



## AGENDA

### MILWAUKIE PLANNING COMMISSION Tuesday, January 12, 2016, 6:30 PM

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
  - 2.1 May 12, 2015 (*to be sent under separate cover*)
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
  - 5.1 Summary: King Rd Partition  
Applicant/Owner: John Marquardt, LandmarQ Consulting Group/Phillip Joseph, SE King Road LLC  
Address: TLID 1S2E30DC02601 (north of 5445 SE King Rd)  
File: MLP-2015-002, VR-2015-006  
Staff: Li Alligood
- 6.0 Worksession Items**
  - 6.1 Summary: Comprehensive Plan Update Discussion  
Staff: Li Alligood
  - 6.2 Summary: ZA-2015-003 Short-term Rentals Code Amendments  
Staff: Denny Egner
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
  - January 26, 2016
    - 1. Worksession: Housekeeping Amendments *tentative*
    - 2. Worksession: Recreational Marijuana
  - February 9, 2016
    - 1. Public Hearing: ZA-2015-003 Short-term Rentals Code Amendments

### Milwaukie Planning Commission Statement

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

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

#### **Public Hearing Procedure**

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

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

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

#### **Milwaukie Planning Commission:**

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

#### **Planning Department Staff:**

Denny Egner, Planning Director  
Li Alligood, Senior Planner  
Brett Kelter, Associate Planner  
Vera Kolias, Associate Planner  
Alicia Martin, Administrative Specialist II



**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Li Alligood, Senior Planner

**Date:** January 5, 2016, for January 12, 2016, Public Hearing

**Subject:** **File:** MLP-2015-002, VR-2015-006  
**Applicant:** John Marquardt, LandmarQ Consulting Group  
**Owner(s):** Phillip Joseph, SE King Rd, LLC  
**Address:** NA  
**Legal Description (Map & Tax Lot):** 1S2E30DC02601  
**NDA:** Lewelling and Hector-Campbell

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### **ACTION REQUESTED**

Approve application MLP-2015-002, VR-2015-006 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a 3-parcel partition and a variance to the minimum widths of parcels 2 and 3.

### **BACKGROUND INFORMATION**

The site is located 1 lot east of 54<sup>th</sup> Ave on King Rd. See Figure 1. The applicant proposes to divide an existing flag lot (Parcel 2 of Partition Pat 2004-1, approved by File #MLP-02-10) into 3 parcels. See Figure 2. The Planning Commission approved a 5-lot subdivision, Jones Park, for the property at 5419 SE King Rd (directly to the west of the subject site) on October 27, 2015. See Figure 3.

Construction of the public improvements for the Jones Park subdivision have not begun, but include extending Mullan St east from 54<sup>th</sup> Ave to the western boundary of the subject site.



### A. Site and Vicinity

The site is approximately 0.65 ac in size and is located north of 5445 SE King Rd (TLID 1S2E30DC02601). The site is vacant and frontage is provided by a flag pole from King Rd, an arterial street.

The property to the south of the "flag" portion of the site is developed with a single-family dwelling and detached garage. Royalton Place, an assisted living and memory care facility, is located to the east. The unimproved Mullan St right-of-way is located to the north. See Figure 1.

### B. Zoning Designation

R-7 Residential Zone

### C. Comprehensive Plan Designation

LD Low Density Residential

### D. Land Use History

- **2002:** File #MLP-02-10, Type II Minor Land Partition, approved, created 2 lots (Parcels 1 and 2) and required dedication of 6.5 ft of right-of-way along King Rd to the south, and dedication of 10 ft of right-of-way along the unimproved Mullan St to the north.
- **1998:** File #S-98-04, VR-998-14, Type III Subdivision and Variance, denied.

### E. Proposal

The applicant is seeking land use approvals for a 3-parcel partition and variance to the minimum width requirements of the R-7 Zone for parcels 2 and 3. The proposed Parcel 1 is a flag lot with access from King Rd, an arterial. Proposed Parcels 2 and 3 are rectilinear lots with frontage on unimproved Mullan St, a local street. The applicants propose to construct half street improvements along Mullan St, if improvements to the west have been completed by the Jones Park subdivision, or pay a fee in lieu of construction (FILOC) if they have not. See Attachments 3.b-h. The proposal includes the following:

1. Partition of an existing flag lot (Parcel 2 of Partition Plat 2004-1) into 3 parcels: Parcel 1 would take access from King Rd; and Parcels 2 and 3 would take access from Mullan St. This request is subject to Type II review.
2. Variance to reduce the minimum lot width for Parcels 2 and 3 from 60 ft to 50 ft. This request exceeds the 10% variance permitted through Type II review, and is subject to Type III review.

The project requires approval of the following applications:

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

## KEY ISSUES

### Summary

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

- A. Is the proposed variance reasonable and appropriate?

### Analysis

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

The existing Parcel 2 has a width of 100 ft and a depth of 251.71 ft. The applicant has provided an alternatives analysis (see Attachment 3.b Appendix F) evaluating the impacts and benefits of the proposed 50 ft lot width for Parcels 2 and 3 as compared to the 60 ft lot width required in the R-7 Zone.

The minimum density for the parcel is 3 dwelling units, which requires the creation of 3 lots. The applicant has identified 2 potential approaches to dividing the site into 3 lots:

1. Create 2 lots with frontage on Mullan St (proposed)
2. Create a flag lot and parent lot with frontage on Mullan St

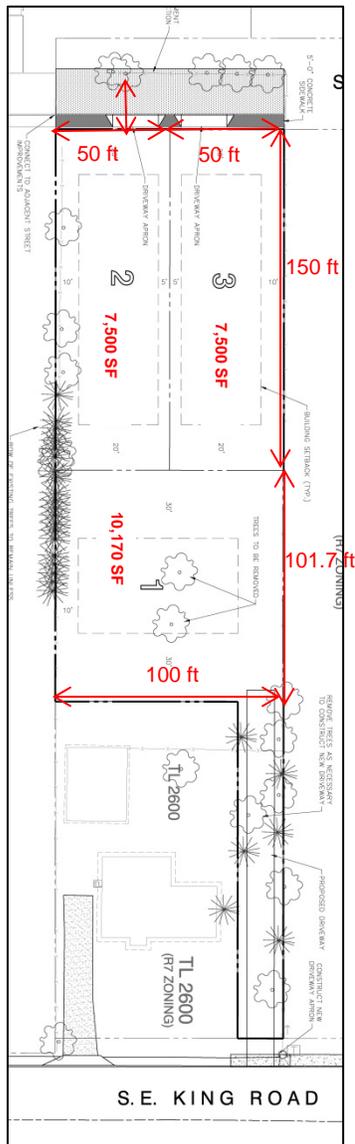
In the first approach, which is proposed, 2 lots have frontage on Mullan St and the existing flag lot is reduced in depth from 251.71 ft to 101.71 ft. In this case, because the existing width of the lot is 100 ft, a variance to the minimum lot widths is required to allow parcels 2 and 3 to be 50 ft wide. See Figure 4.

In the second approach, Parcels 2 and 3 would have frontage on Mullan St, and Parcel 2 would be a flag lot. See Figure 5.

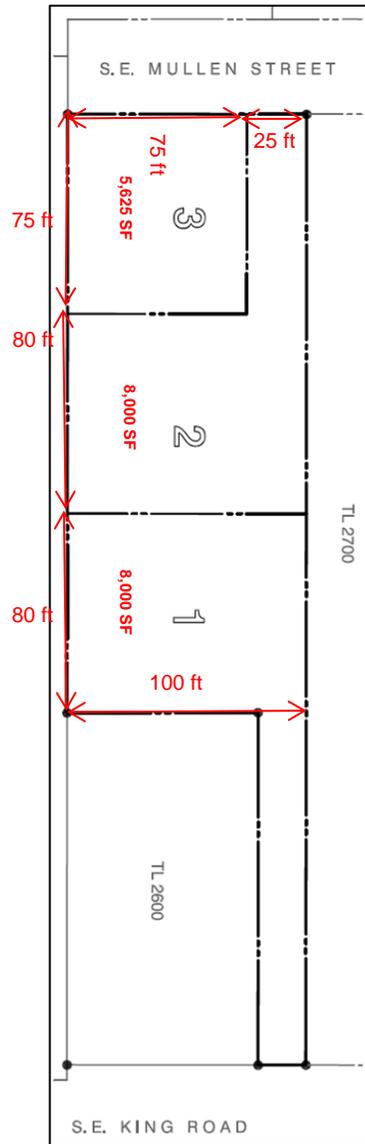
Because variances to flag lot dimensions are prohibited, a variance to the parent lot area would be required to create a flag lot that met the dimensional standards of the R-7 Zone (80 ft in depth).

Generally, the zoning ordinance allows, but restricts, the creation of flag lots due to concerns about the privacy of adjacent properties. Staff believes that the variance request is reasonable and appropriate and that it is preferable to create 2 lots with 7,500 sq ft of developable area rather than 1 lot of substandard size and 1 flag lot.

**Figure 4. Proposed lot layout**



**Figure 5. Alternative lot layout**



**CONCLUSIONS**

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

1. Approve the 3-parcel land division.
2. Approve the variance to the minimum lot widths of the R-7 Zone. This will result in a reduction of the minimum lot width for Parcels 2 and 3 from 60 ft to 50 ft.
3. Adopt the attached Findings and Conditions of Approval.

**CODE AUTHORITY AND DECISION-MAKING PROCESS**

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

- MMC Section 19.301 Low Density Residential Zones
- MMC Section 19.504.8.B Flag Lot Design and Development Standards
- MMC Subsection 19.911.4 Variance Approval Criteria
- MMC Chapter 19.700 Public Facility Improvements
- MMC Chapter 19.1200 Solar Access Protection
- MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
- MMC Subsection 17.28 Design Standards
- MMC Subsection 17.32 Improvements

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

The Commission has 4 decision-making options as follows:

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

The final decision on these applications, which includes any appeals to the City Council, must be made by April 1, 2016, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

**COMMENTS**

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development and Engineering Departments, Lewelling and Hector-Campbell Neighborhood District Associations (NDAs), Clackamas County, Clackamas Fire District #1, Metro, and TriMet. No comments were received as of January 5, 2016.

**ATTACHMENTS**

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

	Early PC Mailing	PC Packet	Public Copies	E- Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

	Early PC Mailing	PC Packet	Public Copies	E-Packet
3. Applicant's Narrative and Supporting Documentation dated December 3, 2015.				
a. Application forms	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Vicinity map	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Existing conditions plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Proposed Plat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Preliminary site plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g. Preliminary grading plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
h. Preliminary drainage report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i. Preliminary utility plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. List of Record	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

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

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

**Recommended Findings in Support of Approval  
File #MLP-2015-002, VR-2015-006, Marquardt**

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

1. The applicant, John Marquardt, LandmarQ Consulting Group, on behalf of Phillip Joseph, SE King Rd, LLC, has applied for approval to partition the property at TLID 1S2E30DC02601 (Parcel 2 of Partition Plat 2004-1) and has requested a variance to the minimum lot width requirements. This site is in the R-7 Zone. The land use application file numbers are MLP-2015-002, VR-2015-006.
2. The applicant is proposing the partition the property into 3 lots: Parcel 1 is a flag lot with an existing substandard 20 ft frontage on King Rd; Parcels 2 and 3 are standard lots with frontage on the unimproved Mullan St right-of-way along the northern boundary of the site. The applicant is requesting relief from the R-7 Zone minimum lot width of 60 ft to allow a reduction of the width of Parcels 2 and 3 to 50 ft. The request for relief from the minimum lot width standards of the R-7 Zone is subject to Type III Variance review, which is being reviewed concurrently with the Type II Minor Land Partition application.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.301 Low Density Residential Zones
  - MMC Subsection 19.504.8.B Flag Lot Design and Development Standards
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.911 Variances
  - MMC Chapter 19.1200 Solar Access Protection
  - MMC Subsection 17.12.040 Approval Criteria for Preliminary Plat
  - MMC Subsection 17.28 Design Standards
  - MMC Subsection 17.32 Improvements
4. Per MMC 17.12.020.D.1, applications for a preliminary partition plat (the first phase of a minor land partition, or MLP) shall be processed in accordance with MMC Section 19.1005 Type II Review unless an associated application subject to Type III review is submitted in conjunction with the partition. The requested Variance is subject to Type III review, and the application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on January 12, 2016, as required by law.
5. MMC Section 19.301 Low Density Residential Zones
  - a. MMC 19.301.2 establishes uses allowed in the R-7 zone. Development on the parcels will be subject to the uses allowed in this subsection.
  - b. MMC 19.301.4 establishes development standards for newly created lots. The standards are met as shown in Table 1.

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

<b>Residential Zone R-7 Development Standards</b>			
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Staff Comment</b>
1. Minimum Lot Size	7,000 sq ft	Parcel 1: 10,170 sq ft Parcel 2: 7,500 sq ft Parcel 3: 7,500 sq ft	Complies with standard.
2. Minimum Lot Width	60 ft	Parcel 1: 100 ft Parcel 2: 50 ft Parcel 3: 50 ft	Requires variance. As approved by this action, complies with standard.
3. Minimum Lot Depth	80 ft	Parcel 1: 101.7 ft Parcel 2: 150 ft Parcel 3: 150 ft	Complies with standard.
4. Frontage	35 ft	Parcel 1: 20 feet along King Rd (existing)  Parcels 2 and 3: 50 feet along Mullan St (proposed)	Parcel 1 is legally nonconforming. Parcels 2 and 3 comply with standard.
5. Density	5.0-6.2 units/net acre	3 parcels	The site is 0.65 net acres and minimum density is 3 dwelling units. Complies with standard.
6. Transportation Requirements	Yes, per MMC 19.700	Half-street improvements on Mullan St	As conditioned, complies with standard. See Finding 7.

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

6. MMC Chapter 19.500 Supplementary Development Regulations

MMC 19.504.8 establishes flag lot design and development standards. This section is met as described below.

- a. MMC 19.504.8.A states that flag lots in all zones are subject to the development standards of MMC 19.504.8.

*Proposed Parcel 1 is an existing flag lot and was created in 2004.*

- b. MMC 19.504.8.B contains development standards for flag lots.

- (1) MMC 19.504.8.B.1 states that the areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement.

*The flag portion of proposed Parcel 1 is approximately 10,170 sq ft in area, which exceeds the minimum lot area of 7,000 sq ft.*

*This standard is met.*

- (2) MMC 19.504.8.C prohibits variances of lot area, lot width, and lot depth standards.

*There are no variances requested for the creation of Parcel 1.*

- c. MMC 19.504.8.D establishes standards for flag lot frontage, accessway, and driveway design.

- (1) MMC 19.504.8.D.1 requires that flag lots shall have frontage and access on a public street and that the minimum width of the accessway and street frontage is 25 ft.

*The existing Parcel 2 of Preliminary Plat 2004-1 was established as a flag lot in 2004 (File #MLP-02-10). The existing accessway is 20 f wide and is legally nonconforming.*

*This standard is met.*

- (2) MMC 19.504.8.D.3 contains standards for driveway design and emergency vehicle access.

- (a) MMC 19.504.8.D.3.a requires that driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

*As conditioned, this standard is met.*

- (b) MMC 19.504.8.D.3.b requires that driveways serving single flag lots shall have a minimum paved width of 12 ft.

*As conditioned, this standard is met.*

- (c) MMC 19.504.8.D.3.c requires that driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

*As conditioned, this standard is met.*

- (d) MMC 19.504.8.D.3.d requires that a paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

*Clackamas Fire District #1 (CFD) reviewed the proposed partition and provided the following comment: "Currently, Parcels 2 and 3 in the proposed partition have no access from the public right of way located off 54th Ave. Until such a time that this street improvement is completed the access from King Rd would need to be provided with an approved fire department turn around. This does not apply if there are no structures on the two properties."*

*A condition has been established to require that the final plat either include completed improvements to Mullan St from the western boundary of the site to the eastern boundary, or an access easement to Parcels 2 and 3 through Parcel 1, and an approved fire department turnaround on the site.*

*As conditioned, this standard is met.*

- (e) MMC 19.504.8.D.3.f requires that the flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

*The proposed driveway would be a consolidated access that would serve the parent lot (Parcel 1 of Partition Plat 2004-1) and Parcel 1 of the proposed preliminary plat (Parcel 2 of Partition Plat 2004-1).*

*As proposed, this standard is met.*

- (f) MMC 19.504.8.D.3.g requires that design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

*The proposed driveway may serve 3 lots and CFD #1 has reviewed the proposed partition. A condition has been established to require that the driveway, turnaround, and future development on proposed Parcels 1-3 shall comply with CFD requirements.*

*As conditioned, this standard is met.*

- (g) MMC 19.504.8.D.3.h requires that parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

*The proposed driveway is not suitably sized to allow the combined needs of parking and emergency access requirements. "No Parking" signage shall be installed and maintained within the access pole area.*

*As conditioned, this standard is met.*

- (3) MMC 19.504.8.E contains standards for protection of adjoining properties for flag lot development.

Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

- (a) MMC 19.504.8.E.1 requires that planting and screening must be provided at the time of development.

*Planting and screening required pursuant to this subsection will be required prior to final inspection and occupancy of structures on proposed Parcel 1.*

*As conditioned, this standard is met.*

- (b) MMC 19.504.8.E.2 requires that impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described in MMC 19.504.8.E.2.a – c.

*Proposed Parcel 1 (formerly Parcel 2 of Partition Plat 2004-1) is part of the parent lot (Parcel 1 of Partition Plat 2004-1) from which the flag lot is created, and screening on lot lines adjoining this parcel is not required.*

*This standard is not applicable.*

- (c) MMC 19.504.8.F requires that all trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.

*The applicant's materials indicate that at least 13 trees of 6 in in diameter are located on site, as well as 12 Arborvitae with no diameter indicated. The trees are primarily located along the western property line and within the pole portion of proposed Parcel 1. Two trees on proposed Parcel 1 will be removed for construction of a dwelling on the site. The applicant's submittal materials state that the 11 trees located within the pole portion of Parcel 1 will remain as long as it is feasible to do so and they can be protected while the driveway is being constructed, and that as many of the 12 Arborvitae along the western property line will be preserved as possible. The applicant's submittal materials state that any tree mitigation that is required will be done so in accordance with the provisions of this code section.*

*As conditioned, this standard is met.*

- (d) MMC 19.504.8.G requires that a landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction.

*The applicant's submittal materials state that a landscaping plan will be submitted with the building permit application.*

*As conditioned, this standard is met.*

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

## 7. MMC Chapter 19.700 Public Facility Improvements

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

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

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

*This chapter is applicable to the proposed development.*

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

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

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

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

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

*As conditioned, this standard is met.*

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

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

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

*The applicant shall remove all signs, structures, or vegetation in excess of 3 feet in height from "vision clearance areas" at intersections of streets, driveways, and alleys.*

*As conditioned, this standard is met.*

- (a) MMC Subsection 19.708.1.E.3 requires that streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

*The applicant shall construct a two-third street improvement along the north side of the site in the Mullan St right-of-way to provide access for future development. The street improvements include, from the fronting property line: a 5 ft setback sidewalk; 5-ft planter strip; curb and gutter; and a 22 ft paved two-third street.*

*As conditioned, this standard is met.*

- (i) MMC Section 19.708.1.E.3.a requires that temporary turnarounds shall be constructed for street stubs in excess of 150 ft in length.

*A condition has been established to require the applicant to construct a turnaround on Parcel 1 if required to comply with Clackamas Fire District #1 Standards prior to final inspection for any development on this lot.*

*A condition has been established to require the applicant to construct a temporary turnaround at the east end of the SE Mullan St improvements in accordance with Clackamas Fire District #1 Standards prior to final inspection for any development on Parcels 2 and 3.*

*As conditioned, this standard is met.*

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

*The applicant shall construct half street improvements for property abutting King Rd. The street improvements include, from the fronting property line: construction of a curb-tight driveway approach between 9 and 20 ft wide; and a 16 ft wide paved half street. In this case, the street improvements existing along the north side of King Rd along the site's frontage; the applicant is only responsible for construction of a curb-tight driveway approach in accordance with City of Milwaukie Public Works Standard Drawing #502C.*

*As conditioned, these standards are met.*

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

*The construction of sidewalks along the proposed development property abutting Mullan St is included in the street frontage requirements.*

*As conditioned, this standard is met.*

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

*The portion of Mullan St fronting the proposed development is not classified as a bike route in the Milwaukie Transportation System Plan (TSP). The portion of King Rd fronting the proposed development is classified as a bike route in the Milwaukie TSP, however, bike facilities are already in place. As a result, bicycle facility improvements are not required for the proposed development.*

*These standards are not applicable.*

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

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

*These standards are not applicable.*

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

*The portion of Mullan St fronting the proposed development is not classified as a transit route in the Milwaukie TSP. The portion of King Rd fronting the proposed development is classified as a transit route in the Milwaukie TSP, however, transit facilities are already in place. As a result, transit facility improvements are not required for the proposed development.*

*These standards are not applicable.*

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

## 8. MMC Chapter 19.911 Variances

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

*The applicant proposes to reduce the lot width of Parcels 2 and 3 from the minimum R-7 Zone requirement of 60 ft to 50 ft. This request would reduce the lot width by 16.6%, which exceeds the maximum 10% reduction to lot width standards permitted through Type II Variance review.*

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

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

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

(1) Discretionary relief criteria

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

*The applicant has provided an alternatives analysis evaluating the impacts and benefits of the proposed 50 ft lot width as compared to the 60 ft lot width required by code. The minimum density for the existing parcel is 3 dwelling units. There are 2 potential approaches to dividing the site into 3 lots: create 2 lots with frontage on Mullan St; or create a flag lot and parent lot with frontage on Mullan St. In the former situation, a variance to the minimum lot widths is required because the existing lot is 100 ft wide, and each lot would be 50 ft wide. In the latter situation, in order to create a flag lot that meets the dimensional standards of the R-7 Zone, a variance to the parent lot area would be required. In addition, minimum front and rear setbacks for development on a flag lot are 30 ft, which introduces constraints to development on the flag lot.*

*In both cases, 2 new lots will front Mullan St. The impacts of the variance proposal are equal to that of the baseline code requirement. The benefits of the variance proposal include the creation of 2 conventional lots with 7,500 sq ft of developable area as opposed to 1 substandard parent lot and 1 flag lot with additional front and rear yard setback requirements.*

*This criterion is met.*

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

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

*The proposed variance avoids impacts to surrounding properties. Development on the newly created lots will be subject to the same setback and lot coverage requirements as lots that meet the minimum width requirements and development on the lots will have no greater impact on surrounding properties than development of a lot that fully meets the standards of the R-7 Zone. With a lot width of 50 ft, the resulting buildable area of Parcels 2 and 3 will be approximately 3,850 sq ft, which is large enough to construct a reasonably-sized house dwelling similar to those typically found in the R-7 Zone.*

*This criterion is met.*

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

*This criterion is not applicable.*

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

*This criterion is not applicable.*

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

*No impacts have been identified. No mitigation is required.*

The Planning Commission finds that these criteria are met.

9. MMC Chapter 19.1200 Solar Access Protection

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

- (1) MMC 19.203.2 establishes applicability for this chapter.

*The applicant proposes to create new lots in the R-7 Zone, a single-family zone. This chapter is applicable.*

- (2) MMC 19.1203.3 establishes design standards for newly-created lots.

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

- (a) Basic Requirement. A lot complies with Subsection 19.1203.3 if it:

- (i) Has a north-south dimension of 90 ft or more; and

*Parcel 1 (the proposed flag lot) has a north-south dimension of 101.7 ft, and lots 2 and 3 have north-south dimensions of 150 ft. 100% of the proposed lots comply with this subsection.*

- (ii) Has a front lot line that is oriented within 30 degrees of a true east-west axis

*All 3 lots have front lot lines within 30 degrees of a true east-west access.*

The Planning Commission finds that these standards are met.

10. MMC Section 17.12 Application Procedure and Approval Criteria

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

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

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

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

*The applicant has requested a variance to the minimum lot width of the R-7 Zone for Parcels 2 and 3. See Finding 8 for an analysis of this request.*

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

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

- (4) The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all

other respects unless the City determines it is in the public interest to modify the street or road pattern.

*The applicant will construct a half street within the existing Mullan St right-of-way, which will tie in to proposed improvements to the west. No modifications are proposed.*

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

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

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

11. MMC Section 17.20 Preliminary Plat

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

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

The Planning Commission finds that these requirements are met.

12. MMC Section 17.28 Design Standards

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

*As demonstrated by these findings, the partition conforms with all applicable City criteria and standards.*

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

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

- c. MMC 17.28.040 contains standards for lot design.

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

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

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

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

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

*There are no compound lot lines are proposed for side or rear lot lines of Parcels 2 and 3; Parcel 1 contains a change in direction to allow for transition between the accessway and the flag portion of the parcel.*

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

*The applicant has requested a variance to the minimum lot width standards of the R-7 Zone, which is being processed pursuant to MMC 19.911.*

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

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

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

*All parcels in the proposed partition have only 1 street frontage. As established in Finding 5.b, these frontages meet the minimum required street frontage in the R-7 zone.*

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

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

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

*The site is within the Clackamas County Partition Plat 2004-1, filed in 2004. The proposed land division would create 3 lots and is not a subdivision.*

The Planning Commission finds that these standards are met.

### 13. MMC Section 17.32 Improvements

- a. MMC 17.32 described required public improvements.

*The applicant proposes that all public improvements will meet the standards of this chapter.*

The Planning Commission finds that these standards are met.

### 14. The application was referred to the following departments and agencies on December 4:

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

- TriMet

The comments received are summarized as follows: No comments received.

**Recommended Conditions of Approval**  
**File #MLP-2015-002, VR-2015-006, Marquardt**

1. The applicant shall submit a final plat application within 6 months of the preliminary plat approval in accordance with MMC Subsection 17.24.040. The applicant shall obtain approval of the final plat prior to the expiration of this preliminary plat approval.
2. The applicant's final plat application shall include the items listed on the City of Milwaukie Final Plat Checklist. The following specific items and changes are required as part of the application:
  - a. A written narrative describing all changes made to the final plat that are not related to these conditions of approval.
  - b. A final plat that substantially conforms to the plans received by the Planning Department on December 3, 2015, and approved by this action, except as modified by these conditions of approval.
  - c. The plat shall include spaces for signatures by the Milwaukie Planning Director and Milwaukie Engineering Director, and a note indicating that this partition is subject to the requirements of City of Milwaukie Land Use Applications MLP-2015-002 and VR-2015-006.
  - d. The plat shall include a fire turnaround easement on Parcel 1 in accordance with Clackamas Fire District #1 Standard.
  - e. The plat shall include appropriate easements or restrictions on Parcel 1 to maintain a 12-ft wide paved driveway with a 20-ft wide unobstructed driving surface and minimum 13 ft 6 in vertical clearance for fire apparatus access.
  - f. If construction of Mullan St is impracticable due to inaccessibility resulting from incomplete construction of Mullan St directly west of the proposed development, the plat shall include:
    - (1) Appropriate access easements across Parcel 1 for the benefit of Parcels 2 and 3, including responsibilities for maintenance of the easement areas.
    - (2) Appropriate utility easements across Parcel 1 for the benefit of Parcels 2 and 3.
    - (3) Fire access and turnaround in accordance with Clackamas Fire District #1 standards.
3. Prior to approval of the final plat, the following shall be resolved.
  - a. Submit a storm water management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 – Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the storm management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.
  - b. Submit full-engineered plans for construction of all required public improvements, reviewed and approved by the City of Milwaukie Engineering Department.
  - c. Obtain a right-of-way permit for construction of all required public improvements listed in these conditions of approval.

- d. Pay an inspection fee equal to 5.5% of the cost of the public improvements.
  - e. Provide a payment and performance bond for 100% of the cost of the required public improvements.
  - f. Provide an erosion control plan and obtain an erosion control permit.
  - g. Install all underground utilities, including stubs for utility service prior to surfacing any streets.
  - h. Construct a 5 ft setback sidewalk, 5 ft planter strip, curb and gutter, and a 22 ft paved 2/3 street along the north side of the site in the Mullan St right-of-way to the east property line. The 2/3 street improvements include extension of an existing 6 in diameter ductile iron water main, and all storm water system improvements necessary to accommodate the street improvements.
  - i. If construction of the improvements described in Condition H is impracticable due to inaccessibility resulting from incomplete construction of Mullan St directly west of the proposed development, the applicant shall pay a fee in lieu of construction (FILOC) for these improvements.
  - j. Construct a driveway approach on SE King Rd to provide access to Parcel 1 which meets all guidelines of the Americans with Disabilities Act (ADA) prior to final inspection. The driveway approach apron shall be between 9 and 20 feet in width, to be determined by City of Milwaukie Public Works Standard Drawing #502C.
  - k. Obtain and submit written verification shall from Clackamas Fire District #1 that adequate emergency services access is provided to each parcel.
  - l. Provide a final approved set of Mylar “As Constructed” drawings to the City of Milwaukie prior to final inspection.
  - m. Remove all signs, structures, or vegetation in excess of 3 ft in height located in “vision clearance areas” at intersections of streets, driveways, and alleys fronting the proposed development.
4. Prior to issuance of any permits for structures on Parcel 1, the following shall be resolved:
    - a. Submit a landscaping plan to the Planning Director. The plan shall include the information required by MMC 19.504.8.G, be drawn to scale, and shall accompany development permit applications. The plan shall also include tree mitigation as needed.
  5. Prior to final inspection for any structure on Parcel 1, the following shall be resolved:
    - a. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.
    - b. Construct an approved turnaround on Parcel 1 construct a turnaround on Parcel 1 if required to comply with Clackamas Fire District #1 Standards.
    - c. The driveway on Parcel 1 shall be constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.
    - d. The driveway on Parcel 1 shall have a minimum paved width of 12 ft and shall be centered within the accessway.
    - e. Install and maintain “no parking” signage within the access pole area of Parcel 1.

- f. Provide planting and screening that meets the standards of MMC 19.504.8.E.1.
6. Prior to final inspection for any structures on Parcels 2 and 3, the following shall be resolved:
- a. Construct a temporary turnaround at the east end of the Mullan St improvements in accordance with Clackamas Fire District #1 Standards.
  - b. Construct a private storm management system (e.g. drywell) on the proposed development property for runoff created by the proposed development. Connect all rain drains to the private storm management system.

### **Additional Requirements**

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

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



PLANNING DEPARTMENT  
6101 SE Johnson Creek Blvd  
Milwaukie OR 97206

PHONE: 503-786-7630  
FAX: 503-774-8236  
E-MAIL: [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov)

# Application for Land Use Action

Master File #: MCP-2015-002

Review type\*:  I  II  III  IV  V

**CHOOSE APPLICATION TYPE(S):**

Land Division: Partition

Variance: Variance

...

...

...

