban use. The proposed revisions to this area essentially maintain the same amount of impervious area as a small portion of the existing parking area will be replaced by additional walkway.

- b. *Compatibility with the scenic, natural, historic, economic, and recreational character of the River.*

**Response:** The proposed repaving of the existing parking lot, addition of additional walkway, and the addition of vegetation as illustrated on the Landscape Plan, Figure 9 and the Greenway/Natural Resource Buffer Plan,

Figure 10, should positively enhance the scenic and natural characteristics of the Greenway area and possibly encourage employees at the ODS facility to recreate on the sidewalk in this area, consistent with this criterion. The proposed changes should not affect the historic or economic character of the Greenway or the River.

*c. Protection of views both toward and away from the River.*

*d. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable.*

**Response:** The proposed site improvements should have little if any effect upon views toward or from the river. To the extent that the proposed additional landscaping will add greenery and improved wildlife habitat, some positive impact on views and aesthetic enhancement will be provided.

*e. Public access to and along the River, to the greatest possible degree, by appropriate legal means.*

**Response:** No additional public access is proposed.

*f. Emphasis on water-oriented and recreational uses.*

**Response:** The proposed improvements within the Greenway area are intended to support a non-water oriented, non-recreational use in a building outside of the Greenway.

*g. Maintain or increase views between the Willamette River and downtown.*

**Response:** The site and the proposed improvements upon it have no effect upon views between downtown and the River.

*h. Protection of the natural environment according to regulations in the Natural Resource Overlay Zone.*

**Response:** Compliance with the requirements of the Natural Resource overlay zone is addressed below.

*i. Advice and recommendation of the Design Review Committee, as appropriate.*

**Response:** No response is necessary at this time.

*j. Conformance to applicable Comprehensive Plan policies.*

**Response:** Compliance with Greenway related Plan policies is addressed below.

*k. The request is consistent with applicable plans and programs of the Division of State Lands.*

**Response:** We are not aware of any plans or programs of the Division of State lands which would be affected by the proposed site improvements.

*l. A Vegetation Buffer Plan meeting the conditions of subsection 320.8.A-C.*

**Response:** A Greenway/Natural Resource Buffer Plan is included as Figure 10. The Plan calls for enhancement of the natural vegetation at the top of the bank of Johnson Creek with native plantings in order to re-establish a buffer. No existing natural vegetation will be removed from the Greenway zoned portion of the site.

*B. The use meets the standards for the underlying zone.*

**Response:** The proposed office use of the site is permitted in the underlying R-O-C zone and the MU overlay zone applied to the site, as addressed elsewhere in this report.

*C. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

**Response:** Plan policies applicable to the proposed use of the site, within the Greenway and outside of the Greenway, are addressed above. The Objectives and Policies of the Willamette Greenway element of the Comprehensive Plan direct City actions to maintain the Greenway boundary, develop Zoning Ordinance permitting processes for activities within the Greenway, direct further Greenway planning by the City, and address public access and private property rights. Establishing that the proposed development is consistent with the Greenway Conditional Use approval criteria which implement the regulatory Plan policies is tantamount to satisfaction of the Comprehensive Plan goals and policies.

*D. The characteristics of the site are suitable for the proposed use including location, topography, existence of improvements and natural features.*

**Response:** The Greenway zoned portion of the site which are proposed to be utilized for parking, a walkway, and landscaping are already used for those sorts of improvements. These areas are located outside of the banks of Johnson Creek and

in areas which do not have existing natural vegetation, steep slopes, or other characteristics which might make these areas inappropriate for the uses proposed.

*E. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.*

**Response:** The site is already well served by public roadways, transit service, and public utilities necessary to serve the proposed use. Proposed roadway and transit improvements are addressed in the Transportation Plan Review section above.

## H. Natural Resource Review

A portion of the site is zoned with the Natural Resource Overlay zone. Appendix Three, which has been taken from the City of Milwaukie Comprehensive Plan, illustrates the boundaries of Natural Resource Sites NR 91-02, NR 91-03, and NR 91-05, which occur on the site.

In addition to requirements of the primary zone, applicants for development activities within the Natural Resource Overlay Zone are required to identify how the activity complies with the following standards of Section 322:

1. *Development activities within a designated Natural Resource Site which is adjacent to or outside of the specific natural resource location, may show by on-site survey that the boundary of the NR Overlay Zone should exclude the activity site, but in any event, must comply with the following:*

**Response:** The Natural Resource boundary on the site appears to be the 100-year flood elevation of 32.5 feet for Johnson Creek. There will be no construction or land disturbance of any sort beneath the 100 year flood elevation of 32.5 feet. All proposed development is outside of the banks of Johnson Creek.

- a. *Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent natural resource location.*

**Response:** As noted above, there will be no construction or land disturbance of any sort beneath the 100 year flood elevation of 32.5 feet. All proposed development is outside of the banks of Johnson Creek. A detailed erosion control plan will be developed along with the final grading plan for the site. The plan will incorporate, at a minimum, standard erosion control practices in order to minimize erosion during construction and long-term sedimentation and pollution of Johnson Creek.

1. *A development setback which adequately protects the resource site is required.*

**Response:** There will be no construction or land disturbance of any sort beneath the 100 year flood elevation of 32.5 feet. All proposed development will be setback a minimum of 18 feet from the top of the northern bank of Johnson Creek. The area from the top of the bank to the building and walkway will be covered by native grasses, red osier dogwoods, Oregon ash, big-leaf maples, douglas fir, and other native plants. This setback and the proposed plantings should provide an appropriate long-term buffer for the natural resource values of Johnson Creek.

2. *Development consisting of vehicle maneuvering and parking areas, outside storage and display areas, and trash collection areas shall also be screened from the natural resource location by sight-obscuring vegetation or fencing.*

**Response:** The proposed buffer plantings described above will screen views of the parking and vehicle maneuvering areas from the Natural Resource areas to the south and from across the creek.

3. *Outdoor activities including open fabrication or operations which create large amounts of noise, dust, or glare, except for river related and river-dependent uses, are not allowed due to their higher potential for adverse impacts on adjacent natural resource locations.*

**Response:** ODS's plans for the site do not include any outdoor activities other than vehicle parking and relatively passive recreation activities by employees such as eating at picnic tables and strolling the walkways. These activities do not conflict with this standard.

4. *The types, sizes, and intensities of lights must be placed so that they do not shine directly into the natural resource locations.*

**Response:** The proposed buffer plantings described above will screen views of the lights from the building and parking areas from the Natural Resource areas to the south and from across the creek.

## VI. Conclusion

This application narrative and the attached plans demonstrates that all applicable provisions of the City of Milwaukie Zoning Ordinance and Comprehensive Plan are satisfied by the plans of ODS Health Plans for the redevelopment of the Pendleton Woolen Mills property. ODS Health Plans and Otak, Inc. therefore respectfully request approval of the requested Mixed Use overlay zone site plan review, Transportation Plan Review, Variance, Willamette River Greenway conditional use, and Natural Resource Area review applications.