**Use separate application forms for:**

- Annexation and/or Boundary Change
- Compensation for Reduction in Property Value (Measure 37)
- Daily Display Sign
- Appeal

**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): Phillip Joseph

Mailing address: 101 SW Main Street, Suite 1100, Portland, OR Zip: 97204

Phone(s): 503-944-6037 E-mail: [pjoseph@balljanik.com](mailto:pjoseph@balljanik.com)

**APPLICANT'S REPRESENTATIVE** (if different than above): John Marquardt

Mailing address: PO Box 1928, Vancouver WA Zip: 98668

Phone(s): 360-901-2299 E-mail: [john@landmarqconsulting.net](mailto:john@landmarqconsulting.net)

**SITE INFORMATION:**

Address: 5445 SE King Road Map & Tax Lot(s): 1 2 E 30DC 2601

Comprehensive Plan Designation: LD Zoning: R-7 Size of property: 0.65 Acres

**PROPOSAL (describe briefly):**

3 Parcel partition with half street improvement (Local Street standard) in SE Mullan Street, Variance for lot width standard

**SIGNATURE:**

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Phillip Joseph, Manager for SE King Road, LLC Date: 11/1/15

**IMPORTANT INFORMATION ON REVERSE SIDE**

**RESET**

\*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

**WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION** (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

**REVIEW TYPES:**

This application will be processed per the assigned review type, as described in the following sections of the Milwaukee Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file	MCP-2015-002	\$ 2000			\$	RECEIVED NOV 13 2015 CITY OF MILWAUKEE PLANNING DEPARTMENT
Concurrent application files	VA-2015-006	\$ <del>2000</del> 1500	25%	Concurrent	\$	
		\$			\$	
		\$			\$	
		\$			\$	
<b>SUBTOTALS</b>		\$			\$	
<b>TOTAL AMOUNT RECEIVED:</b>		\$ 1500	RECEIPT #: 008560			RCD BY: USA AM
Associated application file #s (appeals, modifications, previous approvals, etc.): MCP-2015-002						
Neighborhood District Association(s):						
Notes:						

\*After discount (if any)



PLANNING DEPARTMENT  
6101 SE Johnson Creek Blvd  
Milwaukie OR 97206

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E-MAIL: [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov)

For all Land Use Applications  
(except Annexations and Development Review)

# Submittal Requirements

All land use applications must be accompanied by a signed copy of this form (see reverse for signature block) and the information listed below. The information submitted must be sufficiently detailed and specific to the proposal to allow for adequate review. Failure to submit this information may result in the application being deemed incomplete per the Milwaukie Municipal Code (MMC) and Oregon Revised Statutes.

Contact Milwaukie Planning staff at 503-786-7630 or [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov) for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.  
*Applications without the required application forms and fees will not be accepted.*
2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.  
*Where written authorization is required, applications without written authorization will not be accepted.*
3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.  
*Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.*
4. **Detailed statement** that demonstrates how the proposal meets all applicable application-specific approval criteria (check with staff) and all applicable development standards (listed below):
  - a. **Base zone standards** in Chapter 19.300.
  - b. **Overlay zone standards** in Chapter 19.400.
  - c. **Supplementary development regulations** in Chapter 19.500.
  - d. **Off-street parking and loading standards and requirements** in Chapter 19.600.
  - e. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.
5. **Site plan(s), preliminary plat, or final plat** as appropriate.  
*See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.*
6. **Copy of valid preapplication conference report**, when a conference was required.

**APPLICATION PREPARATION REQUIREMENTS:**

- Five hard copies of all application materials are required at the time of submittal (unless submitted electronically). Staff will determine how many additional hard copies are required, if any, once the application has been reviewed for completeness.
- All hard copy application materials larger than 8½ x 11 in. must be folded and be able to fit into a 10- x 13-in. or 12- x 16-in. mailing envelope.
- All hard copy application materials must be collated, including large format plans or graphics.

**ADDITIONAL INFORMATION:**

- Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process. The City will provide a review copy of your application to the LUC for the subject property. They may contact you or you may wish to contact them. Applicants are strongly encouraged to present their proposal to all applicable NDAs prior to the submittal of a land use application and, where presented, to submit minutes from all such meetings. NDA information: <http://www.milwaukieoregon.gov/communityservices/neighborhoods-program>.
- Submittal of a full or partial electronic copy of all application materials is strongly encouraged.

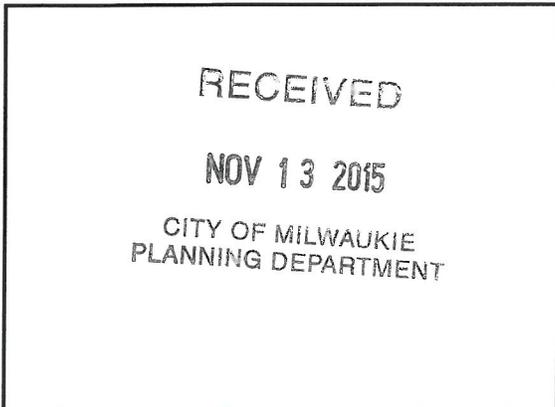
As the authorized applicant I, (print name) PHILLIP JOSEPH, attest that all required application materials have been submitted in accordance with City of Milwaukie requirements. I understand that any omission of required items or lack of sufficient detail may constitute grounds for a determination that the application is incomplete per MMC Subsection 19.1003.3 and Oregon Revised Statutes 227.178. I understand that review of the application may be delayed if it is deemed incomplete.

Furthermore, I understand that, if the application triggers the City's sign-posting requirements, I will be required to post signs on the site for a specified period of time. I also understand that I will be required to provide the City with an affidavit of posting prior to issuance of any decision on this application.

Applicant Signature: Phillip Joseph, manager for SE King Road, LLC.  
Date: 11/11/15

**Official Use Only**

Date Received (date stamp below):



# Business Registry Business Name Search

[New Search](#)

## Business Entity Data

10-31-2015  
14:55

Registry Nbr	<a href="#">Entity Type</a>	<a href="#">Entity Status</a>	<a href="#">Jurisdiction</a>	Registry Date	Next Renewal Date	Renewal Due?
1101060-93	DLLC	ACT	OREGON	04-01-2015	04-01-2016	
<b>Entity Name</b>	SE KING ROAD, LLC					
<b>Foreign Name</b>						

[New Search](#)

## Associated Names

Please click [here](#) for general information about registered agents and service of process.

Type	AGT REGISTERED AGENT	Start Date	04-01-2015	Resign Date	
<b>Of Record</b>	<a href="#">021953-94</a> BALL JANIK SERVICE COMPANY				
<b>Addr 1</b>	101 SW MAIN ST STE 1100				
<b>Addr 2</b>	ATTN PHILLIP E JOSEPH				
<b>CSZ</b>	PORTLAND	OR	97204	<b>Country</b>	UNITED STATES OF AMERICA

Type	MAL MAILING ADDRESS				
<b>Addr 1</b>	101 SW MAIN ST STE 1100				
<b>Addr 2</b>	ATTN PHILLIP E JOSEPH				
<b>CSZ</b>	PORTLAND	OR	97204	<b>Country</b>	UNITED STATES OF AMERICA

[New Search](#)

## Name History

Business Entity Name	<a href="#">Name Type</a>	<a href="#">Name Status</a>	Start Date	End Date
SE KING ROAD, LLC	EN	CUR	04-01-2015	

Please [read](#) before ordering [Copies](#).

[New Search](#)

## Summary History

Image Available	Action	Transaction Date	Effective Date	<a href="#">Status</a>	Name/Agent Change	Dissolved By
	ARTICLES OF ORGANIZATION	04-01-2015		FI	Agent	

Land Use Application

Type III Land Use Review

# KING ROAD PARTITION

AT

Tax lot 2601 of Tax Map 1S2E 30DC

Parcel 2

Submitted to:  
**CITY OF MILWAUKIE  
PLANNING**

October 15<sup>th</sup>, 2015

Narrative Prepared By:



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- 17.28 DESIGN STANDARDS
- 19.300 BASE ZONES
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# PROJECT INFORMATION

**APPLICANT:** **JUSTIN DAWSON**  
Bridge City Construction  
17109 NW Blacktail Drive  
Portland, OR 97229  
PHONE: (503) 756-9752  
EMAIL: dawsonbuilds@gmail.com

**PROJECT PLANNER:** **JOHN MARQUARDT**  
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**SITE ADDRESSES:** No site Address Listed

**TAX MAP:** 1S 2E 30DC

**TAX LOTS** 2601

**TOTAL LOT AREA:** 0.65 ACRES

**ZONING DISTRICT:** R7

**LAND USE:** LD – Low Density

**NATURAL RESOURCES:** None

**HISTORIC RESOURCES:** None

**OVERLAYS:** None

## ***EXISTING SITE DESCRIPTION***

The project site is an undeveloped flag lot in the city of Milwaukie comprised of 28,126 sq. ft (0.65 ac.) and is identified as Parcel 2 on Partition Plat 2004-1. The lot is orientated such that the flag pole portion of the lot extends south and has frontage on SE King Road, an arterial street in the city of Milwaukie. There is undeveloped right-of-way for the future development of SE Mullan Street to the north of the existing lot.

The site slopes down from the south to the north. Existing vegetation is presentation along the western property line as well as within the flag pole portion of the lot. There are no structures currently present on the lot.

Frontage improvements currently exist along the developed street frontage of SE King Road in the form of curb and sidewalk. Existing utilities in the right-of-way that are readily available for hook-up are sanitary sewer, a water main and a natural gas main.

## ***PROPOSED DEVELOPMENT ACTION***

The proposed development is for a three parcel partition. The new lots will be configured such that Lot 1 will be a flag lot which will utilize the flag pole portion of the existing parent lot and Lots 2 and 3 will be traditional rectangular shaped lots which will take their frontage off of the right-of-way of SE Mullan street. Frontage improvements for SE Mullan street will include half street improvements that are consistent with those required for a local street and will be dependent on prior development within the public right-of-way from the neighboring parcel to the west. If the development for the neighboring parcel is unavailable, the applicant will create an access easement over lot 1 to provide rear access to Lots 2 and 3 until such time as the frontage improvements can be created. In this scenario, the applicant would request to pay a fee-in-lieu to compensate for not constructing the required frontage improvements.

The site will be cleared of all vegetation that would prohibit construction of the new homes after the lots have been platted. It may be necessary to clear the vegetation along the eastern property line to ensure the driveway for Lot 1 can safely be traversed. The existing vegetation along the western property line may be able to remain as part of the side-yard setback. On-site grading will be done to maintain the current flow pattern of the site drainage.

For this application, the applicant is proposing to connect to existing utilities available in King Road to serve Lot 1 and extend utilities from the proposed development adjacent to the project (along the western project boundary) to serve Lots 2 and 3. IF these utilities are not available at the time of construction, the applicant will extend service lines for all three lots, from the existing utilities in King road, through a utility easement.

# CHAPTER 17.12 APPLICATION PROCEDURE & APPROVAL CRITERIA

## 17.12.010 PURPOSE

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat.

## 17.12.020 APPLICATION PROCEDURE

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.

**Response** *The proposed development is for a land division and is expected to be a Type II procedure.*

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Director may modify the procedures identified in Table 17.12.020 as follows:

1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
  - a. The proposal is consistent with applicable standards and criteria;
  - b. The proposal is consistent with the basis and findings of the original approval; and
  - c. The proposal does not increase the number of lots.
2. Type III review may be required in the following situations:
  - a. When the Planning Commission approved the original land use action; and
  - b. The proposed change is inconsistent with the original approval.

<b>Table 17.12.020 Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
<b>1. Lot Consolidation Other Than Replat</b>			
a. Legal lots created by deed.	X		
<b>2. Property Line Adjustment</b>			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
<b>3. Partition Replat</b>			
a. Any modification to a plat that was decided by the Planning Commission.			X
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
<b>4. Subdivision Replat</b>			
			X

**Response** *The proposed development is for a land division, not a property boundary change. The applicant is proposing to create three new lots from Parcel 2 on Partition Plat No. 2004-1. The original boundary of the parcel will not change.*

- C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

**Response** *The proposed development is for a three parcel partition within the boundary of an existing lot. A total of three lots will be created.*

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III review.
2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

**Response** *The proposed development is for a land division that will create three lots (a partition). The purpose of the partition is to create immediate buildable lots and not for subdividing in the future. The parent lot is less than two acres.*

E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review.

**Response** *The proposed development is for a partition.*

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review

**Response** *The proposed development will be submitted for a Type I review when the plat is ready to record.*

**17.12.030 APPROVAL CRITERIA FOR LOT CONSOLIDATION, PROPERTY LINE ADJUSTMENT, AND REPLAT**

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with this title and Title 19 of this code.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located.

**Response** *The proposed development is for a three parcel partition. There are no lot consolidations, property line adjustments or re-plats included in the development plan.*

#### **17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT**

##### **A. Approval Criteria**

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

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.
5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

**Response** *The proposed development will be unable to comply with all applicable ordinances, regulations and design standards. The proposed development is a reasonable layout for the existing flag lot but there is insufficient area to maximize the full development potential of the lot. The applicant will be applying for a variance to the lot width standard to coincide with the application for the preliminary plat. The proposed plat name will be unique, no new streets are being created and a narrative has been prepared.*

##### **B. Conditions of Approval**

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

**Response** *The proposed development will comply with all conditions of approval issued by the review authority. There are no adjoining properties where access control strips would be needed.*

## 17.12.050 APPROVAL CRITERIA FOR FINAL PLAT

Following the Type I procedure, the Planning Director and the Engineering Director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.
- B. The preliminary plat has not lapsed.
- C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems.
- E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.
- F. The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.
- G. Submission of signed deeds when access control strips are shown on the plat.
- H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Survey or giving 2 or more objects for identifying its location.

**Response** *The application for the final plat will be applied for after the conditions of approval have been met, all required site improvements have been made and will include all other applicable documents required to ensure the plat can be successfully recorded.*

## CHAPTER 17.16 APPLICATION REQUIREMENTS & PROCEDURES

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### 17.16.010 APPLICATION REQUIRED

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter.

**Response** *The proposed development is for a partition. The application will meet or exceed the requirements of this section.*

### 17.16.020 DETERMINATION OF COMPLETENESS

#### A. Consistency with Submission Requirements

The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The Planning Director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

#### B. Time Allowed to Complete Submission

If the Planning Director finds that the application submission is not complete, the applicant has 15 calendar days from the date of the Director's notice to provide the missing information. If the missing information is not provided within 15 days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

#### C. Reactivation of rejected applications may only be made by new submission of a complete application and fee.

**Response** *If deemed, the application will be re-submitted within the allotted time frame.*

### 17.12.030 WAIVER OF SUBMISSION REQUIREMENTS

#### A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and
3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

**Response** *Any requests to waive submission requirements will conform with the provisions of this code section.*

#### B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form, and plan checklist;

2. Property owner's authorization for application to be made;
3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
4. Required plans, maps, and drawings.

**Response** *The proposed development application will include all of the required submission items.*

C. Application fees may only be waived by action of the City Council.

**Response** *The proposed development application will include the required application fee.*

#### **17.16.040 LOT CONSOLIDATION AND PROPERTY LINE ADJUSTMENT**

The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application check list; and
- E. A plan drawn to scale showing the following details:
  1. Scale, north arrow, and date of map;
  2. Tax map and lot number identifying each property involved in the application;
  3. Adjacent rights-of-way, with width shown;
  4. Location, width, and purpose of any recorded easements and/or plat restrictions;
  5. Proposed property lines and dimensions of the affected lots;
  6. The area of each lot;
  7. Location of existing structures to remain and proposed structures, if any, with setbacks shown to all existing and proposed lot lines;
  8. Deeds of the properties involved; and
  9. Application fee as adopted by the City Council.

**Response** *The proposed development is for a partition. This code section is not applicable.*

#### **17.16.050 REPLAT**

The following shall accompany applications for a replat:

- A. Completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. A narrative report that describes how the proposal meets approval criteria;
- D. Additional information as may be required by the application checklist; and
- E. Additional information including full submission requirements for preliminary plat as may be required by the Planning Director upon review of the proposal.

**Response** *The proposed development is for a partition. This code section is not applicable.*

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

The following shall accompany applications for partition:

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

**Response** *The proposed development is for a partition. The development application will include all of the required information and material(s).*

#### **17.16.070 FINAL PLAT FOR PARTITION AND SUBDIVISION**

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the City Council;
- C. Completed and signed “submission requirements” and “final plat checklist” forms;
- D. All information specified on the “submission requirements” and “final plat checklist”;
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria.

**Response** *The proposed development is for a partition. The development application will include all of the required information and material(s).*

**17.16.080 COTTAGE CLUSTER DEVELOPMENT**

An application for subdivision preliminary plat or replat to create a cottage cluster housing development shall include narrative and plans with sufficient detail to demonstrate compliance with the standards of Subsection 19.505.4.

**Response** *The proposed development is for a partition. This code section is not applicable.*

## CHAPTER 17.20 PRELIMINARY PLAT

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### 17.20.010 SUBMISSION OF PLANS

Applicants for partition, subdivision, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal.

**Response** *A preliminary plat has been prepared to depict the lot layout for the proposed project, see Sheet 2 in the Preliminary Design plans*

### 17.20.020 SCALE

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title.

**Response** *The Preliminary Design plans are drawn to a scale of 1" = 20'.*

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

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

**Response** *A registered Oregon land surveyor prepared a boundary survey to capture the project limits.*

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

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;
2. Date, north point, and scale of drawing;
3. Appropriate identification clearly stating the map is a preliminary plat;
4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
5. Names and addresses of the owner, subdivider, and engineer or surveyor;
6. Acreage;
7. Structures and yard setbacks;
8. The location, width, and purpose of easements;

9. The location, approximate dimensions, and area of all lots;
10. Lot and block numbers; and
11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

**Response** *All of the required information will be on the Preliminary Design plans. The development application will include a variance to the lot width standard.*

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

**Response** *A Vicinity Map has been prepared and is part of this application, see Appendix C.*

#### **17.20.040 BUILDING LINES PROHIBITED**

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat.

**Response** *There will be no platted building plans with this application.*

#### **17.20.050 EXISTING CONDITIONS**

The following shall be shown on the preliminary plat:

- A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, City boundary lines, and monuments.
- B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 feet for slopes up to 10% and 5 feet for slopes over 10%.
- C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.
- D. Zoning and existing uses within the tract and 200 feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.

- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.
- F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.
- G. Floodway and floodplain boundary.
- H. Areas containing slopes of 25% or greater.

**Response** *All required elements will be on the Existing Conditions plan as they are applicable to the project.*

### **17.20.060 PROPOSED CONDITIONS**

- A. 12 copies of a preliminary plat shall be submitted to the Planning Director. The plat shall include the following information:
  - 1. Date, north point, scale, address, assessor reference number, and legal description;
  - 2. Name and address of the record owner or owners and of the person who prepared the site plan;
  - 3. Approximate acreage and square feet under a single ownership, or if more than 1 ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
  - 4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
  - 5. Location of existing structures, identifying those to remain in place and those to be removed;
  - 6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
  - 7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures;
  - 8. Elevation and location of flood hazard boundaries;

9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

**Response** *All proposed conditions that are applicable to the project will be included in the material that is submitted with the development application. The application includes a variance request to the minimum lot width standard for Lots 2 and 3*

- B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

**Response** *The proposed development is for a minor partition. The Preliminary Design plans meet the criteria of this code section. The project is situated such that it will have no significant impact on the future development of any adjacent properties*

- C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

**Response** *A narrative has been prepared to accompany the design application.*

- D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

**Response** *Preliminary design drawings have been prepared to accompany the design application.*

- E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

**Response** *A drainage summary report has been prepared and is included in Appendix D of the application materials.*

- F. Proposed deed restrictions, if any, in outline form.

**Response** *The applicant is unaware of any deed restrictions at this time.*

- G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval.

**Response** *The development application will include Preliminary Design plans and a detailed narrative to demonstrate how the project will comply with all applicable title, State law and other applicable city ordinances.*

## CHAPTER 17.28 DESIGN STANDARDS

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Partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

### 17.28.020 PUBLIC FACILITY IMPROVEMENTS

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

**Response** *The proposed development is for a partition. Two additional lots will be created for a total of three lots.*

### 17.28.030 EASEMENTS

#### A. Utility Lines

Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards.

**Response** *All easements that are created will be in accordance with the design standards for Public Works.*

#### B. Watercourses

If a subdivision is traversed by a watercourse such as a drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of construction and maintenance. Streets, parkways, bicycle ways, or pedestrian ways parallel to major watercourses may be required.

**Response** *There are no water courses within the proposed development area.*

### 17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

#### A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19.

**Response** *The sizes, shapes and orientation of the proposed lots are appropriate for the use within the project boundary and will comply with all applicable lot standards.*

B. Rectilinear Lots Required

Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

**Response** *The three proposed are rectilinear. All lots are configured such that their side lot lines are relatively perpendicular to the lot frontage.*

C. Limits on Compound Lot Line Segments

Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

**Response** *The three lots are rectilinear and avoid compound lot line segments.*

D. Adjustments to Lot Shape Standard

Lot shape standards may be adjusted subject to Section 19.911 Variances.

**Response** *A variance is being requested in conjunction with this development application.*

E. Limits on Double and Reversed Frontage Lots

Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

**Response** *The existing parent lot has double frontage. The new lots being created will not have double frontage or reverse frontage.*

F. Measurement of Required Frontage

Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

**Response** *The lot frontages for each lot are measured along the public right-of-way from which it will take its public access. Lot 1 is a flag lot that will utilize the flag pole from the parent lot as its lot frontage along SE King Road. Lots 2 and 3 will take their access from SE Mullan Street.*

**17.28.050 FLAG LOT DEVELOPMENT AND FUTURE ACCESS**

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval.

**Response** *The proposed development is for a 3 lot partition where the parent lot is an existing flag lot. Lot 1 will utilize the existing flag pole portion of the existing lot and lots 2 and 3 will be traditional, rectangular-shaped lots which will have frontage along the public right-of-way for SE Mullan Street.*

#### **17.28.060 FLAG LOT DESIGN STANDARDS**

A. Consistency with the Zoning Ordinance

Flag lot design shall be consistent with Subsection 19.504.8.

**Response** *The new flag lot will meet the applicable design standards.*

B. More than 2 Flag Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots are prohibited.

**Response** *Only one flag lot is being proposed with this development application in order to take advantage of the existing lot configuration from the parent lot.*

#### **17.28.070 FLAG LOT LIMITATIONS**

Flag lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907.

**Response** *Since the parent lot for the project boundary is a flag lot with the flag pole portion of the lot extending to the public right-of-way of SE King Road, one flag lot will need to be created within the proposed three parcel partition to encapsulate the area of the existing flag pole. Lots 2 and 3 will be traditional rectangular shaped lot.*

#### **17.28.080 PUBLIC OPEN SPACES**

A. Due consideration shall be given to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the Comprehensive Plan or master plan adopted by the City is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the Planning Commission, and where the Comprehensive Plan or adopted master plan of the City does not indicate proposed public use area, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent, and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same.

**Response** *The proposed development is for a 3 parcel partition. It does not include any lands to be dedicated for public use. It is not adjacent to any parks or other designated public recreational areas.*

## CHAPTER 19.300 BASE ZONES\*

### 19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

#### 19.301.1 Purpose

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some nonhousehold living uses but maintain the overall character of a single-family neighborhood.

**Response** *The new lots created in the proposed development will be for single family dwellings.*

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

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

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

**Response** *The proposed development is for single family dwellings, which is a permitted use in the R7 base zone.*

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
<b>Residential Uses</b>				
Single-family detached dwelling	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes <b>Subsection 19.910.2</b> Duplexes
Residential home	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	N	III	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
<b>Accessory and Other Uses</b>				
Accessory use	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	<b>Subsection 19.301.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	<b>Section 19.507</b> Home Occupation Standards

- P = Permitted.  
N = Not permitted.  
CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.  
CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.  
II = Type II review required.  
III = Type III review required.

### **19.301.3 Use Limitations and Restrictions**

Agricultural or horticultural uses are permitted, provided that the following conditions are met.

- A. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
- B. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- C. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

**Response** *The applicant is not including any agricultural or horticultural uses with the proposed development.*

### **19.301.4 Development Standards**

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

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

Table 19.301.4 Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
<b>A. Lot Standards</b>				
1. Minimum lot size (sq ft)				<b>Subsection 19.501.1</b> Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100	80		
4. Minimum street frontage requirements (ft)				
a. Standard lot				35
b. Flag lot				25
c. Double flag lot				35
<b>B. Development Standards</b>				
1. Minimum yard requirements for primary structures (ft)				<b>Subsection 19.301.5.A</b> Side Yards
a. Front yard	20	20	20	<b>Subsection 19.501.2</b> Yard Exceptions
b. Side yard	10	5/10	5	<b>Subsection 19.504.8</b> Flag Lot Design and Development Standards
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	

**Response**     *The proposed development is in the R7 base zone. All lots will exceed the minimum lot size requirement for this zone. Because of limitations from the parent lot, Lots 2 and 3 will not meet the minimum Lot width requirement. The applicant is proposing a lot width of 50' and is requesting a variance to the lot width standard for these two lots. All lots created in the proposed development will meet the minimum lot depth requirement. Lot 1 is a flag lot which will utilize the flag pole portion of the parent lot that measures 20 feet (prior to partitioning). Lots 2 and 3 are standard lots that will meet the minimum lot width standard. See Sheet 2 of the preliminary development plans for the Preliminary Plat and proposed Site Plan*

Table 19.301.4 CONTINUED				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
<b>B. Development Standards CONTINUED</b>				
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)	20			
b. Slope of plane (degrees)	45			
4. Maximum lot coverage (percent of total lot area)	30%		35%	Section 19.201 "Lot coverage" definition Subsection 19.301.5.B Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre)				Subsection 19.301.5.D Residential Densities
a. Minimum	3.5	5.0	7.0	Subsection 19.501.4 Density Exceptions
b. Maximum	4.4	6.2	8.7	

**Response** *The primary structures will not exceed the maximum values for the height requirement, side yard height plane limit or lot coverage for the R7 base zone. The proposed lot layout will meet the minimum vegetation requirement and meets the minimum density requirement of 3 lots (0.65 acres \* 5.0 = 3.25 or 3 lots).*

A. Side Yards

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

**Response** All side yard setbacks will be met in the proposed development as shown on the preliminary site plan.

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

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

2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

**Figure 19.301.5.B.2  
Increased Lot Coverage for Single-Family  
Detached Dwellings**

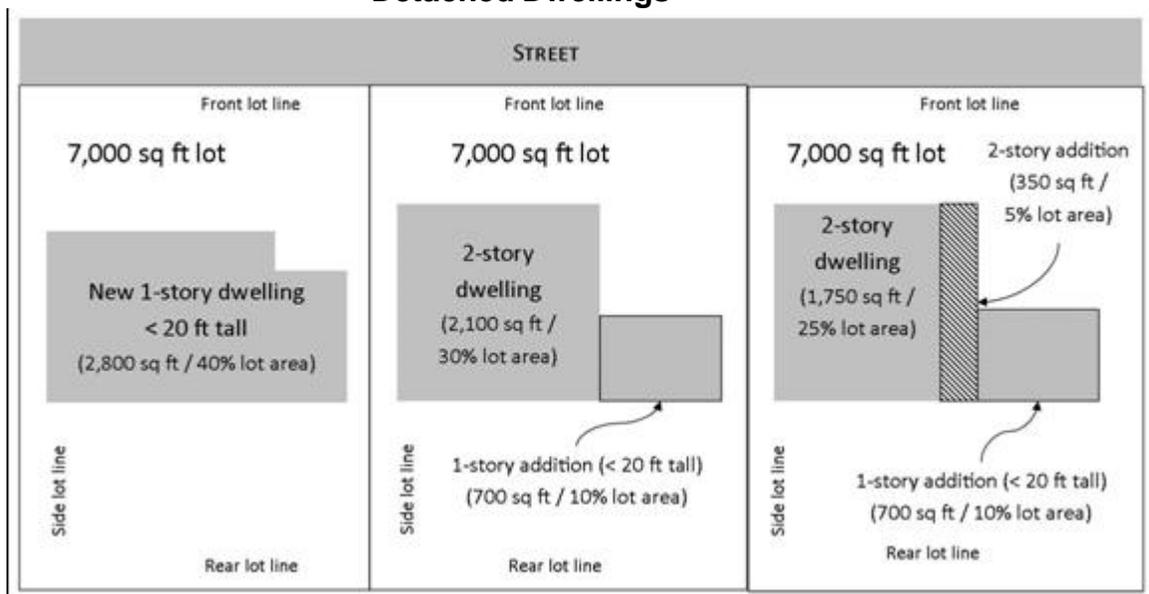


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000-sq-ft lot area.

**Response** The required lot coverages will be adhered to when developing the new single-family dwellings that will be constructed

3. Increased Lot Coverage for Duplexes

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

**Response** *The proposed development does not include duplexes.*

4. Increased Lot Coverage for Detached Accessory Dwelling Units

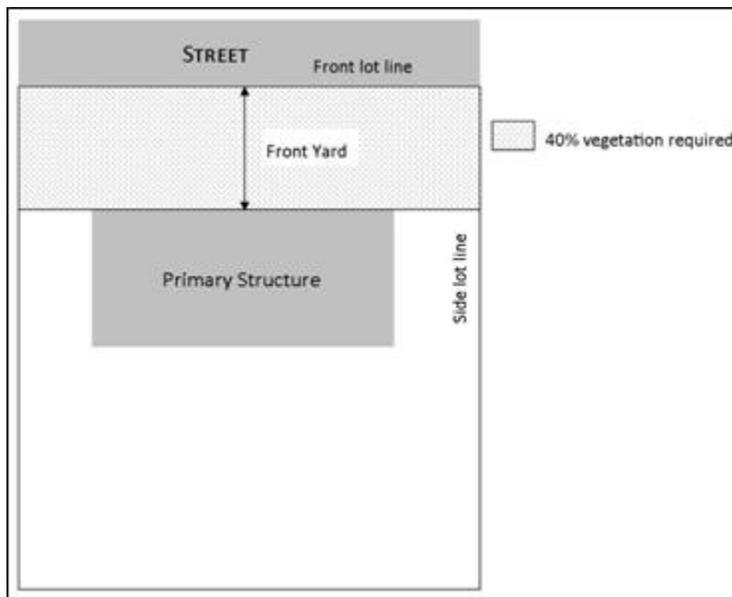
The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

**Response** *The proposed development will not include detached accessory dwelling units.*

C. Front Yard Minimum Vegetation

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

**Figure 19.301.5.C  
Front Yard Minimum Vegetation**



**Response** *The vegetation for the front yards of the new single-family dwellings will meet or exceed this standard. Vegetation may include but not be limited to; grass, planting beds, small shrubs and small trees.*

D. Residential Densities

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

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

**Response** *The parent lot for the proposed development is 0.65 acres. In the R7 zone, the maximum density would be  $(6.2 \times 0.65 \text{ ac.} = 4.03)$  4 units. The minimum density would be  $(5.0 \times 0.65 \text{ ac.} = 3.25)$  3 units. The proposed development is for a three parcel partition.*

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

**Response** *There are no accessory structures included in the proposed development.*

F. Number of Dwelling Structures

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

**Response** *The proposed development will include 1 dwelling unit per lot.*

G. Off-Street Parking and Loading

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

**Response** *Off street parking for each of the new lots will consist of spaces available in a garage and driveway.*

H. Public Facility Improvements

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

**Response** *The proposed development will include all required public facility improvements. Frontage improvements currently exist along the public right-of-way for SE King Road. The applicant is proposing to construct frontage improvements that are consistent with half street improvements for a local street along the frontage of SE Mullan Street provided access is available from development of the adjacent property to the west of the project site. A fee-on-lieu to this requirement may be requested by the applicant if frontage improvements have not been constructed to provide access to existing developed right-of-way.*

I. Additional Standards

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

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

**Response** *The proposed development does not include buildings on the same lot or manufactured dwellings. It will include Flag Lots, Single Family Dwellings and Garages.*

# CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

## 19.501 GENERAL EXCEPTIONS

The exceptions listed in Subsections 19.501.1–4 below are “by right” exceptions. “By right” exceptions require no special review or approval by the City to implement.

### 19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, with the following limitations:

- A. The development must conform to all other applicable standards of Title 19, unless a variance is granted per Section 19.911.
- B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.

**Response** *All three of the new lots created from the partition will meet or exceed the lot size standards for the applicable base zone.*

### 19.501.2 Yard Exceptions

- A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.501.2.A below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.501.2.A plus the yard requirement of the underlying zone.

Table 19.501.2.A Additional Yard Requirements	
Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th Ave. to Stanley Ave.)	25'
Harmony Road	40'
Harrison Street (Milwaukie Expressway to 44th Ave.)	40'
Harrison Street (Milwaukie Expressway to McLoughlin Blvd.)	30'
Harvey Street (32nd Ave. to 42nd Ave.)	25'
Howe Street (42nd Ave. to 43rd Ave.)	30'
Johnson Creek Boulevard	30'
King Road	40'
Table 19.501.2.A CONTINUED Additional Yard Requirements	

- B. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 in into a required side yard or 36 in into a required front or rear yard. Such features extending from an accessory structure shall not be closer than 3 ft from a property line.
- C. A covered porch on a single-family detached dwelling may extend 6 ft into a required front yard if the following standards are met.
  - 1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
  - 2. The surface of the porch does not exceed 18 in high above the average grade.
  - 3. The porch is at least 5 ft from the front lot line.

**Response** *There are no yard exceptions being requested with the proposed development.*

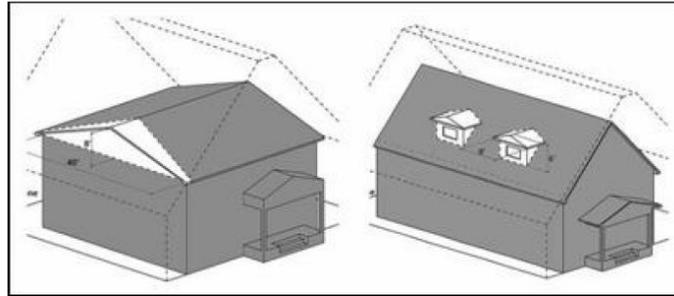
### **19.501.3 Building Height and Side Yard Height Plane Exceptions**

- A. Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height and side yard height plane limitations of the Zoning Ordinance, except as provided in an L-F Zone.
- B. The following encroachments into a side yard height plane are allowed:
  - 1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
  - 2. The gable end of a roof, provided that the encroachment is not more than 8 ft high above the side yard height plane or more than 40 ft wide.
  - 3. Dormers, with the following limitations:
    - a. The highest point of any dormer is at or below the height of the primary roof ridge.
    - b. The encroachment is not more than 6 ft high above the side yard height plane or more than 8 ft wide.
    - c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.

**Response** *There are no exceptions to the building height being requested with the proposed development.*

Figure 19.501.3.B

Allowed Height Plane Encroachments



#### 19.501.4 Density Exceptions

In exchange for the dedication of parkland, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

**Response** *There are no density exceptions being requested with the proposed development.*

#### 19.504 SITE DESIGN STANDARDS

##### 19.504.1 Clear Vision Areas

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

**Response** *The proposed development does not include any street intersections or railroad crossings.*

##### 19.504.2 Maintenance of Minimum Ordinance Requirements

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

**Response** *The proposed development application does not include any attempts to minimize any of the areas identified in this code section.*

##### 19.504.3 Dual Use of Required Open Space

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

**Response** *All open spaces included in the proposed development (consisting primarily of independent yard space) will be shared for a different use.*

##### 19.504.4 Buildings on the Same Lot

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

B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached

accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

**Response** *The proposed development is in the R-7 zone and will be developed as one single-family dwelling per lot.*

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

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

**Response** *The intent of the proposed development is to create three separate tax lots for which single-family dwellings will be constructed. All required setbacks will be observed.*

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

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

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

**Response** *The proposed development does not include any commercial or industrial properties that are adjacent to the parent lot which itself is zoned R-7.*

#### **19.504.7 Minimum Vegetation**

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

**Response** *The vegetation area for the proposed development will primarily consist of yards but may also include; planting beds, small shrubs and small trees to meet this standard.*

#### **19.504.8 Flag Lot Design and Development Standards**

- A. Applicability

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

**Response** *The proposed development includes one flag lot.*

B. Development Standards

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement.

**Response** *The lot area for lot 1 does not include the flag pole portion of the lot. See the preliminary plat for lot areas and configurations.*

2. Yard Setbacks for Flag Lots

- a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft.
- b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

**Response** *The setbacks for the flag lots will be met in the proposed development.*

C. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

**Response** *There are no variances being requested for the flag lots in the proposed development.*

D. Frontage, Accessway, and Driveway Design

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

**Response** *Lot 1 in the proposed development will be a flag lot that utilizes the flag pole portion of the existing parent lot for the development, which is only 20' wide at the time of the application submittal. Due to this existing constraint, the flag pole requirement cannot be met for Lot 1.*

2. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

**Response** *There will not be abutting flag lots in the proposed development.*

3. Driveway Design and Emergency Vehicle Access

- a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

**Response** *The individual driveways for the proposed development will be designed and constructed such that they will meet all applicable design standards.*

- b. Driveways serving single flag lots shall have a minimum paved width of 12 ft.

**Response** *The driveway to serve the flag lot (Lot 1) will be a minimum of 12' wide.*

- c. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

**Response** *The driveway that will serve lot 1 will be located in the center of the flag pole portion of the flag lot.*

- d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

**Response** *Lots 2 and 3 will have direct access to the public right-of-way of SE Mullan Street and Lot 1 will be a flag lot off of SE King road. If required, the site plan for Lot 1 will provide a turn-around area that will be sufficient for an emergency vehicle.*

- e. Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.

**Response** *There is only one flag lot being proposed with the development.*

- f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

**Response** *Lot 1 will be a flag lot that is utilizing the existing flag pole portion of the parent project. The proposed driveway will be located in the flag pole portion of the flag lot.*

- g. Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

**Response** *Each lot in the proposed development is planned to have its own driveway. If a shared driveway has to be utilized as an interim access for the three lots until such time as the improvements for SE Mullan street get constructed, the driveway will be designed and constructed to meet all applicable design standards.*

- h. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

**Response** *There will not be any parking allowed along any proposed driveway.*

#### E. Protection of Adjoining Properties

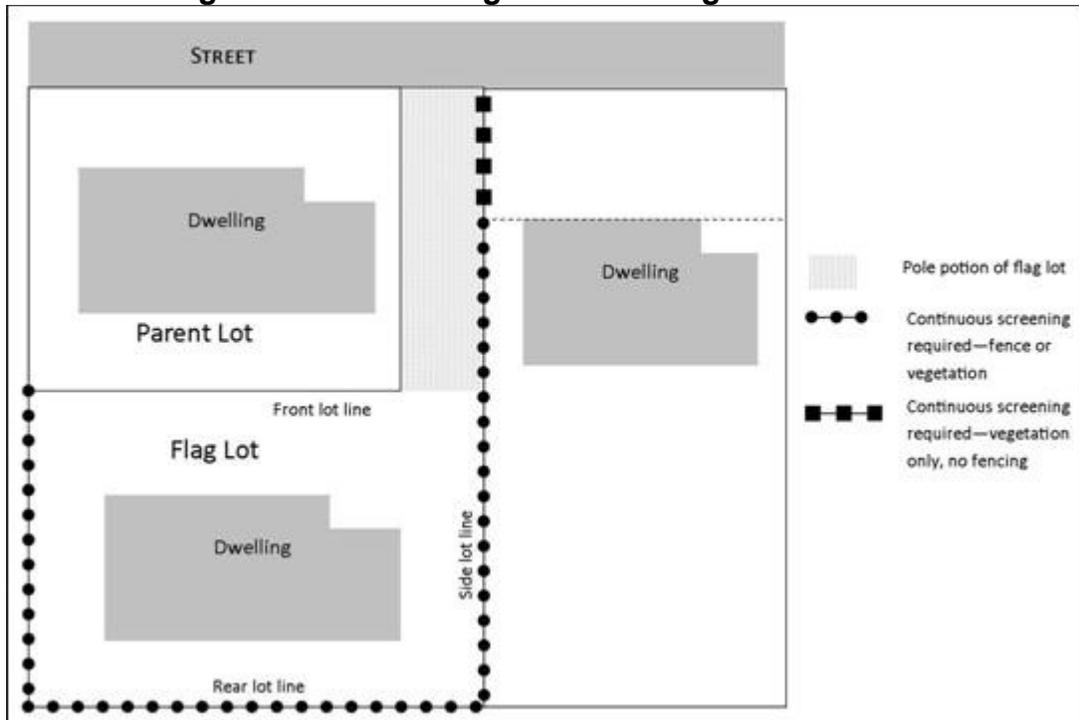
Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described below. See Figure 19.504.8.E.
  - a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
  - b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
  - c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

**Response** *The flag lot included in the proposed development will include appropriate screening along the flag pole portion to provide a buffer to adjacent properties.*

**Figure 19.504.8.E Flag Lot Screening**



**F. Tree Mitigation**

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

**Response** *The existing conditions plan shows the locations of all existing trees. A high percentage of the trees are located in two primary locations. The trees that are located along the flag pole portion of the existing parent (flag) lot will remain as long as it is feasible to do so and they can be protected while the shared driveway is being constructed. The trees along the western property line will be preserved provided they are not within the building footprint, which is extremely limited in the space available in the two proposed flag lots. Any tree mitigation that is required will be done so in accordance with the provisions of this code section.*

#### G. Landscaping Plan Required

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

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

**Response** *The applicant will provide a landscaping plan prior to being granted occupancy.*

## CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

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### 19.701 PURPOSE

The purpose of Chapter 19.700 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this chapter include the following:

#### 19.701.1 For Transportation Facilities

- A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.
- B. Protect the functional classification, capacity, and level of service of transportation facilities.
- C. Ensure that transportation facility improvements are provided in rough proportion to development impacts.
- D. Provide an equitable and consistent method of requiring transportation facility improvements.
- E. Ensure that transportation facility improvements accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

**Response** *The proposed development will have minimal impact on transportation facilities. Lot 1 will maintain the original access from the existing parent lot and Lots 2 and 3 will access newly constructed public frontage that is adjacent to existing frontage improvements.*

#### 19.701.2 For Public Facilities

- A. Ensure that public facility improvements are safe, convenient, and adequate.
- B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.
- C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.
- D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

**Response** *Public facility improvements are being proposed for a half street improvement for SE Mullan Street. These improvements will be designed and constructed in a manner that is consistent with city standards.*

### 19.702 APPLICABILITY

#### 19.702.1 General

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

- A. Partitions.

- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
  - 1. A new dwelling unit.
  - 2. Any increase in gross floor area.
  - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

**Response** *The proposed development is for a three parcel partition.*

### **19.702.2 Single-Family Residential Expansions**

Chapter 19.700 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.
- B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 sq ft, none of Chapter 19.700 applies.
- D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.709.
- E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

**Response** *There are no single family residential expansions included with the proposed development.*

### **19.702.3 Downtown Zones**

- A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

**B. Exemptions**

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, frontage improvements are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in Subsection 19.703.3.B.

**C. Limitation to Exemptions**

No more than one exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 5 years. The 5-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development. Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 1,500 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

**Response** *The proposed development is not in a downtown zone.*

**19.702.4 Exemptions**

Chapter 19.700 does not apply to the following types of development in all zones:

- A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.
- B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.702.2.E above.
- C. Replats that do not increase the number of lots.
- D. Property line adjustments.
- E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:
  1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.
  2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within 2 years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.702.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.700.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

**Response** *The proposed development is for a three parcel partition where new single-family dwellings will be constructed.*

### **19.703 REVIEW PROCESS**

#### **19.703.1 Preapplication Conference**

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

**Response** *The applicant attended a pre-application conference with the review authority to discuss the proposed development. Pre-application notes are included in Appendix A.*

#### **19.703.2 Application Submittal**

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

A. Development Permit Application

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

B. Transportation Facilities Review (TFR) Land Use Application

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

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

**Response** *A development permit application will be submitted for the proposed development. The applicant has not submitted a TIS.*

### 19.703.3 Approval Criteria

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

#### A. Procedures, Requirements, and Standards

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

#### B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

#### C. Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submittal of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.
3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.703.3.C.5 below.
5. Adequate frontage improvements as follows:
  - a. For local streets, a minimum paved width of 16 ft along the site's frontage.
  - b. For nonlocal streets, a minimum paved width of 20 ft along the site's frontage.
  - c. For all streets, a minimum horizontal right-of-way clearance of 20 ft along the site's frontage.
6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:

- a. Level of Service F for the first hour of the morning or evening 2-hour peak period.
- b. Level of Service E for the second hour of the morning or evening 2-hour peak period.

**Response** *The land use application will include all of the required information to meet the provisions of this code section.*

#### **19.703.4 Determinations**

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

##### **A. Impact Evaluation**

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the Engineering Director will also determine whether a transportation impact study (TIS) is required. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 sq ft.

##### **B. Street Design**

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

##### **C. Proportional Improvements**

When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

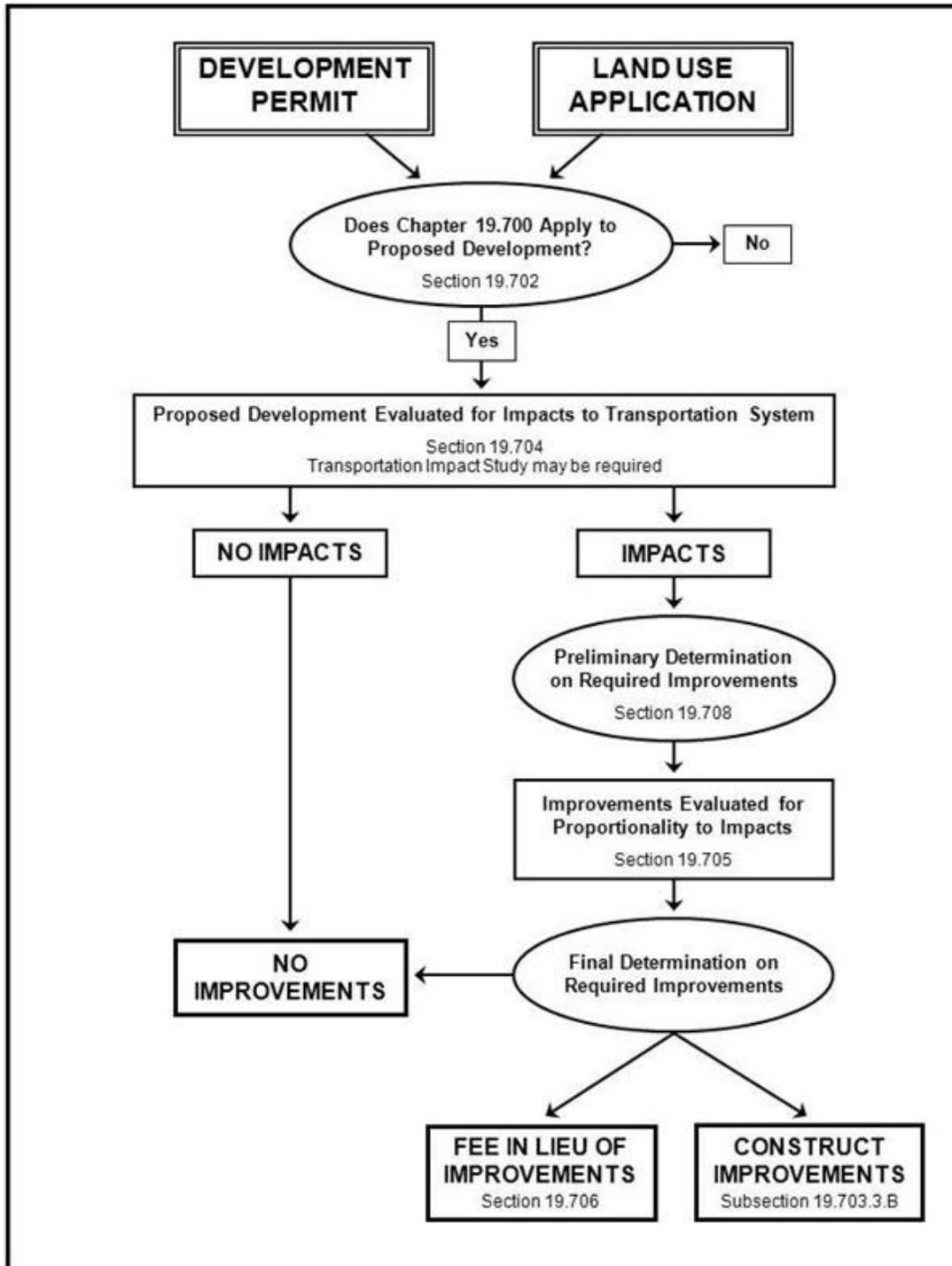
##### **D. Fee in Lieu of Construction (FILOC)**

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC

determinations found in Subsection 19.706.1.

**Response** *The proposed development includes street design. A half-street improvement within the public right-of-way of SE Mullan Street is being proposed for access to Lots 2 and 3. Frontage improvements currently exist along SE King Road where the driveway for Lot 1 will access the public right-of-way. The applicant will request a fee-in-lieu of construction for the SE Mullan Street improvements if the development to the west of the adjoining property is not completed, which would provide access to the adjoining public improvements*

**Figure 19.703.4**  
**Process for Determining Transportation Facility Improvements**



## **19.703.5 Remedies**

### **A. Variances**

Relief from any transportation facility improvement requirement in Section 19.708 may be granted through a variance process, which requires submittal and approval of a Variance land use application. Variance criteria and procedures are located in Section 19.911.

**Response** *The applicant is not requesting any variances for relief from transportation facility improvements.*

### **B. Appeals**

Appeal of a land use decision is subject to the provisions of Chapter 19.1009. Appeal of a rough proportionality determination (Subsection 19.702.2 and Section 19.705) or street design standard determination (Subsection 19.708.2) not associated with a land use decision is subject to the provisions of Section 19.1006 Type III Review.

**Response** *The applicant will follow the applicable procedures if an appeal is filed.*

## **19.704 TRANSPORTATION IMPACT EVALUATION**

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

### **19.704.1 TIS Determination**

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

**Response** *The proposed development will have a minimal impact on the current traffic system. There are no proposed changes to the current land-use designation, zoning designation or development standard. The use for the property will be single-family dwellings and impacts to the existing residential area will be minimal. There have not been any priority pedestrian or bicycle routes identified across the only access to the public right-of-way and there are no intersections being impacted by the proposed development.*

#### **19.704.2 TIS General Provisions**

- A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.
- B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.
- C. The TIS shall be submitted with a transportation facilities review (TFR) land use application pursuant to Subsection 19.703.2.B and associated application materials pursuant to Subsection 19.703.3. The City will not accept a TFR application for processing if it does not include the required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.
- D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.703.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.
- E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.708 and to mitigate transportation impacts identified in the TIS.

**Response** *The applicant has not filed a TIS application with the city for the proposed development.*

#### **19.704.3 TIS Requirements**

##### **A. TIS Scope**

The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a ½-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required.
2. If notice to ODOT or Clackamas County is required pursuant to Section 19.707, the City will coordinate with these agencies to provide a comprehensive TIS scope.

## B. TIS Content

A project-specific TIS checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

### 1. Introduction and Summary

This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

### 2. Existing Conditions

This section should include a study area description, including existing study intersection level of service.

### 3. Impacts

This section should include the proposed site plan, evaluation of the proposed site plan, and a project- related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

### 4. Mitigation

This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.705.

### 5. Appendix

This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

## C. TIS Methodology

The City will include the required TIS methodology with the TIS scope.

## D. Neighborhood Through-Trip Study

Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.

2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.
3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.705 Rough Proportionality and Subsection 19.704.4 Mitigation.

**Response** *The applicant has not filed a TIS application with the city for the proposed development.*

#### **19.704.4 Mitigation**

- A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.
- B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.
  1. On- and off-site improvements beyond required frontage improvements.
  2. Development of a transportation demand management program.
  3. Payment of a fee in lieu of construction.
  4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
  5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

**Response** *There has not been a TIS filed for the proposed development. The applicant is proposing to construct half-street improvements along the frontage of the project site within the public right-of-way of SE Mullan street which will provide access to for Lots 2 and 3.*

#### **19.705 ROUGH PROPORTIONALITY**

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.703.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.702.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.702.2.

When conducting a proportionality analysis for frontage improvements, the Engineering Director will not consider prior use for the portion of the proposed development that involves new construction. The

Engineering Director will, however, consider any benefits that are estimated to accrue to the development property as a result of any required transportation facility improvements.

The following general provisions apply whenever a proportionality analysis is conducted.

### **19.705.1 Impact Mitigation**

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.704. When no TIS is required, potential impacts will be determined by the Engineering Director.

**Response** *The proposed development will mitigate for whatever traffic impacts are identified by the review authority.*

### **19.705.2 Rough Proportionality Guidelines**

The following shall be considered when determining proportional improvements:

- A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a 1/2-mile radius of the proposed development. If a TIS is required pursuant to Section 19.704, the impact area is the TIS study area.
- B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.
- C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.
- D. The most recent use when a change in use is proposed that does not involve new construction.
- E. Applicable TSP goals, policies, and plans.
- F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.
- G. Accident history within the impact area.
- H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.
- I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.
- J. Other considerations as may be identified in the review process.

**Response** *The applicant acknowledges the guidelines when determining rough proportionality.*

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

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

### **19.706.1 FILOC Criteria**

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

- A. Required improvements are not feasible due to the inability to achieve proper design standards.
- B. Required improvements would create a safety hazard.
- C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within 3 years of the City's approval of the proposed development.

**Response** *The applicant is proposing to construct the required frontage improvements for access to all three lots. The applicant will request a fee-in-lieu of construction if the improvements for the adjoining parcel to the west are not completed prior to permit issuance for the proposed development because the public right-of-way for SE Mullan Street ends at the western project boundary and improvements are not completed to the east. The improvements are part of the SE Mullan Street project but the applicant is unaware of a construction timeline for the project.*

### **19.706.2 FILOC Findings**

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.706.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

**Response** *The applicant will be requesting a fee in lieu of construction for the public frontage improvements along SE Mullan street only if the improvements are not completed with the development of the adjoining parcel to the west that would abut the public right-of-way of SE Mullan street.*

### **19.706.3 FILOC Fees**

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

- A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.
- B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

**Response** *If the applicant requests FILOC, the applicant will pay the required fees as determined to be an estimated cost to construct the frontage improvements, based on current costs for material and labor and acknowledges the fees is non-negotiable.*

#### **19.706.4 FILOC Administration**

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year.

Expenditure of fees is subject to the following:

- A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.
  - 1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.
  - 2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.
- B. Fees shall be used within 10 years of the date on which they were collected. Fees that have not been used within 10 years of collection will be returned to the owner of the development property at the time the refund is issued.
- C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.706.4.A and that can be constructed within the 10-year time period per Subsection 19.706.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

**Response** *The applicant will leave it up to the discretion of the city to use fees that are paid as they see fit.*

## **19.707 AGENCY NOTIFICATION AND COORDINATED REVIEW**

### **19.707.1 Agency Notification**

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.700 to the following agencies:

- A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 ft of a State highway, or is within 1,320 ft of a State highway interchange ramp.
- B. ODOT Rail Division: If the proposed development is within 300 ft of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.
- C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.
- D. Metro: If the proposed development is within 200 ft of a designated regional multiuse trail, as identified in the Regional Transportation Plan.
- E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 ft of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

**Response** *The proposed development will not have any impact on any of the other agencies listed above, based on the criteria contained in this code section. Additional coordination should not be required.*

### **19.707.2 Coordinated Review**

The City shall coordinate application review and land use findings and conditions, if any, with the agencies listed above. The City shall include the deadline for review comments in its notice. Agencies shall indicate in their comments if additional public facility permits or approvals are required through their agency separate from City permits and approvals.

**Response** *The proposed development will not have any impact on any of the other agencies listed above, based on the criteria contained in this code section. Additional coordination should not be required.*

## **19.708 TRANSPORTATION FACILITY REQUIREMENTS**

This section contains the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. For ease of reading, the more common term "street" is used more frequently than the more technical terms "public right-of-way" or "right-of-way." As used in this section, however, all three terms have the same meaning.

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that

respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

### **19.708.1 General Street Requirements and Standards**

#### **A. Access Management**

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

**Response** *The proposed development will comply with the access management standards.*

#### **B. Clear Vision**

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

**Response** *The proposed development will comply with all applicable clear vision standards.*

#### **C. Development in Downtown Zones**

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the PAR per Subsection 19.304.5.

**Response** *The proposed development is not in a downtown zone.*

#### **D. Development in Non-Downtown Zones**

Development in a non-downtown zone that has frontage on a street section shown in the PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.

**Response** *The proposed development includes a half street improvement along the frontage of SE Mullan Street which will be designed to a local street standard and will be applicable to Public Works standards. The applicant will also complete any frontage requirements that are required along SE King Road, where the flag pole portion of Lot 1 is adjacent to.*

2. Streets shall be designed according to their functional classification per Figure 8-3b of the TSP.

**Response** *The proposed development includes frontage improvements designed to a Local Street standard for SE Mullan Street. The frontage improvements for SE King Road are existing. The applicant will make whatever frontage improvements are required.*

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.708.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with Section 19.708 and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

**Response** *The applicant will dedicate whatever street right-of-way is required to adhere to the public street standards for the adjacent public right-of-ways*

4. The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.

**Response** *The parent lot for the proposed development has double frontage. There is access to an improved public right-of-way corridor at SE King Road as well as an un-improved public right-of-way corridor for SE Mullan Street.*

5. Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.

**Response** *The applicant is proposing to construct half street improvements to meet a local street standard in the public right-of-way for SE Mullan Street, provided the development for the adjacent parcel to the left is completed. The applicant will also complete any additional frontage requirements for the access from Lot 1 to the public right-of-way for SE King Road.*

6. The following provisions apply to all new public streets and extensions to existing public streets.

- a. All new streets shall be dedicated and improved in accordance with this chapter.
- b. Dedication and construction of a half-street is generally not acceptable. However, a half-street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half-street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half- street shall be the minimum width necessary to accommodate 2 travel lanes pursuant to Subsection 19.708.2.

**Response** *The applicant is proposing to complete a half street improvement for the public street improvements that may be required in SE Mullan Street. At the time of development the improvements will only serve Lots 2 and 3. The applicant will complete the half street improvements to meet a local street standard and will ensure adequate pavement is available for 2 travel lanes. Development of adjacent properties to the north of SE Mullan street would then be available to complete the full street improvements.*

7. Traffic calming may be required for existing or new streets. Traffic calming devices shall be designed in accordance with the Public Works Standards or with the approval of the Engineering Director.

**Response** *The proposed development will have a minimal impact on the existing traffic corridor. It is unlikely that traffic calming measures would be needed, however, the applicant will discuss the matter with the public works department if traffic calming devices are required.*

8. Railroad Crossings

Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

**Response** *The proposed development has no negative impact to any railroad crossing.*

9. Street Signs

The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

**Response** *The applicant will install any new street signs that are required by the city.*

10. Streetlights

The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

**Response** *The proposed development does include half street improvements designed to a local street standard. As such, the applicant will install new stoplights as required.*

#### E. Street Layout and Connectivity

1. The length, width, and shape of blocks shall take lot size standards, access and circulation needs, traffic safety, and topographic limitations into consideration.
2. The street network shall be generally rectilinear but may vary due to topography or other natural conditions.
3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.
  - a. Temporary turnarounds shall be constructed for street stubs in excess of 150 ft in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.
  - b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

- c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.
- 4. Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. For proposed land division sites that are 3 acres or larger, a street ending in a turnaround shall have a maximum length of 200 ft, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. For proposed land division sites that are less than 3 acres, a street ending in a turnaround shall have a maximum length of 400 ft, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic.
- 5. Closed-end street systems may serve no more than 20 dwellings.

**Response** *The proposed development includes a half-street improvement which will be part of the future SE Mullan Street. The street will dead-end at the eastern project boundary and will be continued in the future when the full improvements for SE Mullan street are completed. A turn-around is not being installed. Drainage facilities will be designed by the project engineer to meet the public standards.*

**F. Intersection Design and Spacing**

- 1. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.
- 2. Street and intersection alignments for local streets shall facilitate local circulation but avoid alignments that encourage nonlocal through traffic.
- 3. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the Engineering Director has approved a special intersection design.
- 4. New streets shall intersect at existing street intersections so that centerlines are not offset. Where existing streets adjacent to a proposed development do not align properly, conditions shall be imposed on the development to provide for proper alignment.
- 5. Minimum and maximum block perimeter standards are provided in Table 19.708.1.
- 6. Minimum and maximum intersection spacing standards are provided in Table 19.708.1.

Table 19.708.1 Street/Intersection Spacing			
Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530'	1,000'	2600'
Collector	300'	600'	1800'
Neighborhood Route	150'	530'	1650'
Local	100'	530'	1650'

**Response** *The proposed development does not include any intersections.*

## 19.708.2 Street Design Standards

Table 19.708.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.708.2.A augment the dimensional standards contained in Table 19.708.2. The Engineering Director will rely on Table 19.708.2 and Subsection 19.708.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.708.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Street Classification	Full-Width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'-89'	11'-12' (12'-13')	5'-6'	6'-8'	3'-5'	8'-10'	6'
Collector	40'-74'	10'-11'	5'-6'	6'-8'	3'-5'	8'	6'
Neighborhood	20'-68'	10'	5'	6'-8'	3'-5'	6'	5'
Local	20'-68'	8' or 10'	5'	6'-8'	3'-5'	6'	5'
Truck Route	34'-89'	11'-12' (12'-13')	5'-6'	6'-8'	3'-5'	8'-10'	Per street classification
Transit Route	30'-89'	10'-12' (12'-13')	5'-6'	6'-8'	3'-5'	Per street classification	Per street classification

### A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.
2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.
5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.
6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.

7. On-street parking in industrial zones shall have a minimum width of 8 ft.
8. On-street parking in commercial zones shall have a minimum width of 7 ft.
9. On-street parking in residential zones shall have a minimum width of 6 ft.
10. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.
11. Landscape strip widths shall be measured from back of curb to front of sidewalk.
12. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.
13. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.
14. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

**Response** *The applicant is proposing a half-street improvement within the public right-of-way of SE Mullan Street. The half street improvement will include curb and sidewalk along the property frontage and 20' width of pavement for two travel lanes with no parking being proposed. The half-street improvements will be designed and constructed to meet public works standards.*

#### B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.708.2 and the additional street design standards in Subsection 19.708.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.
2. Multimodal street improvements identified in the TSP.
3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically regarding sidewalk and landscape strip improvements.
4. Existing development pattern and proximity of existing structures to the right-of-way.
5. Existing right-of-way dimensions and topography.

**Response** *the TSP identifies SE Mullan Street as a local street. The project engineer will design the half-street improvements to whatever standard the city identifies.*

### 19.708.3 Sidewalk Requirements and Standards

#### A. General Provisions

1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the TSP and provide the context for needed pedestrian improvements. Figure 5-1 of the TSP illustrates the Pedestrian Master Plan and Table 5-3 contains the Pedestrian Action Plan.
2. Americans with Disabilities Act (ADA) requirements for public sidewalks shall apply where there is a conflict with City standards.

#### B. Sidewalk Requirements

##### 1. Requirements

Sidewalks shall be provided on the public street frontage of all development per the requirements of this chapter. Sidewalks shall generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a public easement with the approval of the Engineering Director.

##### 2. Design Standards

Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards.

##### 3. Maintenance

Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04.

**Response** *A new sidewalk will be included with the half-street improvements which will be designed and constructed to meet all Public Works standards. There is also currently an existing sidewalk along the frontage for the flag lot on SE King Road which the applicant will install a driveway apron for the new shared driveway and make all sidewalk repairs necessary.*

### 19.708.4 Bicycle Facility Requirements and Standards

#### A. General Provisions

1. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.
2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

#### B. Bicycle Facility Requirements

##### 1. Requirements

Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.600, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

2. Timing of Construction

To assure continuity and safety, required bicycle facilities shall generally be constructed at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities.

3. Design Standards

Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.600 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

**Response** *The proposed development does not include any new bicycle facilities.*

**19.708.5 Pedestrian/Bicycle Path Requirements and Standards**

A. General Provisions

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

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

B. Pedestrian/Bicycle Path Requirements

In addition to sidewalks on public streets, other available pedestrian routes, as used in this subsection, include walkways within shopping centers, planned developments, community service use developments, and commercial and industrial districts. Routes may cross parking lots on adjoining properties if the route is paved, unobstructed, and open to the public for pedestrian use.

Pedestrian/bicycle paths shall be required in the following situations.

1. In residential and mixed use districts, a pedestrian/bicycle path shall be required at least every 300 ft when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.
3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.
4. In all districts where addition of a path would provide a midblock connection between blocks that exceed 800 ft or would link the end of a turnaround with a nearby street or activity center.

#### C. Design Standards

Pedestrian/bicycle paths shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Paths shall be located to provide a reasonably direct connection between likely pedestrian and bicyclist destinations. A path shall have a minimum right-of-way width of 15 ft and a minimum improved surface of 10 ft. If a path also provides secondary fire access or a public utility corridor, it shall have a minimum right-of-way width of 20 ft and a minimum improved surface of 15 ft. Additional standards relating to entry points, maximum length, visibility, and path lighting are provided in the Public Works Standards.

#### D. Ownership and Maintenance

To ensure ongoing access to and maintenance of pedestrian/bicycle paths, the Engineering Director will require one or more of the following:

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.
2. Creation of a public access easement over the path prior to final development approval.
3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

**Response** *The proposed development does not include any new pedestrian/bicycle paths.*

### 19.708.6 Transit Requirements and Standards

#### A. General Provisions

1. Transit facilities include bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement.
2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

## B. Transit Facility Requirements

### 1. Requirements

Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ridership, and transit needs of the development. Required improvements may include provision of an easement or dedication of land for transit facilities, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.705.

### 2. Location of Facilities

Transit facilities shall be located at controlled street intersections, wherever possible. Where a bus stop has already been established within 500 ft of a proposed development, a new bus stop shall only be provided if recommended by TriMet and required by the Engineering Director. Otherwise, the development shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping.

### 3. Design Standards

Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

### 4. TriMet Notice and Coordination

The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.707. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

**Response** *The proposed development does not include any new transit facilities.*

## 19.709 PUBLIC UTILITY REQUIREMENTS

### 19.709.1 Review Process

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

#### A. Permit Review

The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards within 10 working days of application submittal. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

**Response** *The development application will include drawings for review that will show connections to the existing public utilities.*

B. Review Standards

Review standards for public utilities shall be those standards currently in effect, or as modified, and identified in such public documents as Milwaukie's Comprehensive Plan, Wastewater Master Plan, Water Master Plan, Stormwater Master Plan, Transportation System Plan, and Public Works Standards.

**Response** *The applicant acknowledges the existence of the review standards for public utilities.*

**19.709.2 Public Utility Improvements**

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

**Response** *The proposed development is for a three parcel partition which is expected to have a minimal impact on existing utility systems. It is not expected that the new connections will exceed the design capacity, exceed any standards, create a safety hazard or create an ongoing maintenance problem.*

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

**Response** *If required the applicant will support the formation of either district that may be needed to support the project.*

**19.709.3 Design Standards**

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by

the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

**Response** *Public utility improvements that are a direct result of the proposed development will be designed and constructed to meet all applicable standards. Plans will be prepared and approved by a licensed engineer for any said improvements and shall include plans for sanitary sewer, storm drain and water service connections.*

#### **19.709.4 Oversizing**

The Engineering Director may require utility oversizing in anticipation of additional system demand. If oversizing is required, the Engineering Director may authorize a reimbursement district or a system development charge (SDC) credit in accordance with Chapter 13.28.

**Response** *The proposed development is expected to have a minimal impact on any existing public utility system. Oversizing should not be necessary*

#### **19.709.5 Monitoring**

The Engineering Director shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all City permitting requirements and standards. Utility improvements are subject to the requirements of Chapter 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered a part of the monitoring process

**Response** *The applicant acknowledges the authority of the engineering director to monitor the progress of any necessary public utility improvements.*

### **19.710 DOWNTOWN REIMBURSEMENT**

#### **19.710.1 Reimbursement Eligibility**

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The City will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

- A. The expenditure is required as a prerequisite to obtaining a development or building permit.
- B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.
- C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.
- D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and March 21, 2013, the effective date of Ord. #2059.
- E. The development or change in use would have been exempt under Subsection 19.702.3.B.

- F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement or the successors in interest of such parties.

**Response** *The proposed development is not in a downtown zone. No reimbursement is required.*

### **19.710.2 Reimbursement Amount**

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
1. The total amount paid to the City by the party or parties requesting reimbursement as a fee in lieu of construction for right-of-way improvements on the property's frontage.
  2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: system development charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

**Response** *The proposed development is not in a downtown zone. No reimbursement is required.*

### **19.710.3 Reimbursement Process**

A property owner in a downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
1. The address or tax lot number of the property in question.
  2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
  3. Documentation of current ownership of the property in question.
  4. The amount of the requested reimbursement.
  5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
  6. A copy of the decision requiring the construction of the subject right-of-way improvements, or a receipt for the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

**Response** *The proposed development is not in a downtown zone. No reimbursement is required.*

**19.710.4 Time Limit on Reimbursement**

Section 19.710 shall be effective for one year from March 21, 2013, the effective date of Ord. #2059. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

**Response** *The proposed development is not in a downtown zone. No reimbursement is required.*

## CHAPTER 19.900 LAND USE APPLICATIONS

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### 19.911 VARIANCES

#### 19.911.1 Purpose

Variations provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variations are intended to provide some flexibility while ensuring that the intent of each development standard is met. Variations may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variations shall not be granted that would be detrimental to public health, safety, or welfare.

**Response** *The applicant is requesting a variance to the lot width standard for a three parcel partition.*

#### 19.911.2 Applicability

##### A. Eligible Variations

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

**Response** *The requested variance is for section 19.301.4, Development Lot Standards*

##### B. Ineligible Variations

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word "prohibited."
2. To change a required review type.
3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming

use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

**Response** *The proposed variance is not for any of the purposes described herein this code section. The requested variance is for some additional flexibility on the lot width standards for the R7 base zone.*

### C. Exceptions

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either “by right” or as part of a specific land use application review process.

**Response** *The applicant is filing a variance request because the required minimum lot width for the R7 base zone is 60’ and the applicant is requesting an approved lot width of 50’, which is a deviation from the minimum required lot width of more than 10%.*

## 19.911.3 Review Process

### A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.
2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.
3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

**Response** *The applicant acknowledges the requested variance will be processed through a Type III review because the variance exceeds the 10% maximum allowed under a Type II review. The variance is being requested concurrently with the application for the minor partition. Only one variance is being requested (applicable to both Lots 2 and 3 in the proposed development).*

### B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

**Response** *The variance request exceeds the maximum allowed, 10% to lot width standard and is therefore requesting a Type III review.*

#### C. Type III Variances

Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section 19.1006.

**Response** *The applicant is requesting a Type III variance for Lots 2 and 3 of the proposed development.*

#### 19.911.4 Approval Criteria

##### A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.
3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.
4. Impacts from the proposed variance will be mitigated to the extent practicable.

**Response** *The applicant is requesting a Type III variance for Lots 2 and 3 of the proposed development.*

## B. Type III Variances

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

### 1. Discretionary Relief Criteria

- a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
- b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
  - (1) The proposed variance avoids or minimizes impacts to surrounding properties.
  - (2) The proposed variance has desirable public benefits.
  - (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
- c. Impacts from the proposed variance will be mitigated to the extent practicable.

**Response** *The alternatives analysis demonstrates that there is no impact to the adjacent properties from allowing the requested variance to the minimum lot width standard. The requested variance responds to the restrictions from the parent lot in the most reasonable manner possible. The alternatives analysis can be found in Appendix F of the submitted application materials*

### 2. Economic Hardship Criteria

- a. Due to unusual site characteristics and/or other physical conditions on or near the site, the variance is necessary to allow reasonable economic use of the property comparable with other properties in the same area and zoning district.
- b. The proposed variance is the minimum variance necessary to allow for reasonable economic use of the property.
- c. Impacts from the proposed variance will be mitigated to the extent practicable.

**Response** *The applicant is choosing the Discretionary Relief Criteria option for the Type III variance review.*

## 19.911.5 Use Exceptions

A. Applicability

A use exception is a type of variance intended to allow uses that are not allowed outright or conditionally by a property's base zone, overlay zones, or special areas. Use exceptions shall not be granted to allow uses that are specifically prohibited by a property's base zone, overlay zones, or special areas.

**Response** *The applicant is not requesting a variance for a use exception.*

B. Review Process

A use exception shall be evaluated through a Type III review per Section 19.1006.

**Response** *The applicant is not requesting a variance for a use exception.*

C. Approval Criteria

Economic hardship shall not be a primary basis for allowance of a use exception nor shall circumstances of which the applicant had prior knowledge be considered upon application. The Planning Commission may authorize exceptions to uses established by Title 19 upon a determination that all of the following criteria have been met:

1. Exceptional circumstances exist on or near the property over which the property owner has no control.
2. None of the allowed or conditionally allowed uses for which the property is zoned are practicable.
3. The proposed use will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
4. Impacts from the proposed use will be mitigated to the extent practicable.

**Response** *The applicant is not requesting a variance for a use exception.*

# CHAPTER 19.1200 SOLAR ACCESS PROTECTION

## 19.1201 PURPOSE

### 19.1201.1 The purpose of this chapter is:

- A. To orient new lots and parcels to allow utilization of solar energy;
- B. To promote energy conservation and the effective use of the sun as a renewable resource;
- C. To implement provisions of the Milwaukie Comprehensive Plan encouraging use of solar energy;
- D. To provide a means of encouraging investment in solar design and solar equipment.

## 19.1202 DEFINITIONS

### 19.1202.1 For the purposes of this chapter, the following definitions shall apply:

"Azimuth" means a horizontal direction expressed as a distance in angles between the direction of a fixed point and the direction of an object being measured.

"Crown cover" means the area within the drip line or perimeter of the foliage of a tree.

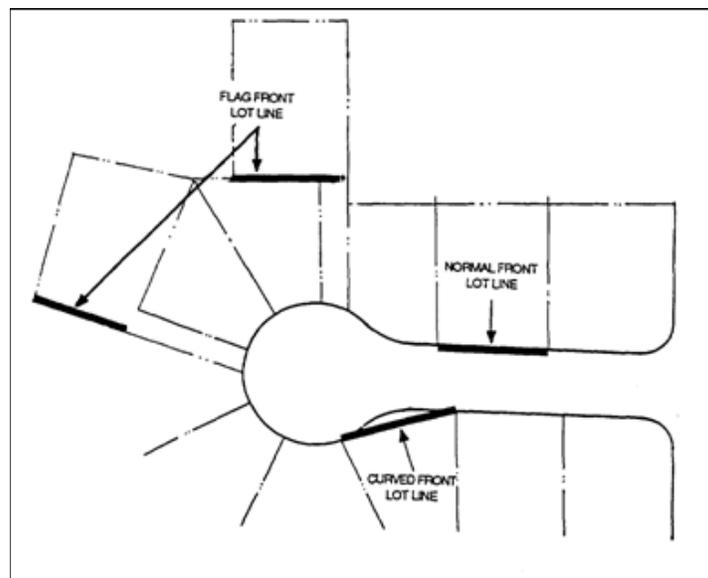
"Development" means any partition, subdivision, or planned unit development that is created under the City's land division or zoning regulations.

"Director" means the Planning Director of the City or designee.

"Exempt tree or vegetation" means the full height and breadth of vegetation that the Director has identified as "solar-friendly," any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

"Front lot line" means for purposes of the solar access regulations, a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 19.1202.1-1).

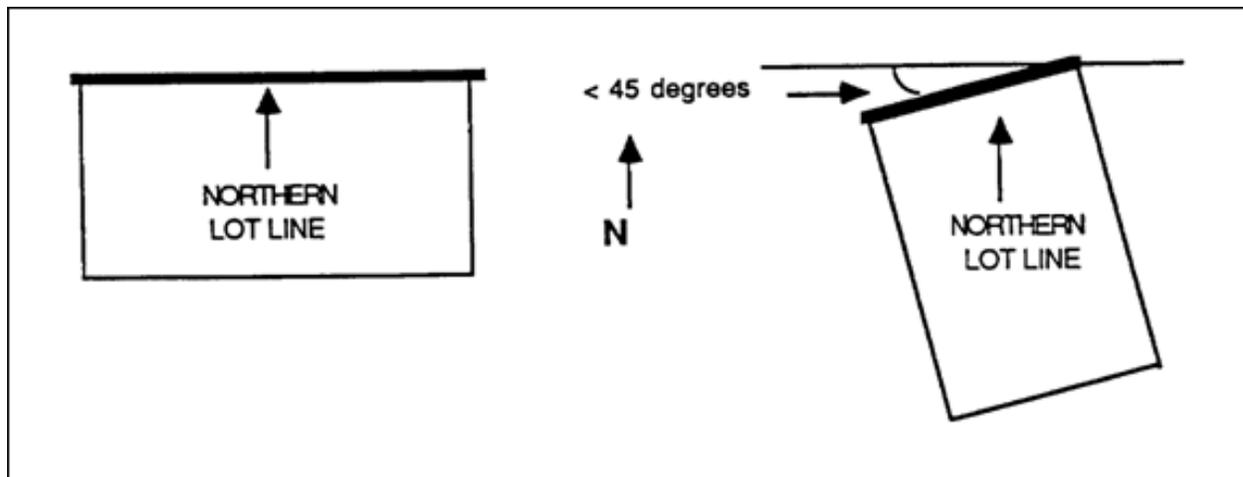
Figure 19.1202.1-1  
Front Lot Line



“Nonexempt tree or vegetation” means vegetation that is not exempt.

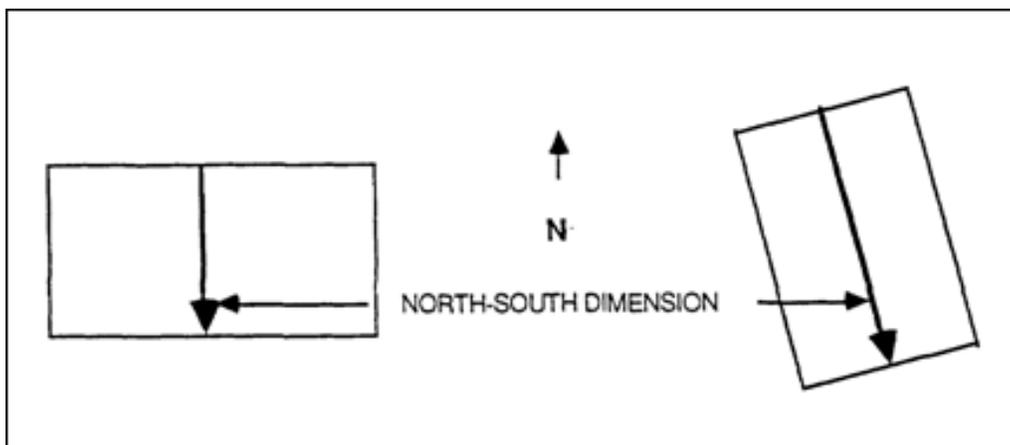
“Northern lot line” means the lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If 2 lot lines have an identical angle relative to a line drawn east-west, or if the northern lot line is less than 35 ft, then the northern lot line shall be a line 35 ft in length within the lot, parallel with and at a maximum distance from the front lot line (see Figure 19.1202.1-2).

Figure 19.1202.1-2  
Northern Lot Line



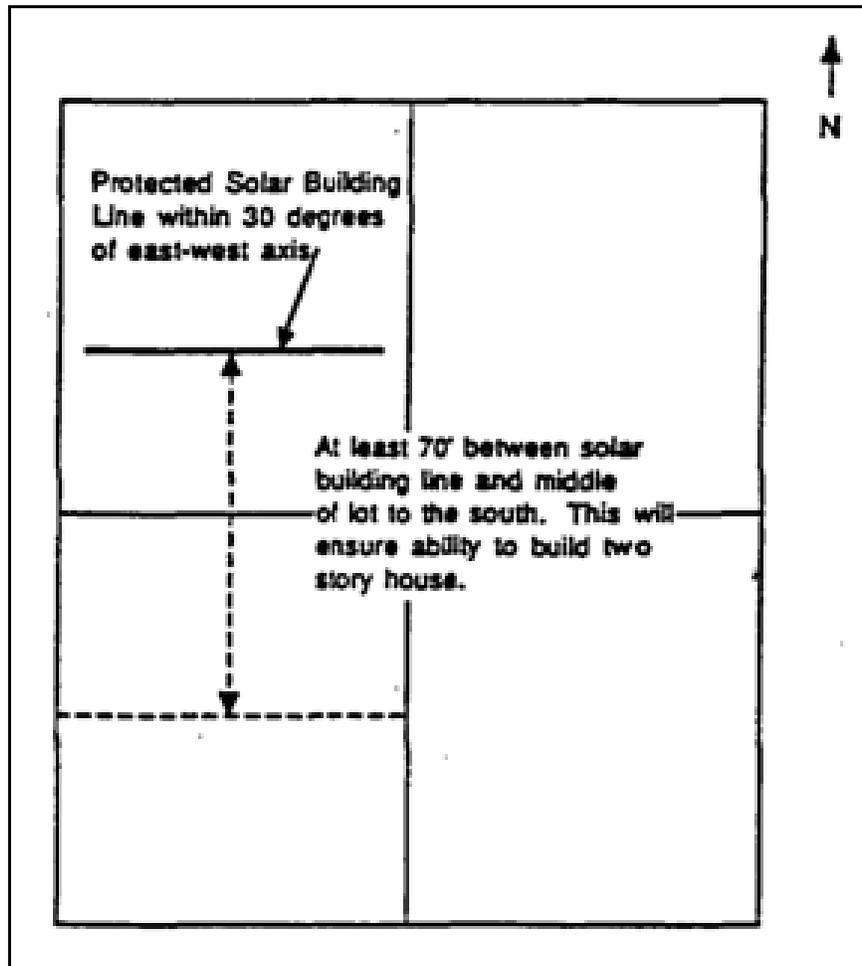
“North-south dimension” means the length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 19.1202.1-3).

Figure 19.1202.1-3  
North-South Dimension of the Lot



“Protected solar building line” means a line on a plat or map recorded with the plat that identifies the location on a lot where a point 2 ft above may not be shaded by structures or nonexempt trees (see Figure 19.1202.1-4).

Figure 19.1202.1-4  
Solar Lot Option 2: Protected Solar Building Line



“Shade” means a shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

“Shade point” means the part of a structure or nonexempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 ft or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of the ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 ft. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 ft (vertical) in 12 ft (horizontal), the shade point will be the eaves of the roof. If such a roof has a pitch that is 5 ft in 12 ft or steeper, the shade point will be the peak of the roof (see Figures 19.1202.1-5 and 19.1202.1-6).

Figure 19.1202.1-5  
Height of the Shade Point of the Structure

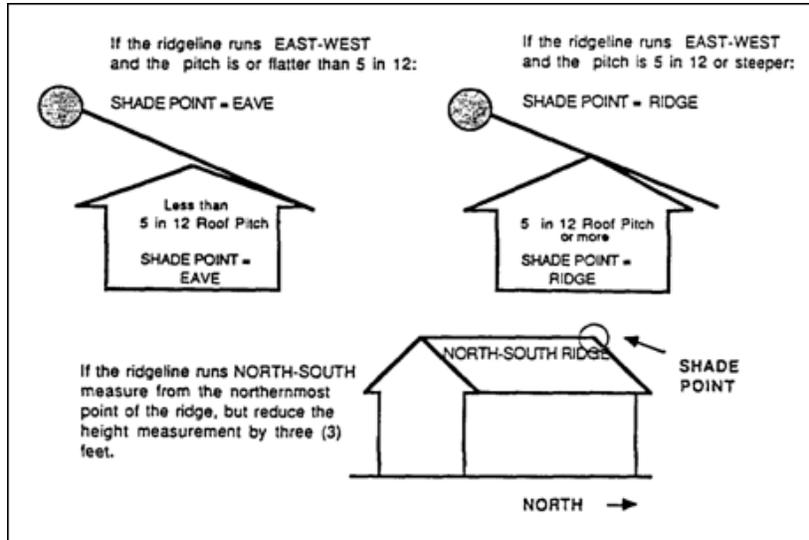
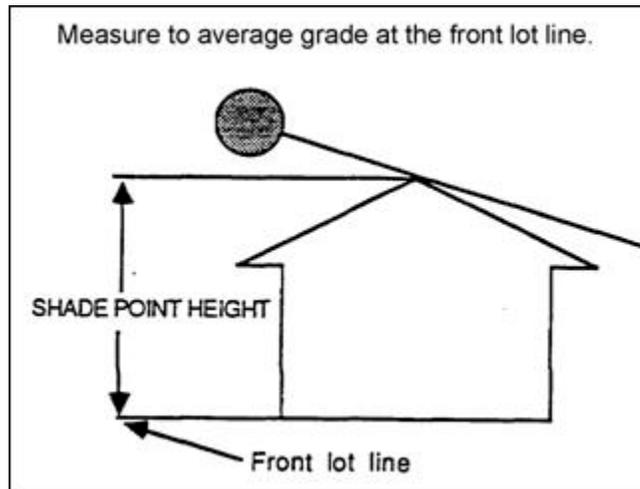
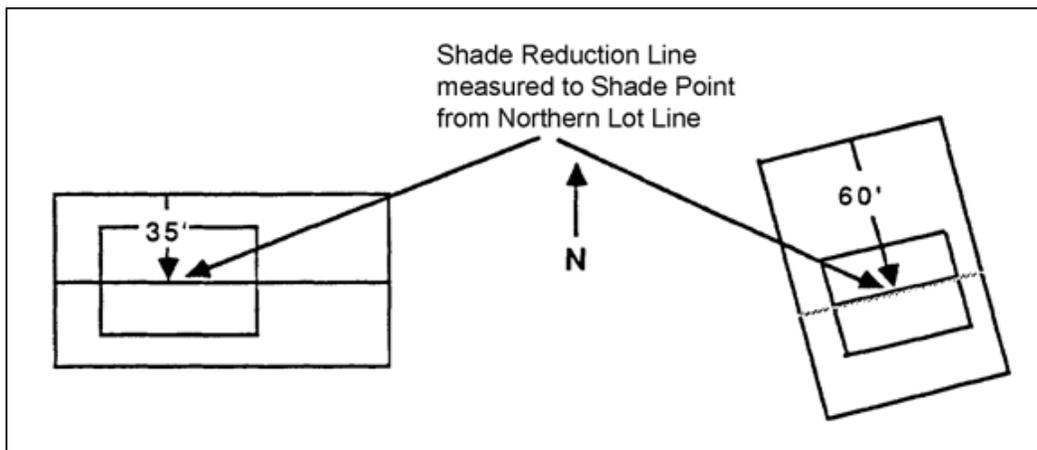


Figure 19.1202.1-6  
Shade Point Height



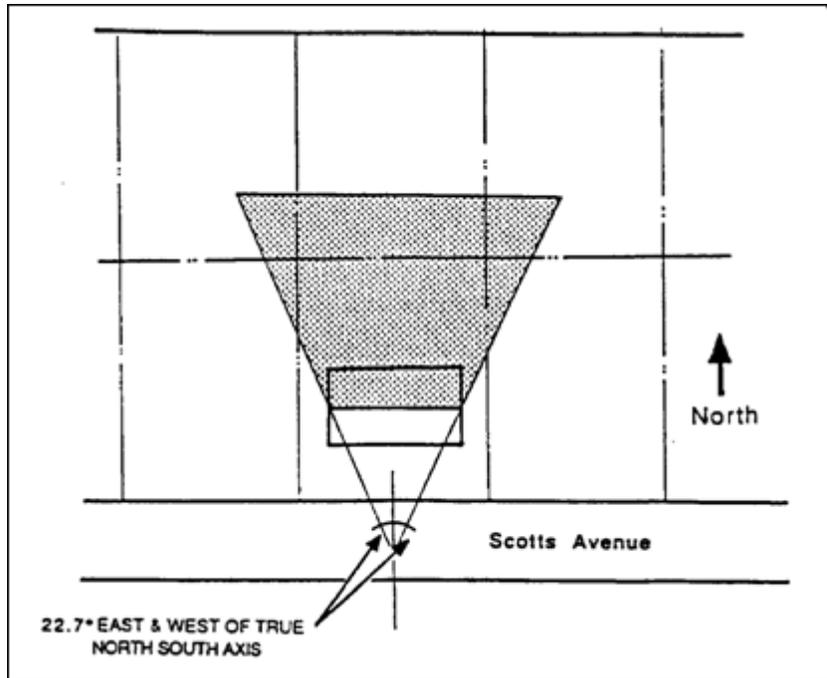
“Shade reduction line” means a line drawn parallel to the northern lot line that intersects the shade point (see Figure 19.1202.1-7).

Figure 19.1202.1-7  
Shade Reduction Line



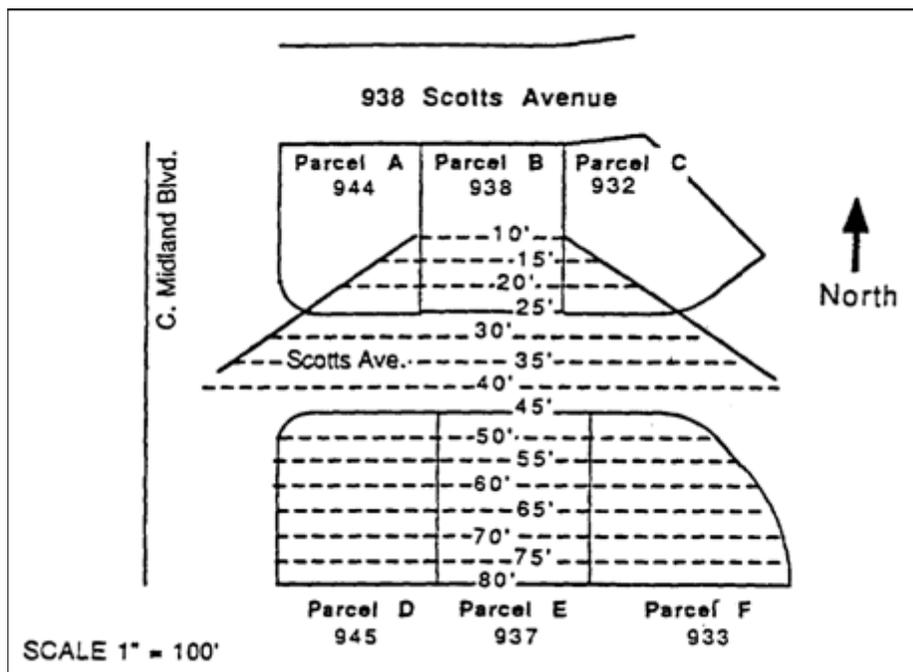
“Shadow pattern” means a graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 19.1202.1-8).

Figure 19.1202.1-8  
Shadow Pattern



“Solar access height limit” means a series of contour lines establishing the maximum permitted height for nonexempt vegetation on lots affected by a solar access permit (see Figure 19.1202.1-9).

Figure 19.1202.1-9  
Solar Access Height Limit



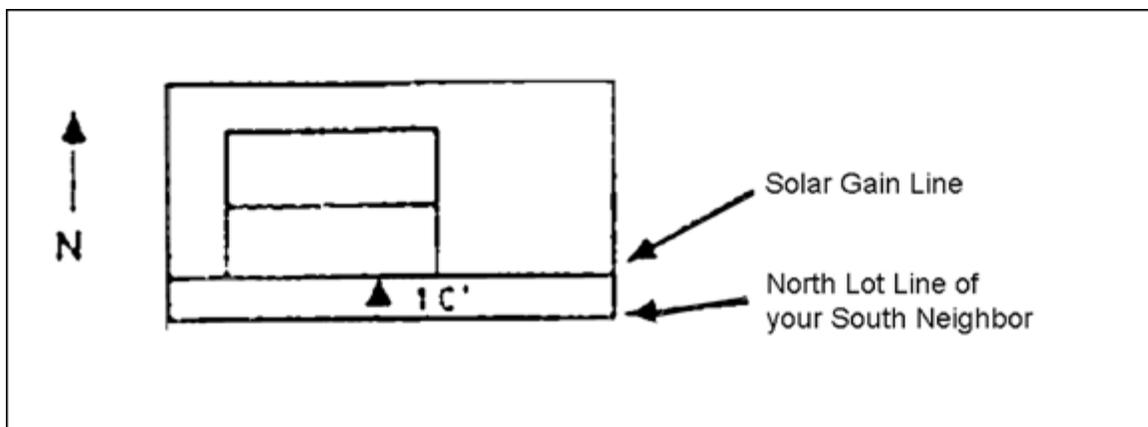
“Solar access permit” means a document issued by the City that describes the maximum height that nonexempt vegetation is allowed to grow on lots to which a solar access permit applies.

“Solar feature” means a device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 sq ft of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this chapter.

“Solar-friendly tree” means a tree which the Director has determined does not cause significant winter shade due to foliar period and branch structure. The Director shall maintain a list of generally recognized solar-friendly trees.

“Solar gain line” means a line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 19.1202.1-10).

Figure 19.1202.1-10  
Solar Gain Line



“South or south-facing” means true south, or 20 degrees east of magnetic south.

“Sun chart” means one or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21st, prepared pursuant to guidelines issued by the Director. The sun chart shall show the southern skyline through a transparent grid on which is imposed solar altitude for 45 degree and 30 minute northern latitude in 10 degree increments and solar azimuth from true south in 15 degree increments.

“Undevelopable area” means an area that cannot be used practicably for a habitable structure because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east and west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or manmade conditions, such as existing development which isolates a portion of the site and prevents its further development, setbacks, or development restrictions that prohibit development of a given area of a lot by law or private agreement, or existence or absence of easements or access rights that prevent development of a given area.

## 19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

### 19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

**Response** *The applicant acknowledges the purpose of the standard.*

### 19.1203.2 Applicability

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

**Response** *The proposed development will create lots in a single family zone.*

### 19.1203.3 Design Standard

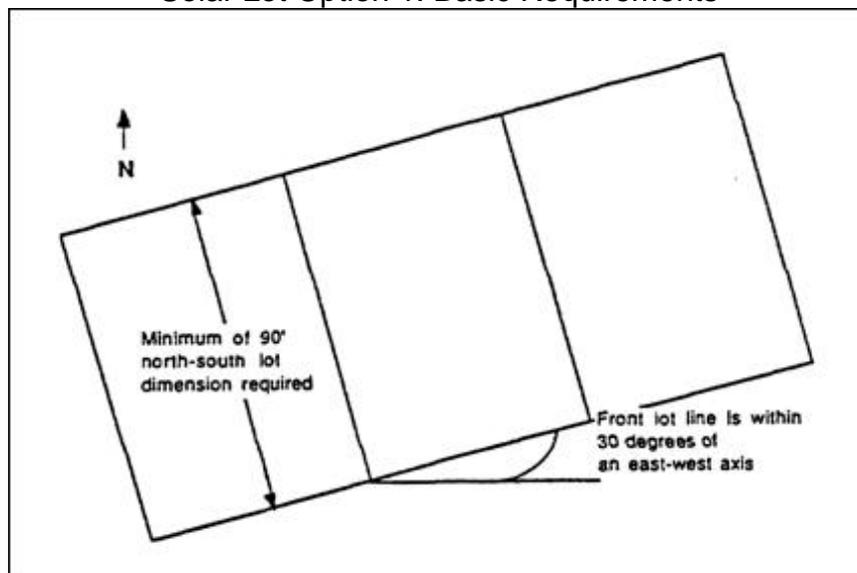
At least 80% of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in Subsections 19.1203.3.B or C below to comply with Section 19.1203.

#### A. Basic Requirement

A lot complies with Subsection 19.1203.3 if it:

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

Figure 19.1203.3  
Solar Lot Option 1: Basic Requirements



**Response** *For the proposed development, Lot 1 (flag lot) has a north-south dimension of 83.7 ft. and Lots 2 and 3 have a north south dimension of 150 ft. All lots have a front line that is within 30 degrees of a true east-west axis. Lots 2 and 3 meet the basic requirement.*

#### B. Protected Solar Building Line Option

In the alternative, a lot complies with Subsection 19.1203.3 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and
2. The protected solar building line is oriented within 30 degrees of a true east-west axis; and
3. There are at least 70 ft between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
4. There are least 45 ft between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80% of their south-facing wall will not be shaded by structures or nonexempt vegetation (see Figure 19.1202.1-4).

**Response** *Lot 1 will meet the requirements of this option to comply with the design standard. The protected solar building line will be recorded on the plat and will be within 30 degrees of a true east-west axis. The lot directly south of Lot 1 has a north-south dimension of 148' which will provide adequate spacing for the protected solar building line.*

#### C. Performance Option

In the alternative, a lot complies with Subsection 19.1203.3 if:

1. Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis, and at least 80% of their ground floor south wall will be protected from shade by structures and nonexempt trees using appropriate deed restrictions; or
2. Habitable structures built on that lot will orient at least 32% of their glazing, and at least 500 sq ft of their roof area, to face within 30 degrees east or west of true south, and that glazing and roof area are protected from shade by structures and nonexempt trees using appropriate deed restrictions.

**Response** *The applicant will utilize the protected solar building option to fully comply with the design standard.*

#### 19.1203.4 Exemptions from Design Standard

A development is exempt from Subsection 19.1203.3 if the Director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from Subsection 19.1203.3 to the extent the Director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Subsection 19.1203.3.

## A. Slopes

The site, or a portion of the site for which the exemption is sought, is sloped 20% or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

## B. Off-Site Shade

The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to, structures, topography, or nonexempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in a single-family residential zone, and from topographic features, is assumed to remain after development of the site.
2. Shade from an off-site structure in a zone other than a single-family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.
3. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; they are part of a developed area, public park, or legally reserved open space; they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.
4. Shade from other offsite sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

## C. On-Site Shade

The site, or a portion of the site for which the exemption is requested:

1. Is within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or
2. Contains nonexempt trees at least 30 ft tall and more than 6 in. in diameter measured 4 ft above the ground, which have a crown cover over at least 80% of the site or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the crown cover that causes the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party to any covenant or restriction created to enforce any provision of this section. The covenant or restriction shall not be amended without written City approval.

## D. Completion of Phased Subdivision

The site is part of a phased subdivision, none of which was subject to Section 19.1203, and the site and the remainder of the unplatted portion of the phased subdivision contains no more than 20% of the lots in all phases of the subdivision.

**Response** *The proposed development does not qualify for any of the listed exemptions.*

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

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

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

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

#### **B. Impacts of Existing Shade**

The shadow pattern from nonexempt trees covers over at least 80% of the lot and at least 50% of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of nonexempt trees on the site or using an aerial photograph.

1. Shade from nonexempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.
2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files, in the office of the County Recorder, a covenant binding the applicant to retain the trees causing the shade on the affected lot(s).

**Response** *The applicant is not seeking any adjustments to the design standard.*

#### **19.1203.6 Protection from Future Shade**

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Subsection 19.1203.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this subsection. The covenant or restriction shall not be amended without written City approval.

**Response** *The final plat will include all required covenants and restrictions.*

#### **19.1203.7 Application**

An application for approval of a development subject to this section shall include the following:

- A. Maps and text sufficient to show the development complies with the solar design standard of Subsection 19.1203.3, except for lots for which an exemption or adjustment from Subsection 19.1203.3 is requested, including at least:
  1. The north-south lot dimension and front lot line orientation of each proposed lot;
  2. Protected solar building lines and relevant building site restrictions, if applicable;
  3. For the purpose of identifying trees exempt from Subsection 19.1203.6, a map showing existing trees at least 30 ft tall and over 6 in diameter at a point 4 ft above grade, indicating their height, diameter, and species, and stating that they are to be retained and are exempt; and
  4. Copies of all private restrictions relating to solar access.
- B. If an exemption or adjustment to Subsection 19.1203.3 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in Subsections 19.1203.4 or 5, respectively.

**Response** *The preliminary plat shows the lot dimensions and a dimension for the protected solar building line.*

#### **19.1203.8 Process for Approval**

Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title.

**Response** *The applicant acknowledges the process for approval*

## ***Appendix A***

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Pre-Application Meeting Notes

## ***Appendix B***

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Preliminary Title Information

# ***Appendix C***

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Project Vicinity Map

## ***Appendix D***

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Preliminary Drainage Report

# ***Appendix E***

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Preliminary Design Drawings

## ***Appendix F***

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Alternatives Analysis for Type III Variance

# Alternatives Analysis for Type III Variance

## **Proposed Development**

The proposed development is for a three parcel partition on Tax Lot 2601, which is an existing flag lot adjacent to the eastern and northern property lines of Tax Lot 2600 located at 5445 SE King Road. The existing flag lot measures 100' wide x and 252' deep with a flag pole that measures 20' wide. The lot is in the R7 base zone and the maximum density for the project is 4 dwelling units with a minimum density of 3 units. The property has double frontage. The flag pole portion of the existing lot is adjacent to the public right-of-way of SE King Road with the north property line being adjacent to the public right-of-way of SE Mullan street, which is currently un-developed.

The proposed development will create three new lots on the existing flag lot. Lot 1 will be a flag lot that will utilize the existing flag pole portion of the parent lot and will have an area of approximately 10,170 sf. Lots 2 and 3 will be standard lots that will have their lot frontage on SE Mullan street and measure 50' wide x 150' deep, with an area of 7,500 sf. This lot configuration is the most straight-forward and reasonable option for the existing flag lot.

## **Analysis for Variance Request**

The minimum required lot width for the R7 base zone is 60 feet. The proposed development seeks to create two lots that each have a minimum lot width of 50 feet, which is a reduction of 16.67%. The maximum allowed variance for a Type II review is 10% so the application must be reviewed under the Type III criteria. There are two primary constraints that create the need for a variance. The first is the project boundary being a flag lot. In order to make full use of the available land, a flag lot must be part of the lot configuration, which then eliminates the possibility of frontage along the public right-of-way for SE King Road for any of the other lots being created. In order to meet the minimum density requirement, the project needs three dwelling units so the other two units must then have their lot frontage along the public right-of-way of SE Mullan Street.

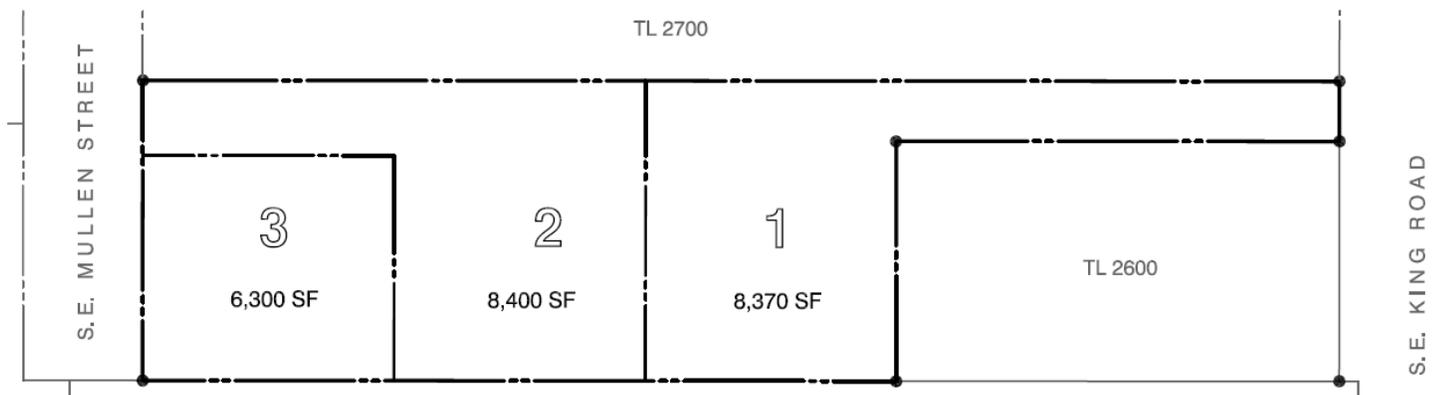
The second constraint is the overall lot width of 100' for the existing project site along the frontage of SE Mullan street. To maximize the lot width and provide the most desirable lot configurations for Lots 2 and 3, the lot width must be 50' wide. In order to compensate for the narrower lot, the lots will be deeper to provide additional lot area. One alternative to two 50' wide lots would be to have one lot measure 60' side (to meet the width requirement) and the second lot measure 40' wide. This situation would be less desirable because the narrower lot would have to be longer in order to ensure the lot area requirement is met which then decrease the available area for the flag lot (which has increased setback requirements from standard lots). This would create a smaller building envelope for Lot 1 and would create an overall imbalanced lot configuration. A second alternative would be to have only two lots and create a duplex on the second lot to meet the minimum density requirement. This option is undesirable because it creates a situation where the market is decreased for a sale of the structure by limiting homebuyers to only those who are interested in purchasing a dwelling unit for themselves and having an attached rental property. Ultimately, it is likely that the property would be sold as an investment property with two rentals.

Having two lots that are each 50' wide has no adverse impacts on adjacent properties and has a desirable public benefit by creating larger lots (with increased depth) and detached single family dwelling units for families to enjoy. The proposed variance is the most natural way to respond to the existing condition of the project boundary being a flag lot.

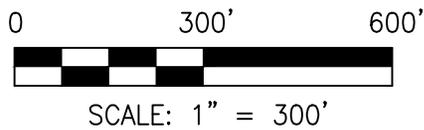
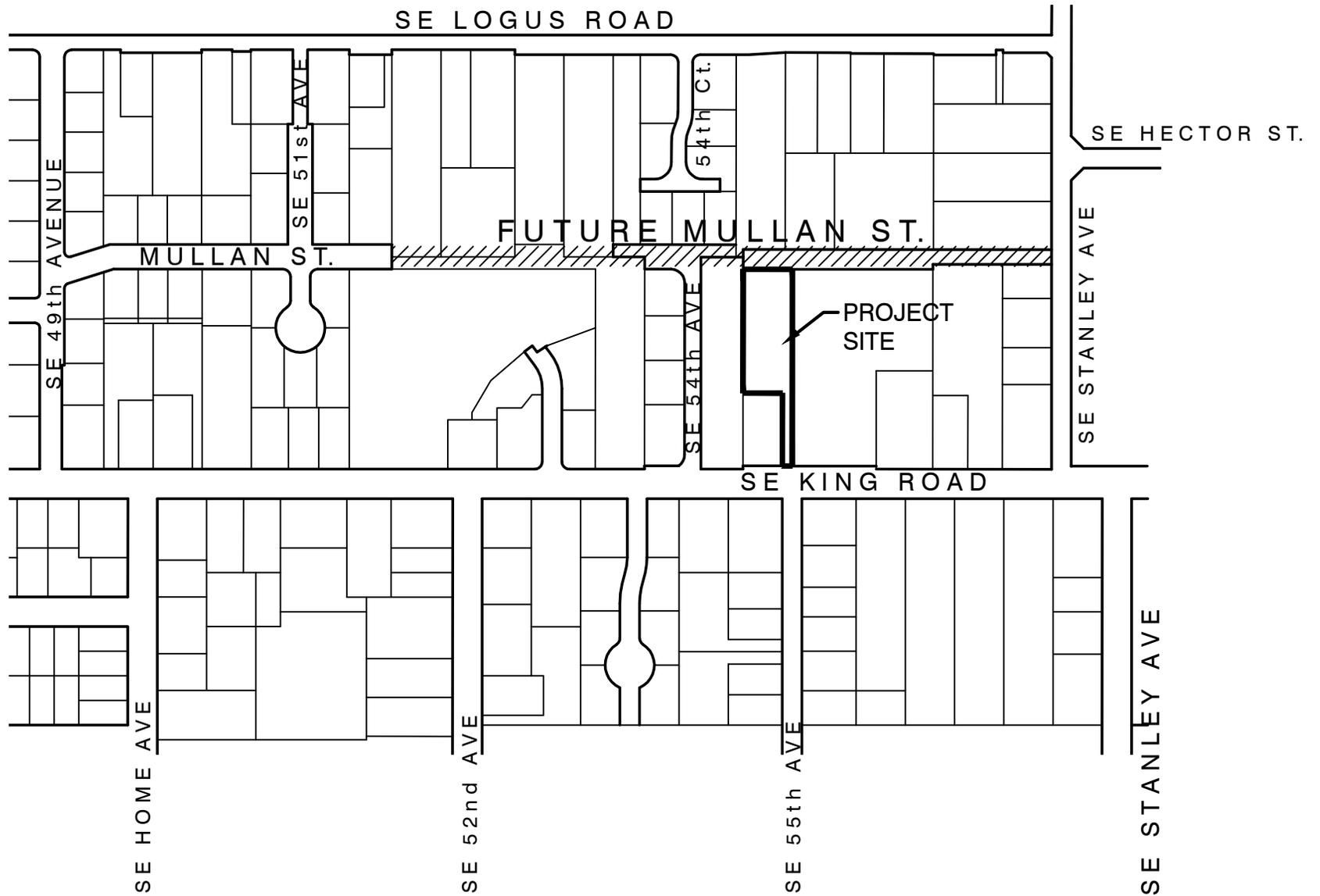
## Alternative Lot Layout

The alternative to the lot width variance would be to apply for a variance to the lot area requirement. A second lot configuration was explored where Lot 1 was still a flag lot that had access down the flag pole to SE King Road and Lots 2 and 3 still had their frontage on SE Mullen street. The difference being that Lot 2 was also a flag lot and Lot 3 was a standard lot that met the minimum lot width and depth standards but could not meet the minimum lot area requirement. The reason that lot 3 could not meet the minimum requirement was due to the lot width requirements for flag lots, which cannot be decreased. There was not enough developable area to hold two flag lots (back-to-back) and still have enough area for Lot 3.

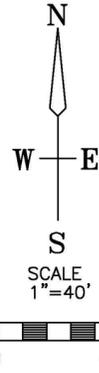
This configuration was less desirable because it created a second flag lot instead of having two standard lots.



# VICINITY MAP



PROJECT LOCATION: 1S 2E 30DC, TL 2601  
(PARCEL 2)

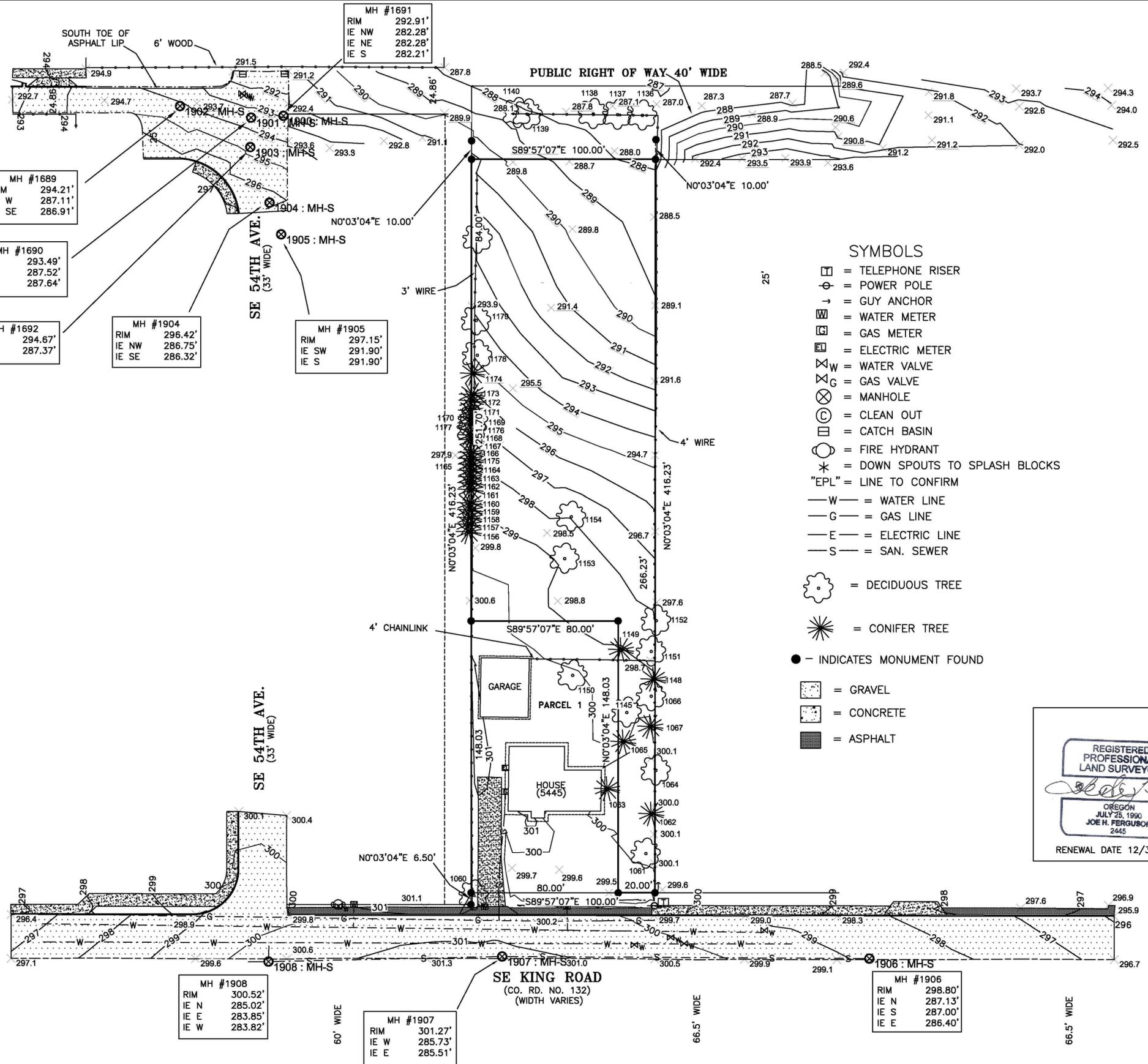
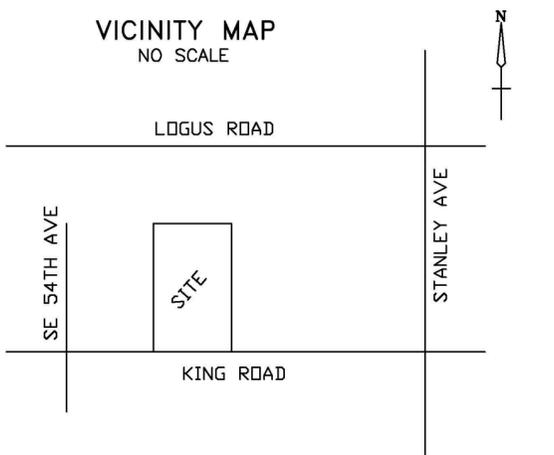


**TREE TABLE**

TREE #	TREE TYPE/SIZE
1060	TREE D DOUBLE ARM 10", 11"
1061	TREE D 14" LOCUST
1062	TREE C 10" CEDAR
1063	TREE C 15"
1064	
1065	TREE C 45" CEDAR
1066	TREE C 45" SEQUOIA
1067	TREE D 13"
1136	TREE D CLUMP
1137	TREE D 12"
1138	TREE D 20" PLUM
1145	TREE D 9"
1146	TREE C 7" HOLLY
1147	TREE C 36"
1148	TREE C 36"
1149	TREE C 40"
1150	TREE D 36" FRUIT
1152	TREE D 8" HAWTHORNE
1153	TREE D 18" FRUIT
1154	TREE D 53" MAPLE
1155	TREE C 22" FIR
1156-1174	ARBORVITAE TREES
1176	TREE 9" FRUIT
1177	TREE D 10"
1178	TREE D 11"
1179	TREE D 6"
1180	TREE D 7" MAPLE

NOTE: ELEVATION DATUM IS ASSUMED

**VICINITY MAP**  
NO SCALE



**SYMBOLS**

- = TELEPHONE RISER
- = POWER POLE
- = GUY ANCHOR
- = WATER METER
- = GAS METER
- = ELECTRIC METER
- = WATER VALVE
- = GAS VALVE
- = MANHOLE
- = CLEAN OUT
- = CATCH BASIN
- = FIRE HYDRANT
- = DOWN SPOUTS TO SPLASH BLOCKS
- "EPL" = LINE TO CONFIRM
- W — = WATER LINE
- G — = GAS LINE
- E — = ELECTRIC LINE
- S — = SAN. SEWER
- = DECIDUOUS TREE
- = CONIFER TREE
- = INDICATES MONUMENT FOUND
- = GRAVEL
- = CONCRETE
- = ASPHALT

REGISTERED PROFESSIONAL LAND SURVEYOR

*Joe H. Ferguson*

OREGON  
JULY 25, 1990  
JOE H. FERGUSON  
2445

RENEWAL DATE 12/31/15

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

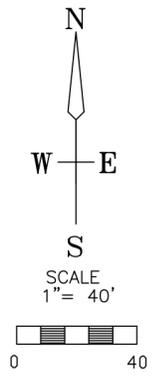
**EXISTING CONDITIONS**  
PARCEL 1, "2004-1"  
IN THE SW 1/4, SECTION 30, T.1S., R.2E., W.M.  
CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

DATE: OCTOBER 12, 2015

JOB NO. 15-073  
DRAFTED 10.12.15

REVISED  
REVISED  
REVISED

SHEET 1 OF 1



PARCEL 1, "2004-1"  
 IN THE SW 1/4, SECTION 30, T.1S., R.2E., W.M.  
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON  
 LOT SIZE = 0.65 ACRES

**PROPERTY OWNER**

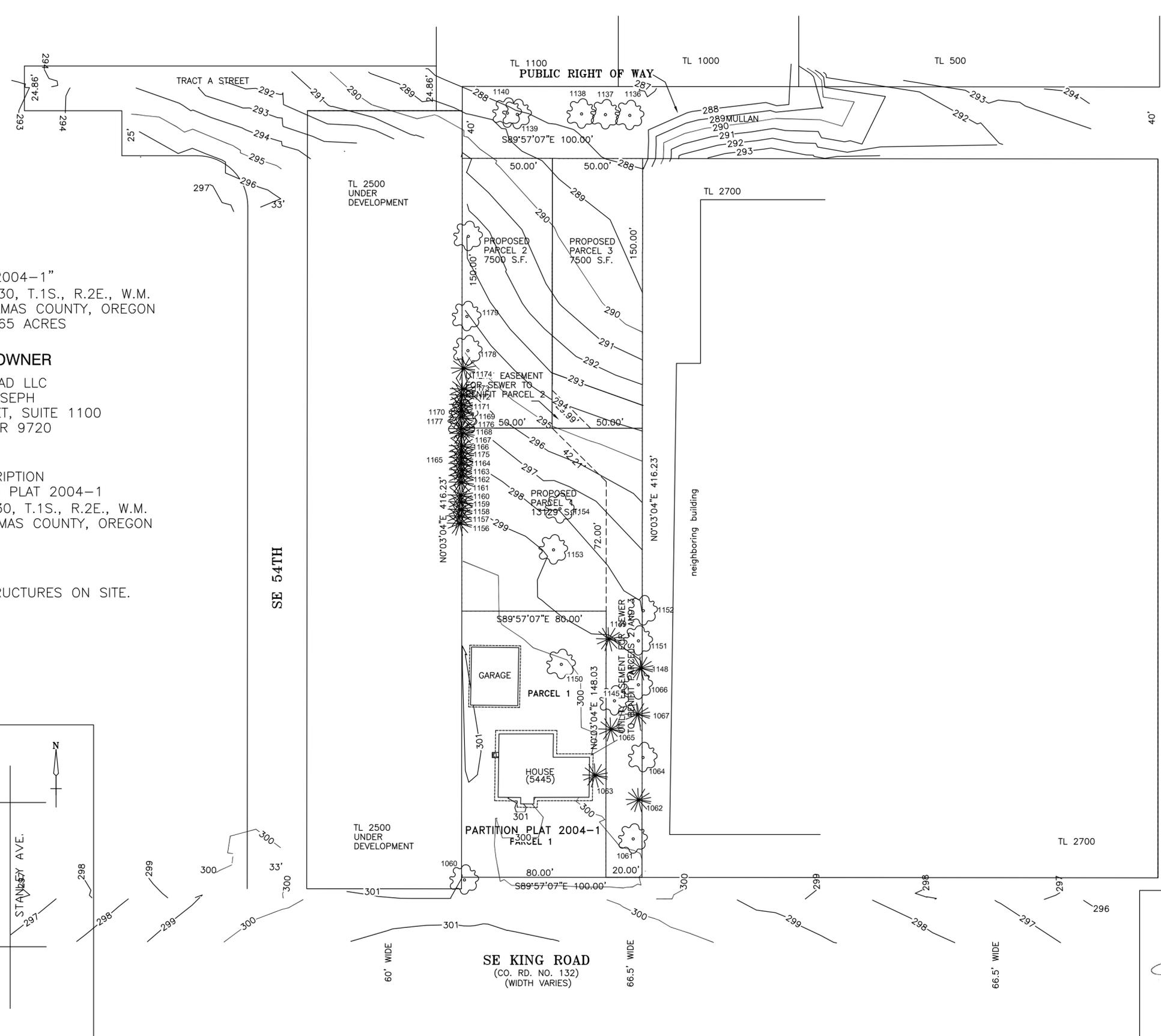
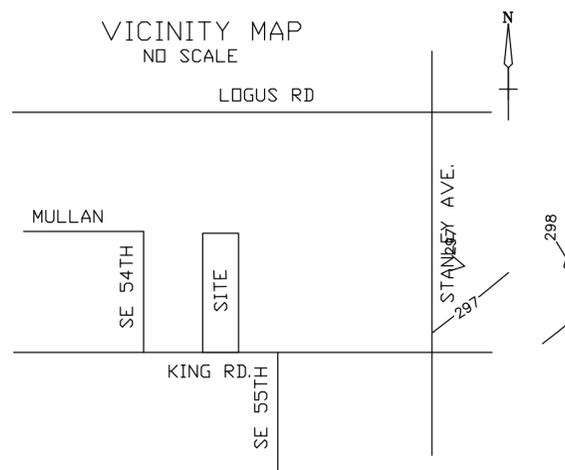
SE KING ROAD LLC  
 PHILLIP JOSEPH  
 101 SW MAIN STREET, SUITE 1100  
 PORTLAND, OR 9720

**LEGAL DESCRIPTION**

PARCEL 2, PARTITION PLAT 2004-1  
 IN THE SW 1/4, SECTION 30, T.1S., R.2E., W.M.  
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

NOTE: THERE ARE NO STRUCTURES ON SITE.

**VICINITY MAP**  
 NO SCALE



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 JULY 25, 1990  
 JOE H. FERGUSON  
 2445

RENEWAL DATE 12/31/15

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

**PROPOSED PLAT**  
 PARCEL 1, "2004-1"  
 IN THE SW 1/4, SECTION 30, T.1S., R.2E., W.M.  
 CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON

CLIENT: LAND MARQ CONSULTING  
 JOHN MARQUARDT  
 PO BOX 1928  
 VANCOUVER, WA. 98668

DATE: NOVEMBER 4, 2015

REVISED  
 REVISED  
 REVISED

JOB NO. 15-073  
 DRAFTED 11.4.15

SHEET 1 OF 1

**KING ROAD PARTITION**

PRELIMINARY SITE PLAN

JURISDICTION:  
City of Milwaukie

TAX LOT(s):  
1S 2E 30DC 2601

ADDRESS  
5445 SE King Road

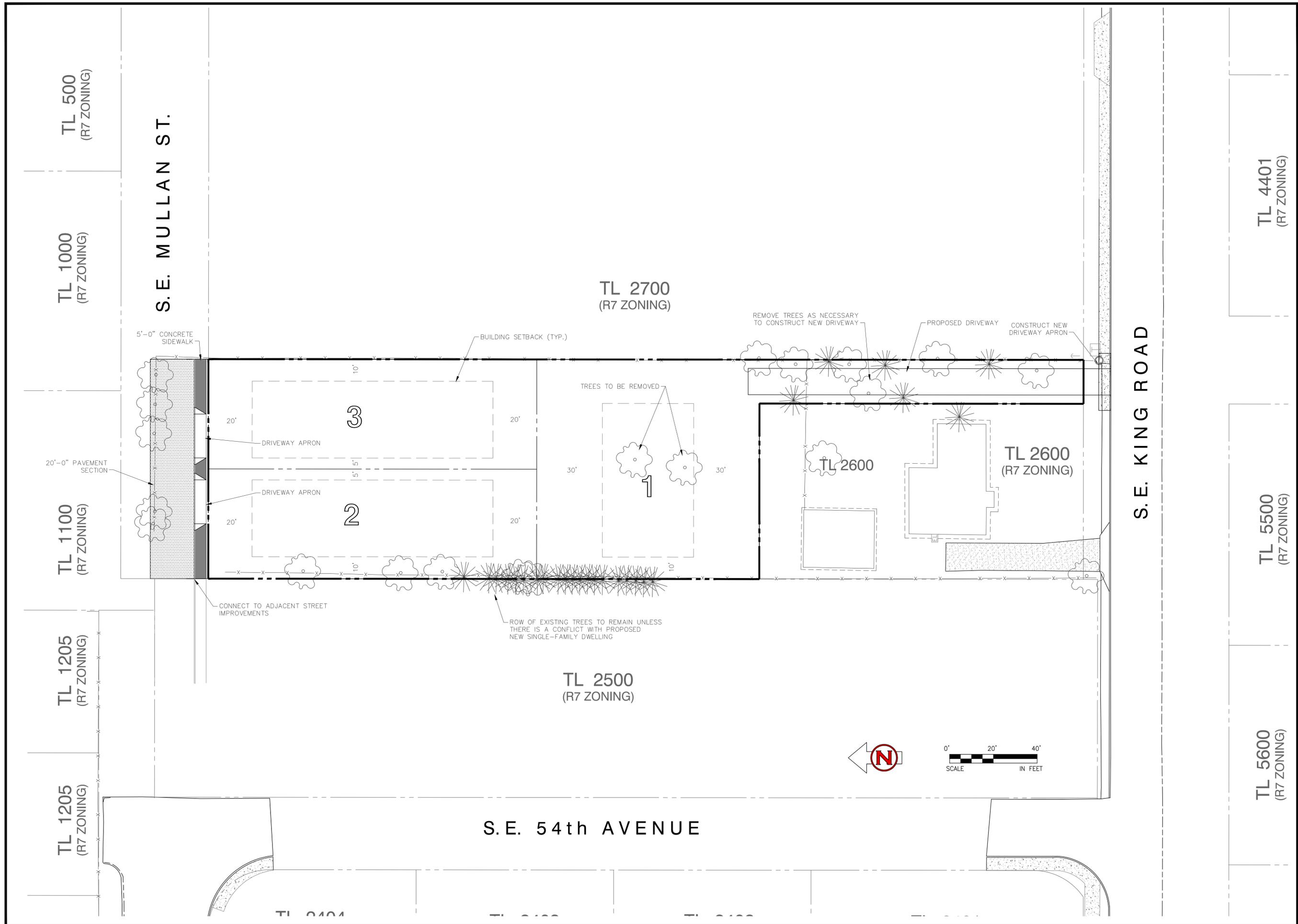
SCALE:  
1" = 20'

DATE:  
05/06/2015

DRAWN BY:  
JRM

SHEET NUMBER

1



TL 500  
(R7 ZONING)

TL 1000  
(R7 ZONING)

TL 1100  
(R7 ZONING)

TL 1205  
(R7 ZONING)

TL 1205  
(R7 ZONING)

S.E. MULLAN ST.

TL 2700  
(R7 ZONING)

TL 4401  
(R7 ZONING)

TL 5500  
(R7 ZONING)

TL 5600  
(R7 ZONING)

S.E. KING ROAD

S.E. 54th AVENUE

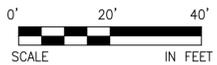
3

2

TL 2500  
(R7 ZONING)

TL 2600

TL 2600  
(R7 ZONING)



5'-0" CONCRETE  
SIDEWALK

BUILDING SETBACK (TYP.)

REMOVE TREES AS NECESSARY  
TO CONSTRUCT NEW DRIVEWAY

PROPOSED DRIVEWAY

CONSTRUCT NEW  
DRIVEWAY APRON

TREES TO BE REMOVED

DRIVEWAY APRON

DRIVEWAY APRON

20'-0" PAVEMENT  
SECTION

CONNECT TO ADJACENT STREET  
IMPROVEMENTS

ROW OF EXISTING TREES TO REMAIN UNLESS  
THERE IS A CONFLICT WITH PROPOSED  
NEW SINGLE-FAMILY DWELLING



LAND USE PLANNING  
AND DEVELOPMENT  
P.O. BOX 1928  
VANCOUVER, WA  
98668  
360-901-2299



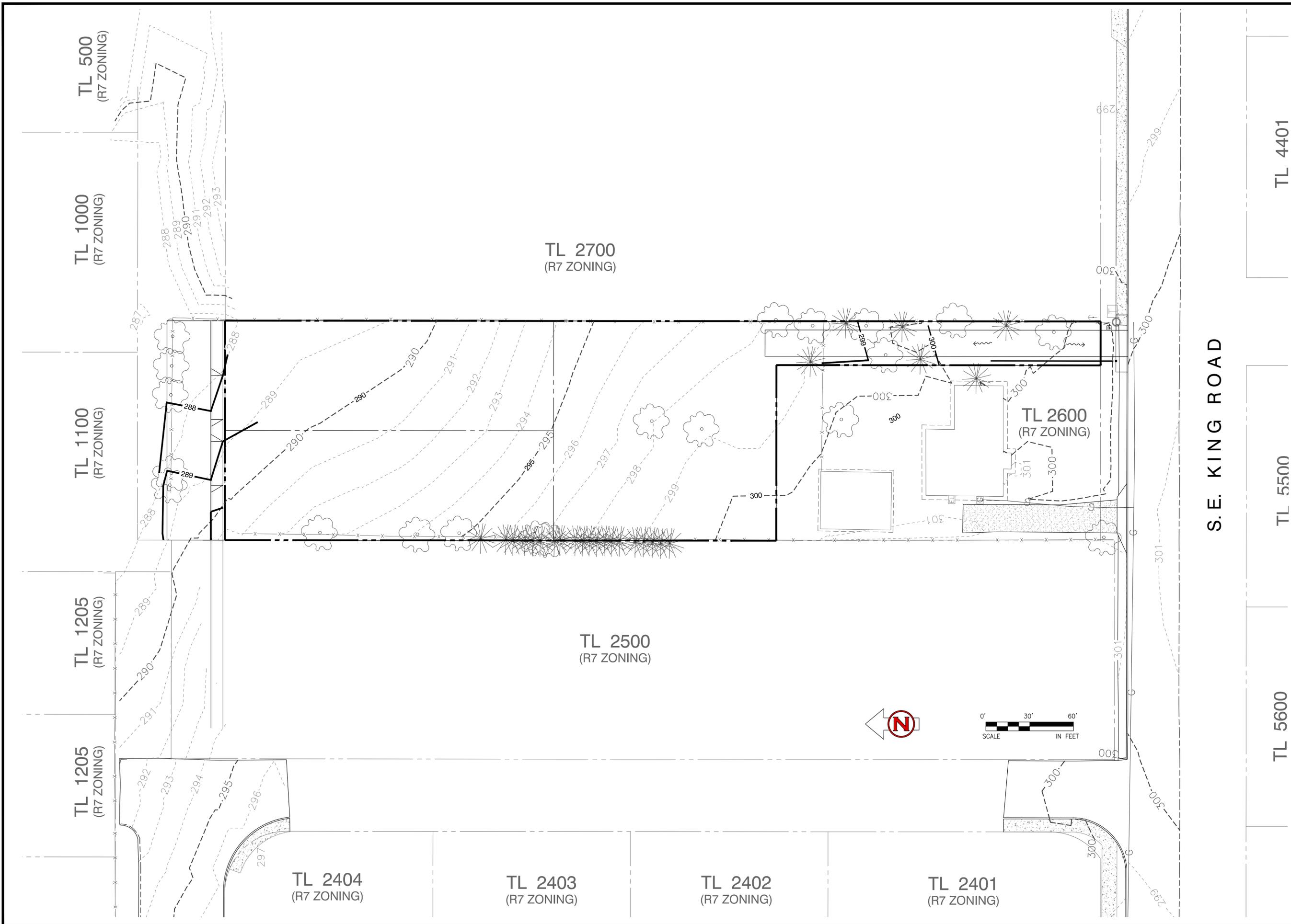
BRIDGE CITY  
CONSTRUCTION  
17109  
NW BLACKTAIL DR.  
PORTLAND, OR  
97229  
503-756-9752  
DEVELOPMENT  
WITH DESIGN

**KING ROAD PARTITION**  
PRELIMINARY GRADING PLAN

**JURISDICTION:**  
City of Milwaukie  
**TAX LOT(S):**  
1S 2E 30DC 2601  
**ADDRESS**  
5445 SE King Road

**SCALE:**  
1" = 20'  
**DATE:**  
05/06/2015  
**DRAWN BY:**  
JRM

**SHEET NUMBER**  
2



# Preliminary Drainage Report

*for*

## King Road Partition

City of Milwaukie, Oregon

Prepared for:

Bridge City Construction LLC  
17109 NW Blacktail Drive  
Portland, OR 97229

Prepared By:

Mai Civil Engineering, PC  
5290 NW 164<sup>th</sup> Ave.  
Portland, Oregon 97229



September 21, 2015  
Project No: BCC001  
COM Project No.

## **PROJECT DESCRIPTION**

The 3-lot partition project is located at 5445 SE King Road in Milwaukie, Oregon (See Figure 1 for Vicinity Map “A”). The site can also be located on tax map 1S2E 30DC (tax lot 2601). The basin boundary of the site is approximately 0.65 acre.

## **EXISTING CONDITIONS**

Currently, the site has various trees and the site is draining toward the easterly neighbor. The site is also conveying flow from the westerly and southerly neighbors (See Figure 3 for existing conditions).

## **PROPOSED DRAINAGE**

The proposed storm system is shown in Figure 3. Stormwater on the developed site will be managed as follows:

- Runoff from the proposed roof areas will be conveyed into the proposed drywells.
- Runoff from the proposed driveway for lot 1 will also be conveyed to a drywell.

## **HYDROLOGIC ANALYSIS**

Hydrologic analyses for the site have been completed following the Type 1A (SCS) method. The HydroCAD computer program enables the user to develop runoff hydrographs. Analysis calculations, supporting information, and computer output are contained in Appendix A.

### ***Impervious and Pervious Surface Areas***

The pervious and impervious areas used for the analyses are summarized in Table 1 below. The areas were determined using existing condition and a final site design of the proposed pervious and impervious surfaces. A map showing the proposed development is contained in Appendix A.

### ***Curve Numbers***

Curve numbers used for the analyses are based on characterization of the site’s soils as primarily Type C soils. The curve numbers represent values appropriate for wet antecedent moisture conditions, which is typical of the wet-weather conditions for the area.

### ***Time of Concentration***

The time of concentration used for the analyses is summarized in Table 1. The pre-development and post-development times of concentration are assumed to be about the same since the total impervious areas and site layouts are similar. Calculations and flow paths are presented in Appendix A and figure 2.

**Table 1. Impervious and Pervious Impervious Areas**

Area Description	Pre Development		Post Development	
	Area (ac)	CN	Area (ac)	CN
Pervious Surface	0.65	86	0.42	86
Impervious Surface	0	98	0.24	98
Time of Concentration	11 minutes		5 minutes	

**Peak Discharges**

Peak discharge rates for the prescribed rainfall events for pre-developed and post-developed site conditions are summarized in the following table. The rainfall depths are 24-hour rainfall depths used for the City of Portland (Portland Stormwater Management Manual). Computer model output is contained in Appendix A.

**Peak Runoff Rates for Post Development Basin**

Storm Event	Rainfall (inches)	Peak Runoff Rate (cfs)	
		Pre Development	Post Development
25-yr	3.90	0.40	0.49

**WATER QUANTITY**

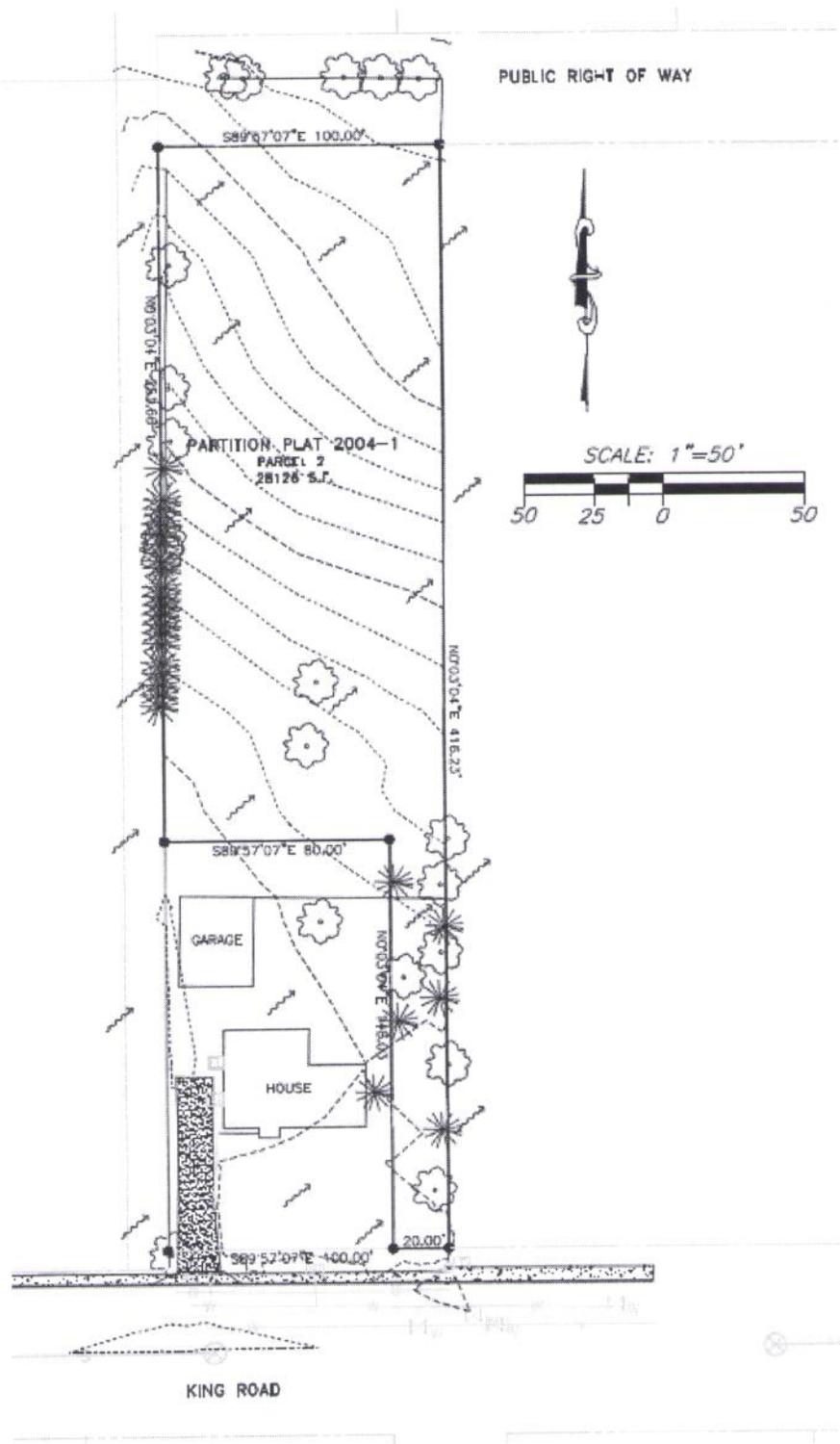
The runoff from the proposed site will be released into the proposed drywells. The drywell will be designed to drain just the roof areas from lots 2 and 3. As for lot 1, both the roof and driveway will be conveyed into the drywell.

**WATER QUALITY**

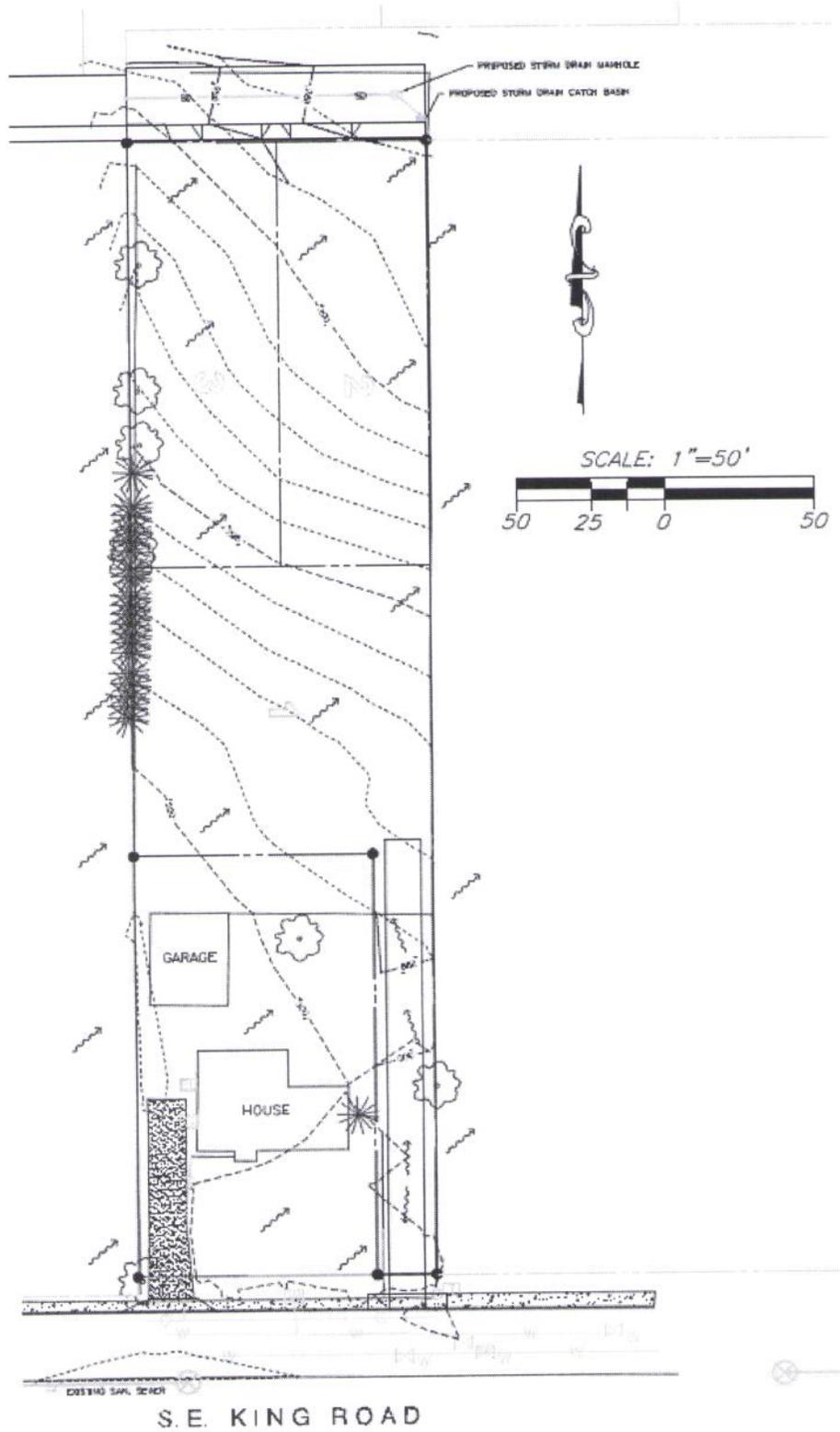
Due to the topographic of the site and since the project is a partition project no water quality is being proposed.



**FIGURE 1: VICINITY MAP**



**FIGURE 2: EXISTING CONDITION**



**FIGURE 3: POST DEVELOPMENT CONDITION**

**APPENDIX “A”**  
**CALCULATIONS**

**BCC001-MODEL**

Type IA 24-hr 25-yr Rainfall=3.90"

Prepared by {enter your company name here}

Printed 9/28/2015

HydroCAD® 8.50 s/n 002498 © 2007 HydroCAD Software Solutions LLC

Page 1

**Summary for Subcatchment 9006S: POST DEVELOPMENT**

[49] Hint: Tc&lt;2dt may require smaller dt

Runoff = 0.49 cfs @ 7.89 hrs, Volume= 0.155 af, Depth&gt; 2.82"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.00-24.00 hrs, dt= 0.10 hrs  
Type IA 24-hr 25-yr Rainfall=3.90"

Area (ac)	CN	Description
0.420	86	<50% Grass cover, Poor, HSG C
0.240	98	Paved parking & roofs
0.660	90	Weighted Average
0.420		Pervious Area
0.240		Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry,

**Summary for Subcatchment 9007S: PRE-DEVELOPMENT CONDITION**

[49] Hint: Tc&lt;2dt may require smaller dt

Runoff = 0.40 cfs @ 7.98 hrs, Volume= 0.133 af, Depth&gt; 2.45"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.00-24.00 hrs, dt= 0.10 hrs  
Type IA 24-hr 25-yr Rainfall=3.90"

Area (ac)	CN	Description
0.650	86	<50% Grass cover, Poor, HSG C
0.650		Pervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
11.0					Direct Entry,

## **BASIN SUMMARY**

Project: BCC001

### **PRE DEVELOPMENT AREA:**

PERVIOUS AREA (ac): 0.65

IMPERVIOUS AREA (ac):

TOTAL AREA (ac): 0.65

### **POST DEVELOPMENT AREA:**

PERVIOUS AREA (ac): 0.42

IMPERVIOUS AREA (ac): 0.24  
ROOF & DRIVEWAY AREAS (sf) 7920 3 x 2,640 sf  
ROAD & SIDEWALK AREAS (sf) 2504

TOTAL AREA (ac): 0.66

NOTE: ASSUMED 2,640 sq. ft. OF ROOF & DRIVEWAY AREAS PER LOT.

## Time of Concentration Calculations

Project: King Partition  
 Job Number: BCC001

Pre Development Conditions-25-yr Storm									
Flow Segment	Flow Type	Mannings n	Flow Length (feet)	Slope (ft/ft)	P (inches)	velocity (fps)	Segment Tc (minutes)	Accum. Tc (minutes)	Point
1	Sheet Flow	0.24	124	0.045	4		10.96	11.0	
2	Shallow Conc.	0	0	0.000	0	0.00	#DIV/0!	#DIV/0!	
3	Shallow Conc.			0.000		0.00	#DIV/0!	#DIV/0!	
4	Ditch Flow	0	0	0.000	0	0.00	#DIV/0!	#DIV/0!	
5	Ditch Flow			0.000		0.00	#DIV/0!	#DIV/0!	

**Equation for Sheet Flow:**

$$T_t = 0.42 (n \cdot L)^{0.8} / [(P)^{0.527} (s^{-0.4})]$$

where:

- n Mannings roughness coefficient
- L flow length (ft)
- I 24-hr rainfall (in)
- S slope of the hydraulic grade line (ft/ft)
- Tt travel time (min)

**Equation for Shallow Conc. Flow:**

velocity (fps) = 0.00       $v = k \cdot s^{.5}$

where:

k = 0  
 s (ft/ft) = 0  
 $v = k \cdot s^2$

**APPENDIX "B"**  
**SOIL INFORMATION**



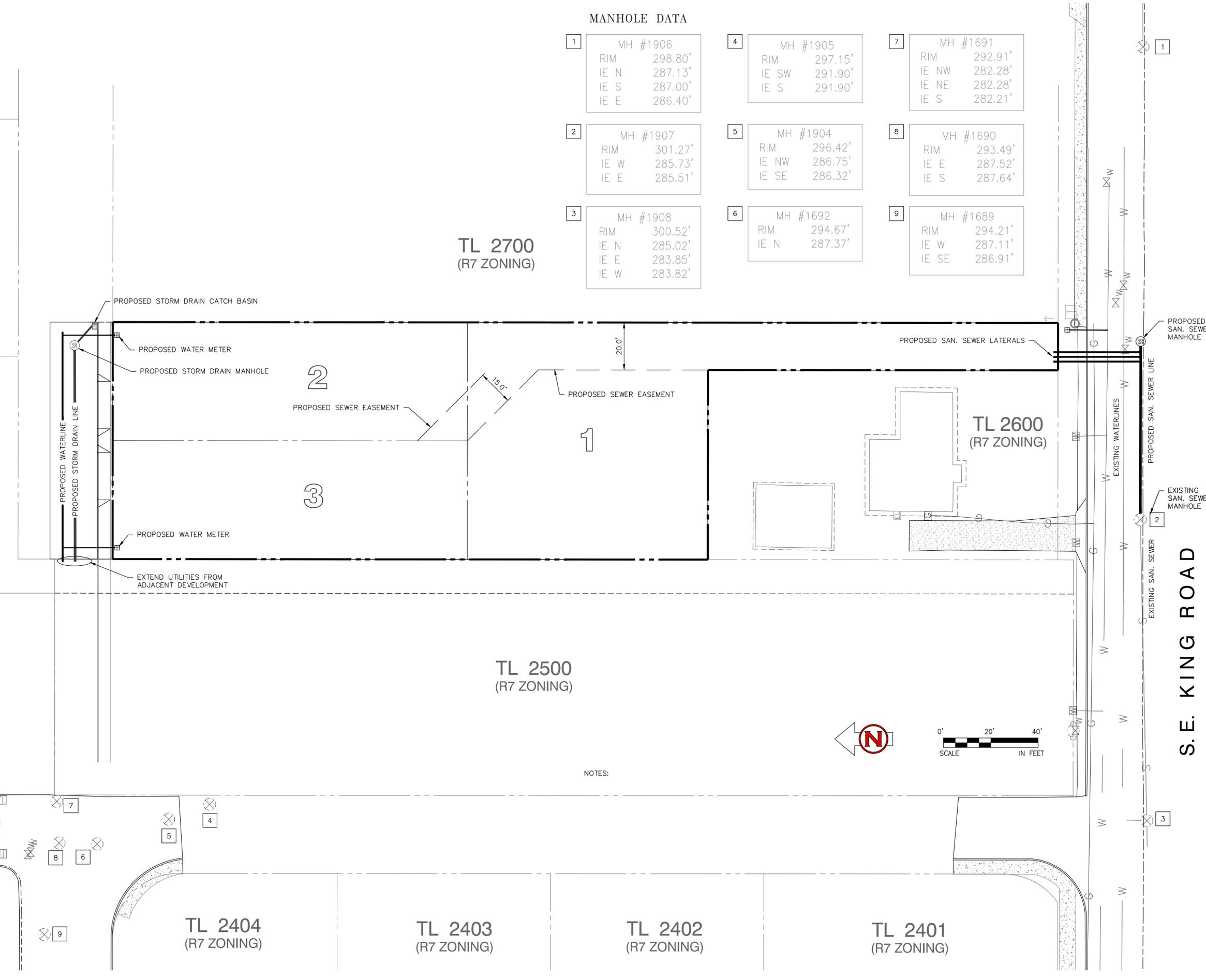
**Clackamas County Area, Oregon (OR610)**

<b>Map Unit Symbol</b>	<b>Map Unit Name</b>	<b>Acres in AOI</b>	<b>Percent of AOI</b>
53B	Latourell loam, 3 to 8 percent slopes	1.2	100.0%
<b>Totals for Area of Interest</b>		<b>1.2</b>	<b>100.0%</b>

**KING ROAD PARTITION**  
PRELIMINARY UTILITY PLAN

MANHOLE DATA

1	MH #1906 RIM 298.80' IE N 287.13' IE S 287.00' IE E 286.40'	4	MH #1905 RIM 297.15' IE SW 291.90' IE S 291.90'	7	MH #1691 RIM 292.91' IE NW 282.28' IE NE 282.28' IE S 282.21'
2	MH #1907 RIM 301.27' IE W 285.73' IE E 285.51'	5	MH #1904 RIM 296.42' IE NW 286.75' IE SE 286.32'	8	MH #1690 RIM 293.49' IE E 287.52' IE S 287.64'
3	MH #1908 RIM 300.52' IE N 285.02' IE E 283.85' IE W 283.82'	6	MH #1692 RIM 294.67' IE N 287.37'	9	MH #1689 RIM 294.21' IE W 287.11' IE SE 286.91'



**List of Record**  
**File #MLP-2015-002, VR-2015-006, Marquardt**

The following documents are part of the official record for this application as of January 5, 2016.

1. Application
  - a. Preapplication conference report for meeting on April 2, 2015 (sent April 20, 2015)
  - b. Submittal forms: land use application form(s), proof of ownership, property owner authorization, Submittal Requirements form, fee receipt (initial submission received July 13, 2015; revised submission received November 13, 2015; final submission received December 3, 2015)
  - c. Narrative addressing code standards and criteria (initial submission received July 13, 2015; revised submission received November 13, 2015; final submission received December 3, 2015)
  - d. Plans and drawings
    - (1) Vicinity map (initial submission received July 13, 2015; revised submission received November 13, 2015; final submission received December 3, 2015)
    - (2) Existing conditions plan (initial submission received July 13, 2015; final submission received December 3, 2015)
    - (3) Proposed Plat (initial submission received July 13, 2015; revised submission received November 13, 2015; final submission received December 3, 2015)
    - (4) Preliminary site plan (initial submission received July 13, 2015; final submission received December 3, 2015)
    - (5) Preliminary grading plan (initial submission received July 13, 2015; final submission received December 3, 2015)
    - (6) Preliminary drainage report (initial submission received November 13, 2015; final submission received December 3, 2015)
    - (7) Preliminary utility plan (received initial submission received July 13, 2015; final submission received December 3, 2015)
2. Notification information
  - a. Application referral and mailing list. Sent to: Community Development, Engineering, Building, Planning, Clackamas County, Clackamas Fire District #1, Metro, TriMet, and Chair and Land Use Committee for Hector Campbell and Lewelling Neighborhood District Associations. (Sent December 4, 2015.)
  - b. Sign notice for Planning Commission public hearing on January 12, 2016 (posted at the site on December 29, 2015)
  - c. Sign posting affidavit (dated December 29, 2015)
  - d. Mailed notice for Planning Commission public hearing on January 12, 2016 (sent to properties within 300' radius of site on December 23, 2015)
  - e. Certification of legal notice mailing, with attached mailing list (dated December 23, 2015)

- f. Notice map
- g. Returned notice envelopes
- 3. Materials from City Planning staff
  - a. Letter deeming application incomplete (sent August 12, 2015)
  - b. Letter deeming application incomplete (sent November 25, 2015)
  - c. Letter deeming application complete (sent December 11, 2015)
- 4. Agency and staff responses - None
- 5. Public comments received - None
- 6. Staff Report(s)
  - a. Report for Planning Commission public hearing on January 12, 2016 (dated January 5, 2016)
    - (1) Recommended Findings in Support of Approval
    - (2) Recommended Conditions of Approval
    - (3) Application items #1.c-d



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission  
**Through:** Dennis Egner, Planning Director  
**From:** Li Alligood, Senior Planner  
**Date:** January 5, 2016, for January 12, 2016, Worksession  
**Subject:** Comprehensive Plan – Overview (rescheduled)

---

## **ACTION REQUESTED**

None. This is a briefing for discussion only. Staff discussed the process and scope of the planned Comprehensive Plan update with City Council at the December 15, 2015, worksession, and will be returning to Council to discuss a proposed visioning process on January 19, 2016..

## **BACKGROUND INFORMATION**

This item was originally scheduled for the December 8, 2015, worksession, which was cancelled. The original staff report is included as Attachment 1.

## **ATTACHMENTS**

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

	PC Packet	Public Copies	E- Packet
1. December 15, 2015, staff report and attachments	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

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



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Li Alligood, Senior Planner

**Date:** December 1, 2015, for December 8, 2015, Worksession

**Subject:** Comprehensive Plan Update - Overview

---

## **ACTION REQUESTED**

None. This is a briefing for discussion only. Staff will be discussing the process and scope of the planned Comprehensive Plan update with City Council at the December 15, 2015, worksession.

## **BACKGROUND INFORMATION**

The purpose of this memo is to outline the current state of the Milwaukie Comprehensive Plan ("Comp Plan"), and to provide an evaluation of work that has been done in anticipation of an update of the Comp Plan.

Each jurisdiction in the State of Oregon is required to adopt a Comprehensive Plan and implementing ordinances, and to maintain compliance with the Statewide Planning Goals. The Statewide Planning Goals are administered by the Department of Land Conservation and Development (DLCDC). Specifically, Goal 2 - Land Use Planning, requires that local governments maintain and update their Comprehensive Plans regularly.

The City's current Comprehensive Plan was adopted in 1989, and has been updated incrementally since that time. The current Comprehensive Plan indicates that it will be reviewed and updated every 10 years. However, the last major update was in 2000, with the adoption of the Downtown and Riverfront Land Use Framework Plan as an ancillary document of the Comprehensive Plan.

Until early 2007, the DLCDC required all communities in Oregon to conduct regular review of their Comprehensive Plans and policies through a process called Periodic Review, which is the periodic evaluation and revision of the Comp Plan according to a schedule established by the Oregon Land Conservation and Development Commission (LCDC). The fundamental purpose of Periodic Review is to ensure that local comprehensive plans are:

- Updated to respond to changes in local, regional and state conditions,

- Coordinated with other comprehensive plans and investments; and
- In compliance with the statewide planning goals, statutes and rules.

In 2007, the Oregon Legislature amended state law (ORS 197.628 - to revise the scope of Periodic Review to cities with populations greater than 10,000, and to reduce the scope of Periodic Review to the 5 basic “building blocks” of local planning: housing, economic development, transportation, public facilities and services, and urban land supply.

In May 2008, the City received notice Periodic Review was scheduled begin in January 2009; however, in spring 2009, the DLCD notified the City that Periodic Review was on hold indefinitely. Technically, Milwaukie is still subject to the Periodic Review schedule and requirement; however, because DLCD has very limited funding for communities conducting Periodic Review, it is not required. Therefore, any updates to the Comprehensive Plan are voluntary and would be received through the standard "post acknowledgement" plan amendment (PAPA) process. However, any updates should address the 5 “building blocks.”

All amendments to the Comprehensive Plan are reviewed by DLCD for compliance with the Statewide Planning Goals (see Attachment 1). In addition to the Statewide Planning goals, jurisdictions in the Portland metropolitan region are required to comply with the 13 titles of the Metro Urban Growth and Management Functional Plan (“Functional Plan”). See Attachment 2. Finally, all Comprehensive Plan amendments must comply with applicable federal requirements.

#### **A. Current Efforts**

The Comprehensive Plan consists of two parts: the background information, or inventory; and the policy, which is adopted by ordinance. The background inventory consists of an economic opportunities analysis; buildable lands inventory; housing needs analysis; natural resources inventory; and historic resource inventory.

Inventories currently underway include:

- Update of the Economic Opportunities Analysis (EOA): October 2015-June 2016
- Update of the Buildable Lands Inventory: in process as part of Metro's Regional Transportation Plan update
- Update of the Housing Needs Analysis (NHA): anticipated Spring – Summer 2016
- North Milwaukie Industrial Area (NMIA) planning: Fall 2015-Summer 2016

### **STATE OF THE COMPREHENSIVE PLAN**

During 2009 and 2010, the Planning Director drafted a number of staff reports and memos identifying issues with the Comprehensive Plan, as well as areas where it was working well (see Attachment 3). Generally, she concluded:

- Most of the goals and policies in the Plan (i.e. small town culture and community heritage), seem consistent with the community’s aspirations today.
- Other elements, such as the natural resources inventories, economic opportunities analysis, housing needs analysis, and buildable lands inventories were out of date.
- The Comprehensive Plan update would provide an opportunity for the community to reaffirm its values and vision while updating information to make the plan easier to implement.

- The areas where policies are still generally aligned with the community’s vision included:
  - NDA formation, boundaries, and roles in public engagement
  - Environmental protection (water and habitat)
  - Residential land use
  - Downtown planning and development, including construction of Riverfront Park
  - Annexation

#### **A. Known Issues**

During staff evaluation of the current Comprehensive Plan, the following issues were identified:

- In some cases, an inventory has been adopted as part of the Milwaukie Comprehensive Plan, when it is more appropriate as a background document. Examples include:
  - Estimate of Dwelling Unit Capacity on Vacant Lands by Zone (Table 2)
  - Historic Resources Property List (Appendix 1)
  - Natural Resources Property List (Appendix 2)
- Several background elements and inventories are significantly out of date, including:
  - Historic Resources<sup>1</sup>
  - Buildable/developable lands
  - Parks
  - Needed housing
- Areas where the Comp Plan is out of date or has insufficient policy direction include:
  - Employment/commercial land use (what do we want to see where?)
  - Coordination of services with the County, including urbanization and the UGMA and a unified government
  - Willamette Greenway Overlay
  - Air and water quality
  - Schools
- The Comp Plan does not address several important areas:
  - Fiscal realities and choices
  - Public health
  - Sustainable urban development
- Outstanding questions (“messy stuff”) include:
  - Why so many land use classifications?
  - The Plan is hard to use and understand, and the formatting is unfriendly.

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<sup>1</sup> Goal 5 updates (historic and natural resources) do not need to be updated outside of Periodic Review.

- It includes many policies that should be in implementing documents (development standards, etc.).
- Zones don't entirely follow the Comp Plan designations.

In anticipation of Periodic Review, each chapter and element of the Comp Plan was shared with relevant City departments during April and May 2009, and the comments were included in a series of Evaluation Memos. The Memos were updated in November 2012 to reflect code, Comp Plan, and master plan revisions made between May 2009 and November 2012.

The largest policy questions are related to the City's policies related to growth, fiscal realities and the choices that must be made when balancing needs against resources; the desired outcome for the Kellogg Treatment Plant; and UGMA policies. The remaining issues are related to outdated inventories, improved consistency between the Comp Plan and the code related to density ranges and zoning/land use; and targeted revisions to outdated plans.

A general overview of major issues (if any), recommended approaches, and required level of public involvement (PI) is provided in Attachment 4.

## POTENTIAL APPROACHES

The cities of Forest Grove, Troutdale, and Lake Oswego were scheduled to begin Periodic Review in 2009. Each took a slightly different approach to updating their Comprehensive Plans, but all were expected to complete Periodic Review in 3 years. All but Lake Oswego were able to meet that timeline.

Generally, the visioning process is not part of Periodic Review; however communities choose to conduct a visioning process before beginning Period Review. An overview of the various approaches is provided below, and descriptions follow.

City	Approach	Duration	Staffing	Cost
Forest Grove	Vision + Comprehensive Update	3 years	1.3 FTE	\$125,000+
Troutdale	Two-Track	3 years	0.75	\$155,000+
Lake Oswego	Vision + Comprehensive Update	4 years	2.5 FTE	\$300-400,000

### A. Forest Grove

The City of Forest Grove began the 3-year Periodic Review process in 2010. The city has approached Periodic Review as an opportunity for a comprehensive review of the entire plan, including the addition of a community sustainability element. A visioning process was completed in 2007, and the resulting community vision statement and action plan are informing the Comprehensive Plan update. The mandated and optional components of the Comprehensive Plan update are fully integrated.

The City of Forest Grove completed its Comprehensive Plan update in early 2014.

**B. Lake Oswego**

Lake Oswego began the 3-year Periodic Review process in July 2010. The city approached Periodic Review as an opportunity for a comprehensive review of the entire plan. The review was divided into 3 phases. City Council adopted a vision statement in 2008 with minimal public involvement; the first phase of the planning process focused on sharing the vision statement with the public, updating the vision, and creation of a 2035 Vision Statement and Map.

The second phase of the project focused on drafting the plan, called “We Love Lake Oswego: Planning for People, Places and Prosperity.” The draft plan was structured around 8 “action areas,” each of which contains a number of related elements. There was an intensive public involvement process; each action area was subject to an internal review before going out to the public for comment and feedback. The internal review groups consisted of the Technical Advisory Committee (TAC), Citizen Advisory Committee (CAC), the Planning Commission, and City Council.

The third phase of the plan, action planning for implementation, was intended to result in amendments to the development code. This phase was anticipated to last 1-2 years, for a total of 5 years. However, a shift in the Lake Oswego City Council several months prior to adoption of the plan resulted in significant changes to the draft plan, and the third phase has not occurred.

**C. Troutdale**

The City of Troutdale began the 3-year Period Review process in April 2010. The city took a 2-track approach to Periodic Review. Track 1 focused on the updates required by Periodic Review and funded through a Period Review grant, specifically related to Goals 9, 10, 11, 12, and 14. Track 2 focused on the Statewide Planning Goals that were outside Periodic Review. The 2 tracks were parallel but not integrated.

Staff reviewed policies and determined which should be updated, modified, or eliminated, and drafted revisions to the narrative and policy statements. These drafts were vetted by a standing Citizen Advisory Committee (CAC). Outreach efforts consist of the CAC as well as public meetings before decision-making bodies. The Comprehensive Plan update process was completed in Spring 2014.

**NEXT STEPS****A. Project Scope**

In preparation for Periodic Review, the Planning Director prepared a draft work program in 2008. Generally, the work program includes three phases (see Attachment 5):

- Phase A – Comp Plan Evaluation (6 months)
  - Staff review of Comp Plan: this initial step was initiated in April and May 2009, but should be revisited.
  - Public involvement: to date, there has been no public involvement.
  - Agency coordination: Metro, DLCD, Clackamas County, etc.
- Phase B - Work Program Preparation (7 months)

- Draft work program
- Public involvement
- Agency coordination
- Phase C - Complete work program (3 years)
  - No scope prepared

Because the City is not required to conduct Periodic Review, a work program does not need to be submitted to and approved by the DLCD. However, the City may wish to informally include DLCD in review of the work plan program in order to ensure compliance with relevant statutes before beginning the Comprehensive Plan update process. This request is not expected to delay the project timeline.

## **B. Potential Approaches**

As described above, there are several potential approaches to a Comprehensive Plan update:

- “Housekeeping amendments”: This entails updating the background information/inventories (EOA is currently underway); updating plans as needed; and making minimal policy changes. It could also include reformatting of the Comprehensive Plan document for ease of use.

Advantages of this approach are that it is lower-cost and requires less staff commitment; disadvantages are that it solves some problems but leaves many in place.

Estimated time: 1-2 years

- “Two-Track” approach: Separate the areas that are required (policies and inventories related to housing, transportation, economic development, and urbanization) from those that are not (historic and natural resources, policies regarding growth, additional areas such as schools, public health, and sustainable development) and move forward in a “two-track” process.

Advantages of this approach are that those policies that are likely to be more controversial can be separated from those that are not. Disadvantages of this approach are that it is not a comprehensive approach and momentum could stall, leading to much longer project duration.

Estimated time: 2-3 years

- “Vision + Comprehensive” approach: Use the adopted Milwaukie Vision Statement as a starting point for a community discussion about a vision for 2035, and use it to inform a wholesale overhaul of the Comprehensive Plan. Establish a robust public involvement program and establish policy direction through technical and citizen advisory committees.

Advantages of this approach are that it is inclusive and allows for significant public engagement; disadvantages are that it would be the longest-duration, most staff-intensive and highest-cost option.

Estimated time: 3 years

The total cost of the update will depend on the level of analysis; amount of public outreach; consultant role in meeting setup and facilitation; production of graphics and materials; use of sophisticated web-based communication; and computer modeling. Staff estimates that the update will cost at least \$100,000 for the updates to the inventories and an additional \$100-200,000 for public outreach and technical analysis.

**ATTACHMENTS**

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

	PC Packet	Public Copies	E- Packet
1. Statewide Planning Goals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Metro Functional Plan Titles	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Background Information	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
A. Staff Report for March 3, 2009, Council Worksession	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
B. October 2010 Comprehensive Plan Summary	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Overview of Issues and Recommendations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5. Draft Project Scope	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-139>.



## A Summary of Oregon's Statewide Planning Goals

1. ***CITIZEN INVOLVEMENT*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.
2. ***LAND USE PLANNING*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.
3. ***AGRICULTURAL LANDS*** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.
4. ***FOREST LANDS*** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."
5. ***OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES*** Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.
6. ***AIR, WATER AND LAND RESOURCES QUALITY*** This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.
7. ***AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS*** Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.
8. ***RECREATION NEEDS*** This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed

standards for expedited siting of destination resorts.

9. ***ECONOMY OF THE STATE*** Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.
10. ***HOUSING*** This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.
11. ***PUBLIC FACILITIES AND SERVICES*** Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.
12. ***TRANSPORTATION*** The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."
13. ***ENERGY*** Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."
14. ***URBANIZATION*** This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.
15. ***WILLAMETTE GREENWAY*** Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.
16. ***ESTUARINE RESOURCES*** This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."
17. ***COASTAL SHORELANDS*** The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101 ) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses.
18. ***BEACHES AND DUNES*** Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other

types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

19. ***OCEAN RESOURCES*** Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the

nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.



# Urban Growth Management Functional Plan

PLANNING AND CONSERVATION › PLANNING LIBRARY › URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

The functional plan provides tools that help meet goals in the 2040 Growth Concept, Metro's long-range growth management plan.

The Urban Growth Management Functional Plan is Section 3.07 of the Metro Code. The 13 titles in that section are summarized below.

[Download the Urban Growth Management Functional Plan](#)

## Title 1 (Metro Code Sections 3.07.110 – 3.07.170) – Requirements for Housing and Employment Accommodation

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

## Title 2 (Metro Code Sections 3.07.210 – 3.07.220) – Regional Parking Policy

The Metro 2040 Growth Concept calls for more compact development to encourage more efficient use of land, promote non-auto trips and protect air quality. In addition, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept fully achieving its transportation objectives. This title establishes regionwide parking policies that set the minimum number of parking spaces that can be required by local governments for certain types of new development. It does not affect existing development. Parking maximums are also specified. By not creating an over supply of parking, urban land can be used most efficiently.

## Title 3 (Metro Code Sections 3.07.310 – 3.07.370) – Water Quality, Flood Management and Fish and Wildlife Conservation

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways. Title 3 specifically implements the Oregon Statewide Land Use Goals 6 and 7 by protecting streams, rivers, wetlands and floodplains by avoiding, limiting or mitigating the impact on these areas from development.

Title 3 contains performance standards to protect against flooding. The standards limit development in a manner that requires balanced cut and fill and requires floor elevations at least one foot above the flood hazard standard. The areas subject to these requirements have been mapped and adopted by the Metro Council, specifically, the FEMA 100-year floodplain and the area of inundation for the February 1996 flood.

Title 3 also contains performance standards related to streams, rivers and wetlands. The purpose of these standards is to protect and allow enhancement of water quality. The water quality areas are rivers and streams with a protected vegetated corridor width depending on the slope of the stream and the number of acres drained by the stream. Typically, the vegetated corridor is 50 feet wide. The performance standards require erosion and sediment control, planting of native vegetation on the stream banks when new development occurs and prohibition of the storage of new uses of uncontained hazardous material in water quality areas.

Finally, Title 3 directs Metro to establish performance standards to protect regionally significant fish and wild habitat areas. This work is underway and will implement Oregon Statewide Land Use Goal 5.

## Title 4 (Metro Code Sections 3.-07.410 – 3.07.440) – Industrial and Other Employment Areas

Title 4 places restrictions of certain uses in three designations on the 2040 Growth Concept Map.

In Regionally Significant Industrial Areas, non-industrial uses are limited to:

- Retail uses less than 20,000 square feet and amounting to only 5 percent of the contiguous Regionally Significant Industrial Area
- Commercial office uses that are not accessory to the industrial uses with the exception of large corporate headquarters, and;
- Uses necessary to serve the needs of businesses and employees of the Regionally Significant Industrial Area.

In Industrial Areas, non-industrial uses are limited to less than 20,000 square feet and amount to 10 percent of the Industrial Area.

In Employment Areas, retail uses are limited to less than 60,000 square feet. This can be increased if it is demonstrated that transportation facilities are adequate to serve the retail use and to serve other planned uses in the Employment Area.

#### Title 5 (Metro Code Sections 3.07.510-3.07.540) – Neighbor Cities and Rural Reserves

This section of the Functional Plan directs Metro to work with its neighbor cities to protect common locations for green corridors along transportation corridors connecting the Metro region and each neighboring city. The intent is to protect the land along these corridors from continuous strip development to maintain their rural character and agricultural economy. Metro's neighboring cities are Canby, Sandy and North Plains.

Title 5 requests that the counties and the cities adjacent to green corridors and rural reserves adopt comprehensive plan policies to reflect the rural reserve policies contained in the 2040 Growth Concept.

#### Title 6 (Metro Code Sections 3.07.610 – 3.07.650) – Central City, Regional Centers, Town Centers and Station Communities

The intention of Title 6 is to enhance the Centers designated on 2040 Growth Concept Map by encouraging development in these Centers. Metro will work with cities and counties to implement development strategies which will include an analysis of the barriers to development, an accelerated review process for preferred types of development, an analysis of incentives to encourage development and a program to adopt the incentives. Cities and counties are encouraged to site government offices in Centers and are required to report on the progress made in their Centers to Metro every two years.

#### Title 7 (Metro Code Sections 3.07.710-3.07.760) – Affordable Housing

This section of the functional plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

The intent of Title 7 is to provide a choice of housing types, reduce barriers to sufficient and affordable housing for all income levels in the region, create housing opportunities commensurate with the wage rates of jobs available across the region, initiate a process for addressing current and future needs for affordable housing, and reduce concentrations of poverty.

Local jurisdictions are required to report on land-use and non-land-use tools and strategies they have considered for adoption by January 31, 2002; to report on status of comprehensive plans amendments and adoption of affordable housing land-use tools by December 31, 2003; and to report on the amendments to comprehensive plans, outcomes of affordable housing tools implemented and any other affordable housing developed and expected by June 30, 2004.

#### Title 8 (Metro Code Sections 3.07.810-3.07.890) – Compliance Procedures

This title ensures that all cities and counties in the region are fairly and equitably held to the same standards and that the Metro 2040 Growth Concept is implemented. It sets out compliance procedures and establishes a process for time extensions and exemptions to Metro Code requirements.

#### Title 9 (Metro Code Sections 3.07.910-3.07.920) – Performance Measures

This title ensures that progress or lack of progress is measured in the implementation of the Urban Growth Management Functional Plan (UGMFP) and the 2040 Growth Concept. This will help ensure better program

management. Indicators for monitoring and evaluating policies and requirements in each Functional Plan title will be identified and reviewed by the Metro Policy Advisory Committee (MPAC), the Joint Policy Advisory Committee on Transportation (JPACT) and adopted by the Metro Council. Metro will gather the data necessary for measuring progress with the assistance of the local jurisdictions. Analysis of the data will include reporting at the regional level, jurisdiction levels and Growth Concept design type boundaries or center areas.

Where appropriate, benchmarks will be formulated for key indicators to, at very least, gauge advancement towards the goals of each of the above titles and those in the 2040 Growth Concept. Each biennium, Metro will gather and analyze data and determine the level of progress towards the goals. Policies will be developed for adjusting the regional plans based on actual performance.

#### **Title 10 (Metro Code Section 3.07.1010) – Definitions**

This title defines the words and terms used in the document.

#### **Title 11 (Metro Code Sections 3.07.1105 – 3.07.1140) – Planning for New Urban Areas**

The purpose of this title is to guide planning of areas brought into the UGB for conversion from rural to urban use. All land added to the UGB shall be included within a city's or county's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with all applicable titles of this Functional Plan. Title 11 lists ten provisions that need to be addressed in the comprehensive plan amendment including an urban growth plan diagram and policies consistent with the Regional Framework Plan and adopted 2040 Growth Concept design types.

#### **Title 12 (Metro Code Sections 3.07.1210 – 3.07.1240) – Protection of Residential Neighborhoods**

The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

#### **Title 13 (Metro Code Sections 3.07.130 - 3.07.1370) - Nature in Neighborhoods**

The purpose of this title is to conserve, protect and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape.

Revised/Updated 12/5/07



2.



**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development and Public Works Director

**From:** Katie Mangle, Planning Director

**Subject:** Long-Range Planning Projects: Comprehensive Plan Update and Local Aspirations

**Date:** February 16, 2009 for March 3, 2009 Work Session

### **Action Requested**

None. This is a briefing for discussion only. The purpose of this briefing will be to inform Council about the upcoming Comprehensive Plan Update project and a related effort to define Milwaukie's local aspirations for managing growth. In October 2009, Council will be asked to approve a work program to guide the Comprehensive Plan update process over the next three years.

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

**May 2008:** Planning staff briefed Council on the Downtown Plan, Council concurred with the City's ongoing efforts to fund and implement this plan.

**February 2008:** Council directed staff to continue developing the Kellogg for Coho project.

**2007- 2008** - Various actions and discussions related to the South Corridor Phase 2 Light Rail Project, also called Portland-to-Milwaukie Light Rail, including adoption of a locally preferred alternative and an Umbrella Agreement with TriMet regarding transit improvements and expectations in the City of Milwaukie over the next ten years.

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**December 2007:** City Council adopted the Transportation System Plan by ordinance 1975.

**September 2000:** City Council adopted the Downtown and Riverfront Land Use Framework Plan and Public Area Requirements by ordinance 1880.

## **Background**

### **Comprehensive Plan Update Project**

This year Milwaukie is beginning a project to update its Comprehensive Plan. The Comprehensive Plan sets the course for many aspects of how the City is run, provides services, and grows. It is the City's 20-year policy document to plan for economic and physical development, protect natural resources, and provide public services. There are six chapters addressing various topics from citizen involvement to natural resources protection (see Attachment 1). The Plan includes both policy text and maps.

Milwaukie's last major Plan update was completed in 1989, though minor amendments have been adopted since then. In the almost 20 years since the original Plan was prepared, some things have changed a lot and many things have been accomplished. Some aspects, such as the community's heritage and "small town" culture, are still held in high regard. However, other elements such as the natural resources inventories and policies related to stormwater management are out of date. The Comprehensive Plan Update project will enable the community to reaffirm its values and vision while updating information to make the plan easier to implement.

The Comprehensive Plan Update project will be carried out as part of a state-mandated process to periodically review its Comprehensive Plan. Periodic Review is the name of the evaluation and update process administered by the Department of Land Conservation and Development (DLCD) and required by state law as described in ORS 197.628-197.644 and OAR 66, Division 25. Periodic Review requires that local governments review their plan to ensure that it continues to provide for the growth and development needs of the community and that the Plan and regulations remain consistent with Oregon Revised Statutes, Oregon Administrative Rules, programs of state agencies, and statewide planning goals. Because the project is mandated by the state, some steps of the project will need to follow procedures and deadlines established by the Oregon Legislature.

The schedule for this project follows:

**Phase A – Evaluation of the Existing Comprehensive Plan** (January – April 2009)

City staff is currently conducting an evaluation of the Plan. The staff-level evaluation will include an inter-departmental assessment of how the Plan addresses the following:

- Federal requirements such as the Fair Housing and Clean Air Acts.
- Changing trends in economic development.
- Climate change.
- Population growth and Milwaukie's capacity for development of housing and industry.
- Whether the Plan adequately reflects the current community vision, or if there are changes needed to guide community development for the next 20 years.
- Whether the existing public facility plans adequately support the City's development over the next 20 years.
- Whether the Urban Growth Management Area and annexation policies need to be updated.
- Whether implementing ordinances are obstacles to achieving local and state goals, or do not comply with state requirements.

Based on staff's preliminary work, and what was learned during the 2007 Transportation System Plan update project, most of the goals and policies in the Plan seem consistent with the community's aspirations today. However, many background elements and resource inventories are out-of-date. Staff will brief Council on the results of this evaluation prior to developing the work program for the project.

**Phase B - Work Program Preparation** (April 2009 – October 2009)

The City will prepare a work program that addresses the needs discussed during the Plan Evaluation. The work program must include work *needed to comply* with state requirements, but also may include work *desired* by the City. The work program should only include tasks that the City can complete within three years.

The City will provide opportunities for interested persons to participate in developing the work plan. At a minimum, this will include a public open house and hearings at Planning Commission and City Council. Both City Council and the County must adopt the work program. Then DLCD will approve it and grant approval to begin carrying out the work.

**Phase C – Undertake Work Program** (October 2009 – October 2012)

The City will complete the work program over three years. The outcome of the project will be a Comprehensive Plan that complies with state and regional requirements and is

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also a more effective plan to guide the City's growth and operations for the next 20 years. The plan will be more effective if it is easier to use, based on current conditions, and reflects Milwaukie's aspirations for shaping growth, protecting natural resources, and strengthening the social fabric of the community.

### **Milwaukie's Local Aspirations**

While evaluating the existing Comprehensive Plan, staff has also begun an effort to define Milwaukie's aspirations for growth. To help City and regional planners understand Milwaukie's aspirations for growth and development, the Planning Director prepared a memo that summarizes where and how Milwaukie aspires to grow and change over the next 20 years (see attachment 2), based on three resources:

- The *Milwaukie Vision Statement* adopted into the Comprehensive Plan in 1995 after extensive community involvement
- Community input received during the 2007 Transportation System Planning process
- Current planning and implementation projects underway in Milwaukie
- Elements of adopted plans that staff know to be the focus of implementation by City Council.

The attached memo describes where Milwaukie is planning to accommodate employment and population growth, how the City is protecting the environment, and what infrastructure investments are needed to support healthy development in the city.

### **Concurrence**

Though Planning staff will lead this evaluation, Community Development, Community Services, Engineering, and the Public Works departments are all participating in the initial evaluation of the Comprehensive Plan.

### **Fiscal Impact**

Work during the current fiscal year will be accomplished within the adopted budget for the involved departments. For phases B and C, the City will seek Periodic Review Grants from DLCD to help cover the costs of completing the work program and work tasks in the work program. The City will contribute staff time as its local match for these grants. Staff will apply for the grants while we develop our work program.

### **Work Load Impacts**

This project will be a significant focus for Planning and Community Development staff during 2009 and for the next several years.

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**Alternatives**

None. This is a briefing for information only.

**Attachments**

1. Table of Contents for the existing Comprehensive Plan
2. Local Aspirations Memo

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## APPENDICES:

- Appendix 1—Historic Resources Property List..... APX1-1
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## ANCILLARY DOCUMENTS (not included in this document; available for additional charge):

- Ardenwald Park Master Plan
- Downtown and Riverfront Land Use Framework Plan
- Elk Rock Island Natural Area Management Plan
- Furnberg Park Master Plan
- Homewood Park Master Plan
- Johnson Creek Resources Management Plan
- Lake Road Multimodal Connection Plan
- Lewelling Community Park Master Plan
- Milwaukie Vision Statement
- North Clackamas Urban Area Public Facilities Plan (4 volumes)
- Regional Center Master Plan
- Scott Park Master Plan
- Spring Park Master Plan
- Springwater Corridor Master Plan
- Transportation System Plan
- Water Tower Park Master Plan
- Wichita Park Master Plan

## ANCILLARY MAPS (not included in this document; available for additional charge):

- Title 4 Lands Map

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**To:** Chris Deffebach, Metro

**Through:** Katie Mangle, Planning Director

**Date:** February 6, 2009

**Subject:** Local Aspirations Information Request

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This memo is in response to Metro's request that local jurisdictions prepare a summary of "local aspirations" to inform regional efforts to understand how the region will grow over the next 20 years. Metro's request asked the City to respond to the following questions:

1. What are your plans for growth in your city in general and in your centers, corridors and employment areas in particular?
  - What is your planned capacity? Is our understanding of your current planned capacity correct?
  - What are your aspirations for capacities beyond current adopted plans, if any?
  - What are your plans for growth in the 50 year timeframe, if any?
2. What kind of community are you planning for?
  - Are you planning for an 18- hour community or other community shown on the Activity Spectrum?
  - Are you planning for a particular quality of environment, such low-rise or high-rise?
3. What policy and investment choices will it take for you to achieve these aspirations?
  - What type of transportation or other infrastructure?
  - What type of financial assistance?
  - What type of regulatory or other tools?

The purpose of this memo is to address these questions with information currently available. Milwaukie is beginning Periodic Review of its Comprehensive Plan in 2009. During this process, the City will update both environmental and development information, and review policies to guide the growth and development of the city. The local aspirations described below are staff's summary of the following:

- a) Current projects underway in the city,
- b) Elements of adopted plans that staff know to be the focus of implementation by City Council, and
- c) Elements of the adopted plans that staff anticipates will be the subject of review during the upcoming Periodic Review process.

The Milwaukie Comprehensive Plan includes a Vision Statement that was prepared with extensive community input in 1995 (see Attachment 1). Though it was prepared many years

ago, it still captures the aspirations of the community and is the basis for ongoing planning and implementation work. Additional site-specific aspirations are described below, and illustrated in the attached diagram (see Attachment 2).

### **Where would Milwaukie like to encourage growth?**

#### Milwaukie Town Center

Employment and population growth will be focused in the designated Milwaukie Town Center area. Within this area, there are three distinct sub-areas – downtown, “Central Milwaukie”, and residential neighborhoods. The downtown and Central Milwaukie sub-areas are where growth is most encouraged.

- Downtown – The City is focused on supporting the realization of the *Downtown and Riverfront Land Use Framework Plan*, which envisions a lively downtown area that is a cultural and commercial center for the community, comprised of a welcoming and attractive mix of uses and amenities. Additionally, downtown is projected to be the location of significant residential and employment growth. People will come downtown to work and to experience an environment that is unique, active and diverse. The City is planning for Town Center/Station Community-level activity, as exemplified in the Sellwood /Moreland area today.
- Central Milwaukie (the eastern part of the Town Center area, east of Hwy 224) - The City is planning for a level activity similar to the Hollywood area today. This area includes many opportunity sites, including:
  - Hillside Park (owned by the Housing Authority of Clackamas County)
  - the vacant brownfield Murphy and McFarland sites
  - underutilized residential properties on Myrtle Street north of Hwy 224
- Some infill development is anticipated in the neighborhoods, but maintaining the neighborhood feel of these areas is a priority for the City. One of the City’s primary land use policies is to maintain stable, healthy residential neighborhoods. This policy includes allowing some infill residential development, primarily through land divisions and accessory dwelling units.

#### Industrial Areas

Employment growth will be encouraged through the development of industrial and office uses in the City’s three industrial areas: North Industrial Area, Johnson Creek Blvd, and International Way. The City considers the North Industrial Area, with access to both Hwy 99E and Hwy 224, to be a valuable location for centrally-located manufacturing and warehousing uses. There is some potential for redevelopment in this area due to the age of the existing facilities. However, it is limited due to access constraints. The ODOT maintenance facility represents a future redevelopment opportunity site. The City intends to protect and nurture the employment-intensive focus of the North Industrial Area. The Tacoma light rail station and park and ride will be just north of this area.

The International Way area, which is zoned BI – Business Industrial is zoned to allow taller buildings (up to 35 feet) and more employment density than is currently built. This capacity may be theoretical, however, because most buildings are relatively new and well-kept.

### Annexation

Over the next 20 years, the City intends to follow existing Comprehensive Plan policies and the existing Urban Growth Management Agreement with Clackamas County to provide urban services to and annex properties within Dual Interest Areas A and B.

### Corridor Development

Following the existing Comprehensive Plan and zoning, encourage neighborhood-oriented commercial development along 32<sup>nd</sup> Ave and in King Road Center area.

### **What is Milwaukie's planned capacity for growth?**

In 1997, the City of Milwaukie identified a capacity for 3,188 new dwelling units within the city limits.<sup>1</sup> This capacity was determined by looking at both the land available for new construction and development densities that were allowed by the various zoning codes in place throughout the City at the time.

Based on a recent review of Milwaukie's growth capacity, given both current zoning and the construction of new housing units between 1997- 2008,<sup>2</sup> staff can make the following conclusions about Milwaukie's planned capacity for growth. The conclusions that follow are not the result of an in-depth review of the housing capacity as determined by the Planning Staff back in 1998.

- The combination of current zoning and new units built since 1997 ensures a growth capacity in Milwaukie of approximately 3,233 housing units, or 45 more than the City's self-imposed requirement under the Functional Plan.<sup>3</sup>
- 2008 downtown zoning allows the construction of up to approximately 1,270 housing units.
- 2008 zoning of the larger Town Center area, excluding downtown, allows the construction of up to approximately 980 units.<sup>4</sup>
- 2008 zoning in the rest of the residential zones (R10, R7 and R5), allows the construction of up to approximately 680 units through partitions and subdivisions. We estimate that three percent of the 680 units will add accessory dwelling units, for an additional 20 dwelling units.
- Assuming every last one of these housing units were built, residential density in the City would generally range from between 3.5 to 4.0 units per acre, with actual densities differing around town based partially on where (i.e. in which zone) the housing was built.<sup>5</sup>

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<sup>1</sup> See the City of Milwaukie's Functional Plan Compliance Report, 1998.

<sup>2</sup> Since 1997, the City adopted the following changes to the base zones: in 2000, Downtown zoning was changed from General Commercial with Mixed Use Overlay to the current Downtown Zones; in 2005, a block northwest of the corner of Oak Street and Hwy 224 was re-zoned from R-2 to C-G.

<sup>3</sup> This estimate excludes potential redevelopment of public right-of-way, existing open space, religious and educational institutions, public facilities, historic properties, and lots significantly covered by water or wetlands. It also excludes lots of substandard size. It assumes new housing units would be built on lots that could meet current minimum standards for lot size and shape.

<sup>4</sup> Milwaukie's designated Town Center includes the area roughly between Bluebird Street to the south and Balfour Street to the north, from the Willamette River to 42<sup>nd</sup> Street.

<sup>5</sup> While this is generally true, some areas of Milwaukie have large lot sizes and would have fewer units per acre. Some parts of Downtown may ultimately average 60 units per acre, which is the average density of North Main Village.

In 1998, Milwaukie's Functional Plan Compliance Report estimated a 2017 capacity of 2,218 new jobs within the city. The report observes that the capacity for jobs growth is limited because there is little vacant commercial land available. The situation has not changed since then, but the City will review this as part of the upcoming Comprehensive Plan update.

**What locations are not achieving planned capacity?**

Existing development within several zones falls far short of planned capacity:

- Downtown zones – zoning for 2-5 story mixed use buildings; most buildings are one story; most land contains parking lots.
- Residential – Office- Commercial zone - zoning allows for 3 story mixed use buildings; land is vacant.

**Aspirations for capacities beyond current adopted plans?**

None.

**Do you have special planning areas or planned redevelopment areas?**

- Downtown Milwaukie Land Use Framework Plan was developed in 2000 for downtown Milwaukie. The City is actively implementing this plan through MTIP-funded streetscape projects, design review of development projects, and other capital improvement projects.
- The City is currently studying the South Downtown area and developing a concept plan to guide redevelopment and restoration of the urban and natural areas south of Washington Street.
- The City is beginning a master planning process for the southwest corner of the Ardenwald neighborhood to guide redevelopment of Hillside Park and the vacant Murphy site north of Harrison in the Central Milwaukie portion of the Town Center.
- City Council has directed staff to begin working on a preliminary urban renewal proposal and a public involvement strategy. An initial package will be presented in 2009, focusing on implementing the Downtown and Riverfront Framework Plan.
- The City is actively pursuing a Kellogg-for-Coho initiative, which includes removing the Kellogg Lake culvert at Hwy 99E and restoring the natural hydraulic function of Kellogg Creek. The goal of the project is removal of the temporal fish passage barrier constituted by the existing box culvert and fish ladder underneath the OR-99E bridge over Kellogg Lake. Secondary goals of the project include improved bike and pedestrian mobility and supporting downtown development.

**Do you have a completed a Goal 9 Economic Opportunities Analysis that you would like Metro to consider in estimating employment capacity?**

No – we will do this during Periodic Review.

**What aspirations do you have for your employment areas?**

- Strengthen the North Industrial area as an employment-intensive area.
- Strengthen the International Way as an office park and light industrial area.
- Strengthen downtown as an employment center and location for small retail stores.
- Redevelop Kellogg Treatment Plant for office or hotel use.

**Investment Actions needed to achieve Milwaukie's aspirations**

- Downtown area:
  - New 99E bridge over Kellogg Lake to replace the existing culvert.
  - High capacity transit service to downtown.
  - Removal of bus layovers and commuter parking from downtown.

- Decommissioning and removal of the Kellogg Treatment Plant to support revitalization of downtown and the livability of the Island Station neighborhood.
- Streetscape improvements (as defined in the Downtown and Riverfront Plan Public Area Requirements) to Main Street and 21<sup>st</sup> Ave.
- Development of Riverfront Park
- 17<sup>th</sup> Ave bicycle and pedestrian facility improvements to connect downtown with Sellwood
- Central Milwaukie area:
  - Grade separation of Highway 224 and Harrison St to support redevelopment in central Milwaukie and connections between the Town Center and the neighborhoods to the east.
  - Grade separation of the UPRR Railroad and street crossings.
  - Development of bicycle facilities on Monroe St and Lake Rd
  - Completion of Railroad Ave
  - Railroad crossing safety improvements necessary to achieve Quiet Zone status
- Throughout Milwaukie
  - Street improvements and sidewalks on most arterial, collector and local streets. The lack of facilities and need to provide street improvements has the effect of discouraging infill development.
  - Higher frequency bus service on Lake Road, Hwy 224, Johnson Creek Blvd, and King Road.
- North Industrial Area
  - Access improvements to the North Industrial area, such as a new overpass at Ochoco.

### Milwaukie's Aspirations for growth in Centers and Corridors

	Which type of community best reflects your aspirations?	What is the theme that your community wants to retain
<b>Town Center</b>		
● Downtown Milwaukie (between 99E and railroad)	Sellwood – specialty retail, office, vertically mixed uses	Vibrant small town downtown
● Historic Milwaukie (residential area between railroad and 224)	Hillsdale – mix of SFR, apartments	Historic single family neighborhood
● Central Milwaukie (east of 224)	Regional hospital and shopping center, some mixed use, office, and higher density residential	
<b>King Road corridor</b>	Hillsdale	
<b>North Industrial Area</b>	Industrial Sanctuary	
<b>City as a whole</b>		Small town feel – strong walkable neighborhoods with access to open space, retail services, and low traffic levels

**Policies and investment actions needed to achieve aspirations**

	<b>What kind of transit services?</b>	<b>Other infrastructure?</b>	<b>Financial Strategies</b>
<b>Town Center</b>			
<ul style="list-style-type: none"> <li>Downtown Milwaukie</li> </ul>	High capacity connections to downtown Portland and CTC. Frequent bus connections to neighborhoods.	Removal of Kellogg Treatment Plant	Local funding source, such as urban renewal.
<ul style="list-style-type: none"> <li>Historic Milwaukie (residential)</li> </ul>	Frequent bus connections		
<ul style="list-style-type: none"> <li>Central Milwaukie</li> </ul>	High capacity connection to downtown Milwaukie or Portland, and CTC. Frequent bus connections	<ul style="list-style-type: none"> <li>Hwy 224 – multimodal improvements to crossings</li> <li>Railroad crossings – safety/ quiet zone improvements</li> </ul>	
<b>King Road corridor</b>	Frequent bus connections	Sidewalks and pedestrian safety improvements	
<b>North Industrial Area</b>		Access improvements (overpass at Ochoco)	

**Attachments:**

1. Local Aspirations Map
2. 1995 Vision Statement



## *Milwaukie Vision Statement*

**In the year 2015**, Milwaukie is known as a friendly, full-service city where people want to live and visit. A legacy of established neighborhoods and a street grid system define Milwaukie as part of the region's inner core. The City has successfully transitioned to an urban character. This is a safe community where cultural and business diversity flourishes.

**Milwaukie's Expanded City Center** extends from the upland geography near 37th Avenue to the shoreline of the Willamette River. A larger-scale complex of housing units and medical facilities, linked by pedestrian networks, anchors this eastern edge. Typical commercial design for Milwaukie's Expanded City Center emphasizes retail on the first floor and office and/or residential on second or third floors. Parking is underground or in structures, which accommodates the pedestrian-oriented atmosphere.

**With the return of public rail transit to Milwaukie**, the Expanded City Center has taken on a bold look, with mixed office, commercial, and residential activity. People enjoy spending time in Milwaukie, strolling along the revitalized riverfront and taking advantage of a variety of options. Cultural events attract people from the region. The many public spaces are well used. Commercial activity mixes with residential use for people who now call city center "home." Transit options and commercial places keep the Expanded City Center alive after five o'clock. People feel secure and are surrounded with the positive energy that public places can provide.

**Milwaukie's stable neighborhoods offer diversity in housing.** These neighborhoods are linked through safe and attractive pedestrian and bicycle access. Because of the security and peace of its living areas, residents feel encouraged to be involved in neighborhood activities. Neighborhood associations participate with local governments in prioritizing services and needs. New housing areas are well-designed and blend into existing neighborhoods. Schools form a nucleus for neighborhood interest. Small commercial centers form a focus for public interaction in each of the neighborhoods. People watch out for one another.

**With a diverse range of economic options**, including home-based employment, people of many social and cultural backgrounds find Milwaukie a good place to work. New technologies continue to evolve in Milwaukie, especially in industrial areas. New business opportunities are expanded throughout the revitalized City.

**Aggressive pursuit of transportation** plan objectives have overcome barriers for vehicular travel and have created stronger east-west street connectors. Existing grid patterns carry many modes of transport. With new trails, sidewalks, bike lanes, and streets in place, Milwaukie is known as a community that is pedestrian-oriented with a city center that uses the human scale in its development designs. Good bus transit offers the option of getting to jobs in the City's commercial or industrial areas. Transportation facilities allow for freight movement on Highway 224 without adversely affecting the rest of the City. The small station for the regional high-speed rail line is integrated with the City's second light rail station at the eastern end of the Expanded City Center.

**People recognize that they are entering Milwaukie** by the tree-lined corridors. A network of pathways, parks, wetlands, and open spaces allow interaction between individual sections of the city and its neighborhoods. Johnson Creek is restored to a pristine urban stream, and its streambanks offer people and wildlife a natural refuge. An enhanced Kellogg Lake and the riverfront serve as a focal point for the City's park network.

**A renaissance of urban design** is resulting in a rebuilt physical environment that is timeless and serves economic needs. Milwaukie's residents carry a sense of pride of place, best symbolized by how the City has designed and taken care of its rebuilt city center, neighborhoods, and its open space areas.

City of Milwaukie—Adopted June 20, 1995



## ATTACHMENT 3B

**Overview of Milwaukie Comprehensive Plan**

Katie Mangle, Planning Director, October 2010

**History of major updates (not including ancillary docs):**

- **August 2007:** City Council adopted the Transportation System Plan as an ancillary document, and replaced the Transportation Element policies with a brief summary of the TSP goals and policies.
- **September 2000:** City Council adopted the Downtown and Riverfront Land Use Framework Plan and Public Area Requirements by Ord. 1880. Adopted into the Comprehensive Plan as ancillary documents, the Downtown Plan was the last major update to the Plan.
- **August 2000:** City Council adopted the King Road Neighborhood Center Comprehensive Plan Amendments.
- **December 1997:** City Council adopted the Regional Center Master Plan (later renamed Town Center Master Plan).
- **June 1995:** City Council adopted the Milwaukie Vision Statement into the Comprehensive Plan.
- **November 1989:** City Council adopted the last major update to the Comprehensive Plan during Periodic Review.
- **November 1979:** City Council adopted an updated Comprehensive Plan.
- **January 1970:** City Council adopted the first Comprehensive Plan.

**Important policy we are implementing:**

- NDA formation, boundaries, and roles
- Environmental protection (water and habitat)
- Residential land use
  - Higher design standards for multifamily
- Downtown
- Annexation
- Riverfront park

**Significantly out of date inventories:**

- Historic Resources
- Wetlands
- Buildable/developable lands
- Parks

**Out of date / insufficient policy:**

- Employment/commercial land use
- Coordination of services with the County
- Willamette Greenway

**Doesn't address:**

- Fiscal realities and choices
- Public health
- Schools
- Sustainable urban development

**Messy stuff:**

- Why so many land use classifications??
- Hard to use and understand.
- Includes many policies that should be in implementing documents.
- Zones don't entirely follow the Comp Plan designations

**Issues/ sections we will be addressing over 2010-2011:**

- Tune Up project: Refine & clean up policies for public involvement in land use process
- Natural Resources Overlay: Refine & update coordinating language
- Water Master Plan
- Wastewater Master Plan
- Residential Standards: minor clarifications
- Commercial Core Enhancement: major policy evaluation

**Comprehensive Plan Review & Update (2011-2014?)**

- State-mandated Periodic Review has been delayed "indefinitely"
- Plan is out of date and needs a thorough review – how to do it?



**Milwaukie Comprehensive Plan  
Overview of Issues and Recommended Approaches  
May 2009 & November 2012**

<b>Comp Plan Chapter</b>	<b>Major Issues (Briefly)</b>	<b>Recommendations</b>	<b>Level of PI</b>
1. Public Involvement	None	Improve consistency with code	Low
2. Plan Review and Amendment Process	None	Realign language with practice/code	Low
3. Environmental and Natural Resources	<ul style="list-style-type: none"> <li>Wetland, NR, and HR inventories outdated</li> <li>Outdated policies re: groundwater treatment, stormwater treatment, dry wells, etc.</li> <li>Kellogg Treatment Plant (KTP) policies need to be revisited</li> </ul>	<ul style="list-style-type: none"> <li>Update inventories</li> <li>Review approach to KTP</li> <li>Review information re: DEQ air &amp; water quality</li> </ul>	Med – High (KTP)
4. Land Use	<ul style="list-style-type: none"> <li>Buildable lands, parks, &amp; needed housing inventories outdated</li> <li>Policies regarding neighborhood character are out of date and overly specific</li> <li>Employment &amp; commercial land use policy direction insufficient</li> <li>Willamette Greenway policies outdated</li> <li>Neighborhood boundaries and characters have changed</li> </ul>	<ul style="list-style-type: none"> <li>Update inventories</li> <li>Revise for consistency with code</li> <li>Remove specific language more appropriate for code</li> <li>Strengthen employment &amp; commercial land use policies</li> <li>Update WG policies</li> <li>Reflect new NDA boundaries and roles</li> </ul>	Low – Med
5. Transportation, Public Facilities, and Energy Conservation	<ul style="list-style-type: none"> <li>Outdated policies re: groundwater treatment, stormwater treatment, dry wells, etc.</li> <li>Outdated descriptions/policies re: schools, police, fire, health care, gov't services, &amp; utilities</li> <li>Status of KTP?</li> <li>Outdated Public Facilities Plan;</li> </ul>	<ul style="list-style-type: none"> <li>Update/add new PCP</li> <li>Address light rail alignment and station areas</li> <li>Coordinate with Chapter 3 updates re: KTP</li> </ul>	Low – High (KTP)
6. City Growth and Government Relationships	<ul style="list-style-type: none"> <li>Poor policy document regarding growth and desired outcomes</li> <li>UGMA policies need to be revisited</li> <li>Policies re: unified system of gov't and coordination unclear/outdated</li> </ul>	<ul style="list-style-type: none"> <li>Update PCP</li> <li>Revisit UGMA policies</li> <li>Needs community discussion re: policy and what the City's position on growth should be</li> </ul>	High
Appendices	<ul style="list-style-type: none"> <li>HR Inventory &amp; NR Inventory are outdated</li> <li>Should not be included in the Comp Plan (background, not policy)</li> </ul>	<ul style="list-style-type: none"> <li>Update inventories</li> <li>Remove from Comp Plan</li> </ul>	Low



## **Periodic Review / Comprehensive Plan Update Project Summary of Project Purpose and Understanding December 2, 2008**

### ***Purpose***

- The purpose of periodic review is to ensure that local comprehensive plans and land use regulations are continuing to comply with the statewide planning goals. This is carried out according to state laws found in ORS 197.628 through 197.646.
- The City's obligation to begin periodic review is established by receipt of a periodic review notification letter from the Department of Land Conservation and Development (DLCD). Milwaukie will be required to begin the Periodic Review in January 2009.

### ***Project phases and schedule***

- A. Comprehensive Plan evaluation (October 2008 – April 2009)
- B. Prepare work program (April 2009 – October 2009)
- C. Complete work program (October 2009 – October 2012)

### ***Statutory Requirements***

- State law requires city and county periodic review to concentrate on urban growth management. State requirements for this process focus on updating the Comp Plan to comply with the following state goals:
  - Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces
  - Goal 9 – Economic Development
  - Goal 10 - Housing
  - Goal 11 – Public Facilities
  - Goal 12 – Transportation
  - Goal 14 - Urbanization
- For cities within the Portland Metro area, the following laws apply: Goal 10; OAR 660 division 7; and ORS 92.830-92.845, 197.295-197.314, 197.475-197.490, 197.660-197.670, 197.677-197.685, and 443.400-443.767. If Metro has more restrictive or specific rules, then the city also has to comply with them.
- DLCD will review plan policies for compliance with state laws; Metro will review for compliance with Metro rules.

### ***Draft Project Plan***

#### **Phase A – Comp Plan Evaluation (October 2008 – April 2009)**

1. **Staff Review of Comp Plan**
  - Staff will conduct an evaluation of the Comp Plan, using the DLCD's "Suggested Evaluation Questions" as a guide.
  - The staff-level evaluation will include an inter-departmental assessment of how the Comp Plan addresses or complies with the following:
    - Federal requirements such as the Fair Housing Act

- State requirements such as wellhead protection and wetlands inventories
  - Changing trends in economic development and climate change
  - Population growth and Milwaukie's capacity for development of housing and industry
  - Does the Comp Plan adequately reflect the current community vision or are there changes needed to guide community development for the next 20 years?
  - Are the existing public facility plans adequate to support the City's development over the next 20 years?
  - What aspects of the UGMA/ annexation policies need to be changed?
  - What aspects of the implementing ordinances are obstacles to achieving local and state goals, or do not comply with state requirements?
- Staff will prepare a summary of how the Plan and implementing regulations meet the following four periodic review conditions from state law (ORS 197.628):
    - Condition 1: Whether there has been a substantial change in circumstances including but not limited to the conditions, findings or assumptions upon which the comprehensive plan and land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the statewide planning goals.
    - Condition 2: Whether decisions implementing acknowledged comprehensive plan and land use regulations are inconsistent with the goals;
    - Condition 3: Whether there are issues of regional or statewide significance, intergovernmental coordination or state agency plan or programs affecting land use which must be addressed in order to bring comprehensive plan and land use regulations into compliance with the goals; or
    - Condition 4: If the existing comprehensive plan and land use regulations are not achieving the statewide planning goals.

## **2. Public involvement**

- Provide opportunities for interested citizens and other interested persons to participate in the evaluation. Include briefings of Planning Commission, City Council.

## **3. Agency Coordination**

- Coordinate issues of local, regional or state concern with DLCD staff and the Periodic Review Assistance Team (PRAT). At least 21 days before sending the evaluation and work program to DLCD, need to send a copy of the evaluation to PRAT members and others who requested a copy in writing. These individuals may suggest changes that could influence your decision about a work program.

## **Phase B - Work Program Preparation (April 2009 – October 2009)**

### **1. Draft Work Program**

- City staff will work with Jennifer Donnelly at DLCD to draft a work program that addresses the needs identified in the Comp Plan evaluation.
- The periodic review statute requires cities to complete a work program within six months. Cities may request a 60-day extension to complete the work program.
- The work program:

- Must include work needed to comply with state requirements but also may include work desired by the local staff and community.
- Should be achievable within three years. Tasks may be completed one at a time or concurrently.
- Must be approved by City Council prior to submitting it to DLCD.

## 2. Public Involvement

- Develop an outreach and involvement plan for citizen and business involvement in creating the work plan.
- At a minimum, take public comment on the work plan through one or more hearings with the planning commission and provide a comment period of at least 21 days before Council makes a decision on the evaluation.
- Objective 2 of Milwaukie's Comp Plan requires that updates include the formation of a council-appointed Comprehensive Plan Review Committee (CPRC) to include:
  - One rep from each: Traffic Safety, Parks, and Center Advisory Board,
  - One from Planning Commission
  - One from City Council
  - One from business community
  - One from County planning organization

## 3. Agency Coordination

- Send a copy of the proposed evaluation and work program to the county for their comments. Both the City and the County need to approve the evaluation and work program.
- Submit the adopted material to DLCD pursuant to OAR 660-025-0090. DLCD will approve the work program and give us approval to begin work.

## Phase C - Complete work program (October 2009 – October 2012)

We have three years to complete the work program, resulting in a Comp Plan that complies with state and Metro requirements.

### **Grants**

- DLCD disburses Periodic Review Grants to help cover the costs of completing the evaluation and work program, and work tasks in the work program.
- The schedule for Periodic Review grants is the same as for TGM grants – funds will be allocated in Spring 2009.
- SHPO grants may be available for updating the historic properties inventory; this would not be funded by a DLCD grant.

### **Other Jurisdictions**

#### **Other Cities**

The following cities will be in periodic review on the same cycle as Milwaukie:

- Happy Valley
- Newberg

- Pendleton
- Sherwood
- Tualatin

The following cities are just ahead of Milwaukie in their Comprehensive Plan updates, and may be helpful resources for City staff:

- Troutdale (Rich Faith)
- Lake Oswego (Sid Sin)
- Portland

### **Coordination with Clackamas County**

- Under ORS 197.629(2) (passed in 1999), a county with a portion of its population within the urban growth boundary (UGB) of the city shall conduct periodic review for that portion of the county according to the periodic review work program approved for the city.

### **Metro's Role**

- Metro is responsible for ensuring regional coordination of local plans, and actively resolving conflicts between cities.
- Metro creates population forecast
- “An implied and commonly understood element of population coordination is the allocation of the forecast population among the cities and counties in the region. Metro makes an allocation every five years as part of the fulfillment of its responsibilities under the “needed housing” statutes<sup>3</sup> and Goal 14 (Urbanization). Metro makes the allocation through iterations between development of proposed growth management policies with cities and counties and evaluation of the effects of those policies as inputs to Metroscope, Metro’s econometric model, which distributes housing units and jobs around the region. Metro also makes allocations when it adds land to the UGB and estimates the population and employment capacities of the added land.” (memo from Dick Brenner)
- Metro ensures consistency with Functional Plan requirements. For example, if a city in the region amends an ordinance regulating development in riparian areas and the amendment is consistent with Metro Titles 3 and 13, the city should be able to assume that the ordinance complies with LCDC’s Goals 5 and 6.



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**From:** Dennis Egner, Planning Director

**Date:** January 4, 2016, for January 12, 2016, Work Session

**Subject:** File #ZA-2015-003 Short-Term Rentals

**File Types:** Zoning Ordinance Text Amendment

**Applicant:** Dennis Egner, Planning Director, City of Milwaukie

**NDA:** All with residentially or commercially zoned land

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## **ACTION REQUESTED**

No formal action requested. This worksession is intended to introduce the Commission to the draft code amendments that will be presented at a proposed Planning Commission public hearing on February 9, 2016.

## **BACKGROUND**

In July of 2015, the City Council directed staff to move forward with a set of code amendments that are intended to provide greater flexibility for short-term housing rentals in Milwaukie.

The Planning Commission held a worksession on the topic on October 13, 2015. At the worksession, the Commission discussed draft concepts and provided general direction to staff for preparation of code language.

Staff has prepared the attached proposal based on direction from the Planning Commission and Council. Under the proposal, short term rentals (STRs) would be allowed in residential areas as a home occupation (rentals for less than 30 consecutive days) provided the house is occupied by an owner or primary occupant for no less than 270 days per year. A key limitation is that the housing unit could only be rented to a single party at any given time. Unhosted rentals would be allowed for up to 95 days per year. The owner/occupant would be required to obtain an annual Short Term Rental License to operate within the City. The license process would include an application fee and an inspection to verify that the sleeping room(s) meet minimum building code requirements.

As a home occupation, the STR would be expected to maintain the outward appearance of a residence and present no perceptible impacts on the surrounding neighborhood. Failure to maintain the residential character of the property would result in revocation of the STR license by the City.

Bed and Breakfasts are a form of commercial lodging where hosts rent out one or more rooms to one or more parties on any given day.

Vacation rentals are unhosted short term rentals where the owner or primary occupant is absent for more than 270 days per year.

Hotels and Motels are common forms of commercial lodging.

Boarding houses are a form of commercial lodging where rooms in a building are provided for lodging in exchange for compensation. Boarding house operators may provide meals to lodgers. Boarding houses are not occupied as a single-family unit and are subject to capacity requirements of the UBC.

Use	Use Type - Residential or Commercial	Number of guest parties allowed	Owner/full-time operator present	Process in Residential Zones
Short-term rental – Hosted	R	1	Y	Home Occupation with STR License
Short-term rental – Unhosted	R	1	N but use is limited to 95 days per calendar year	Home Occupation with STR License
Bed and Breakfast	C	Multiple	Y	Conditional Use
Vacation Rental	C	1	N	Conditional Use
Hotel/Motel	C	Multiple	Y	Not allowed except for the R-1-B zone
Boarding House	R	Multiple	Y	CU in medium and high density zones

## DISCUSSION

The draft code language is attached for review. At the January 12 worksession, staff intends to review each section and describe its purpose and what it is intended to achieve.

If needed, staff can modify the code language or provide alternatives for the proposed public hearing on February 9.

## RECOMMENDATION

There is no formal staff recommendation. Staff is seeking direction from the Commission regarding development of a proposal to take to the public hearing.

## ATTACHMENTS

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

	PC Packet	Public Copies	E-Packet
1. ZA-2015-003 Draft Code Language (Strikeout/Underline)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

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

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

## Underline/Strikeout Amendments

### Zoning Ordinance

*These amendments are based on the adoption of the **Central Milwaukie and Neighborhood Main Streets** amendments, which were adopted by Council on December 15, 2015, and will be effective on February 13, 2016.*

#### CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

##### 19.201 DEFINITIONS

"Bed and Breakfast" means a hosted form of commercial lodging within a residence. It is similar to a short-term rental, but where on any given evening, lodging rooms may be rented to more than one party. Generally, some food service is provided with lodging.

"Boarding, lodging, or rooming-house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-family unit. Lodging capacity is subject to provisions of the Uniform Building Code.

"Hotel" means a commercial building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is usually made for cooking in any individual room or suite.

"Motel or tourist court" means 1 or more commercial buildings designed or used as temporary living quarters for transients.

"Rooming house." See "boarding house."

"Vacation Rental" means a housing unit that is rented out to a single party for a period of less than 30 days in length where there are no primary occupants or where the residents who occupy the unit do so for less than 270 days per year. A vacation rental is considered a form of commercial lodging. It is a primary use and is more commercial in nature than a short-term rental.

Residential Uses and Structures:

"Short-Term Rental" means a housing unit or a room (or rooms) within a housing unit that is rented out to a single party for a period of less than 30 days in length (for multiple party rentals, see "bed and breakfast"). A short-term rental is an accessory use to a primary residence allowed as a home occupation where the residence must be occupied by the owner or operator for no less than 270 days per year. A short-term rental may be hosted (where the primary occupants are present during the rental or unhosted (where the primary occupants vacate the unit during the rental period). Short-term rental operators may offer meals to lodgers.

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## CHAPTER 19.300 BASE ZONES

## 19.301 LOW DENSITY RESIDENTIAL ZONES

## 19.301.2 Allowed Uses in Low Density Residential Zones

Table 19.301.2 Low Density Residential Uses				
Use	R-10	R-7	R-5	Standards/Additional Provisions
<b>Commercial Uses</b>				
Bed and breakfast or Vacation rental	CU	CU	CU	<u>Section 19.905 Conditional Uses</u>
<b>Accessory and Other Uses</b>				
Short-Term rental	P	P	P	<u>Section 19.507 Home Occupation Standards</u>

## 19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

## 19.302.2 Allowed Uses in Medium and High Density Residential Zones

Table 19.302.2 Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>Residential Uses</b>						
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	<u>Section 19.905 Conditional Uses</u>
<b>Commercial Uses</b>						
Hotel or motel	N	N	CU N	CU N	CU	<u>Section 19.905 Conditional Uses</u>
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	<u>Section 19.905 Conditional Uses</u>
<b>Accessory and Other Uses</b>						
Short-term rental	P	P	P	P	P	<u>Section 19.507 Home Occupation Standards</u>

## Proposed Code Amendment

## 19.303 COMMERCIAL MIXED-USE ZONES

## 19.303.2 Uses

<b>Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones</b>			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Residential</b>			
<u>Boarding house</u>	<u>CU</u>	<u>CU</u>	<b>Section 19.905</b> Conditional Uses
<b>Commercial</b>			
Commercial lodging. Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month. Examples include hotels, motels, <u>vacation rentals</u> , and bed-and-breakfast establishments. Does not include senior and retirement housing.	P	P	
<del>Boarding, lodging, or rooming house</del> <del>Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.</del> <del>Examples include boarding house and cooperative housing.</del>	<del>CU</del>	<del>CU</del>	<del><b>Section 19.905</b> Conditional Uses</del>
<b>Accessory and Other</b>			
<u>Short-term rentals</u>	<u>P</u>	<u>P</u>	<b>Section 19.507</b> Home Occupation Standards

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### 19.304 DOWNTOWN ZONES

#### 19.304.2 Uses

<b>Table 19.304.2 Downtown Zones—Uses</b>			
<b>Uses and Use Categories</b>	<b>DMU</b>	<b>OS</b>	<b>Standards/ Additional Provisions</b>
<b>Residential</b>			
<u>Boarding house</u>	<u>CU</u>	<u>N</u>	<b>Section 19.905 Conditional Uses</b>
<b>Commercial</b>			
Commercial lodging Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month. Examples include hotels, motels, <u>vacation rentals</u> , and bed-and-breakfast establishments. Does not include senior and retirement housing.	<u>P/CU</u>	<u>N</u>	<b>Section 19.905 Conditional Uses (for vacation rentals only)</b>
<del>Boarding, lodging, or rooming house Generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied. They normally provide "bed and board," that is, at least some meals as well as accommodation.</del>	<del>CU</del>	<del>N</del>	<del><b>Section 19.905 Conditional Uses</b></del>
<b>Accessory and Other</b>			
<u>Short-term rentals</u>	<u>P</u>	<u>P</u>	<b>Section 19.507 Home Occupation Standards</b>

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### 19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

#### 19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

G. Bed and breakfast.

GH. Any other use similar to the above and not listed elsewhere.

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**19.306.2 Conditional Uses Permitted**

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

N. Commercial Lodging.

NO. Any other use similar to the above and not listed elsewhere.

**19.307 GENERAL COMMERCIAL ZONE C-G**

In a C-G Zone the following regulations shall apply:

**19.307.1 Uses Permitted Outright**

In a C-G Zone the following uses and their accessory uses are permitted outright:

Z. Commercial lodging.

ZAA. Any other use similar to the above and not listed elsewhere.

**19.503 ACCESSORY USES****19.503.1 General Provisions**

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

- A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling and may be used as a short-term rental, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.

**19.507 HOME OCCUPATION STANDARDS****19.507.5 Special Provisions for Specific Uses**

Short-term Rentals. A short-term rental is an accessory use to a primary residence and allowed as a home occupation provided the following provisions are met:

- A. The residence must be occupied by the owner or a primary operator for not less than 270 days per year.
- B. Unhosted rentals (where the primary occupants vacate the unit during the rental period) are limited to no more than 95 days per year.
- C. A property in a low-density residential zone is limited to having 1 short-term rental operating at any given time period.
- D. At any given time, no more than 1 rental property (i.e. under 1 reservation) shall occupy the property.
- E. Building code and fire code standards must be met.

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- F. In addition to any other required parking, 1 off-street parking space must be available for the short-term rental. Short-term rentals in the Downtown Mixed Use (DMU) zone are exempt from this provision.
- G. A short-term rental license must be obtained from the City. The license will verify that all provisions have been satisfied. The license may be revoked if the owner operator fails to comply with these provisions or any other home occupation standards.
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## CHAPTER 19.600 OFF STREET PARKING AND LOADING

### 19.605 VEHICLE PARKING QUALITY REQUIREMENTS

#### 19.605.1 Minimum and Maximum Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
<b>A. Residential Uses</b>		
5. <u>Short-term rental.</u>	<u>1 space in addition to the minimum number of spaces required for the dwelling. Short-term rentals in the DMU Zone are exempt from this requirement.</u>	<u>No maximum.</u>