



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)

# Appeal of Land Use Decision

File #AP-14-01

## RESPONSIBLE PARTIES:

<b>APPELLANT:</b> <u>Historic Milwaukie Neighborhood Association</u>	
Mailing address: <u>2607 SE Monroe St., Milwaukie OR, Zip: 97222</u>	
Phone(s): <u>503 659 4070</u>	E-mail: <u>Jeanbaker.milw@gmail.com</u>
<b>APPELLANT'S REPRESENTATIVE</b> (if different than above):	
Mailing address: _____ Zip: _____	
Phone(s): _____ E-mail: _____	

## APPEAL INFORMATION:

Appeal of File #: <u>ZA-13-02</u>	Review Type of Appealed Decision: <input type="checkbox"/> I <input type="checkbox"/> II <input checked="" type="checkbox"/> III
Site Address: <u>Multiple addresses, NW Corner 3370 Ave/Lake Rd</u>	FLID: <u>6000, 6100, 6200</u> Map & Tax Lot(s): <u>440 4E36BCO</u> <u>6300, 6400, 6500</u> <u>6200, 6700, 6800</u>
Comprehensive Plan Designation: <u>CND</u>	Zoning: <u>R-2</u> Size of property: <u>1.9ac</u> <u>6900</u>

## STANDING FOR APPEAL (check applicable box):

Applicant or applicant's representative from Type I, II, or III decision

Person or organization adversely affected or aggrieved by Type II decision

Person or organization that participated or provided testimony or evidence on the record for Type III decision. List the date and briefly describe the form of participation, testimony, or evidence:  
March 11 and 25, 2014 testimony, oral + written and supplemental following hearing, 3-25-14.

## BASIS OF APPEAL (briefly describe):

Identify approval criteria or standard that was overlooked, incorrectly interpreted, or incorrectly applied in the land use decision and/or aspect of the proposal that was overlooked or incorrectly evaluated. Appeal of a Type II decision may instead describe the manner in which the appellant is adversely impacted or aggrieved by the decision.

1) City relied upon wrong interpretation of official planning documents. <sup>Temp. Comp Plan + zoning</sup>

2) City failed to evaluate applicants "Criteria" answers for accuracy.

3) This proposal was not evaluated for negative impacts on safety/livability

**SIGNATURE:** to neighborhood including traffic impacts Jeanette Baker

**ATTEST:** I have standing to appeal the land use decision identified on this application and have provided the necessary items and information for filing an appeal per Milwaukie Municipal Code (MMC) Subsection 19.1010.1. To the best of my knowledge, the information provided within this appeal package is complete and accurate.

Submitted by: Jeanette Baker Date: 4-9-14

**IMPORTANT INFORMATION ON REVERSE SIDE**

**APPEAL HEARINGS** (excerpted from MMC Subsections 19.1001.5 and 19.1010.3) :

**Appeals of Type I and II decisions:**

Appeals of Type I and II decisions are heard by the Planning Commission. The appeal hearing is an unrestricted de novo hearing, which means that new evidence, testimony, and argument that were not introduced in the original decision can be introduced in the appeal. The standard of review for the Planning Commission is whether the initial decision has findings and/or conditions that are in error as a matter of fact or law. The Planning Commission's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

**Appeals of Type III decisions:**

Appeals of Type III decisions are heard by the City Council. The appeal hearing is an on-the-record de novo hearing, which means that new evidence that was not introduced in the original decision cannot be introduced in the appeal. New testimony is allowed. New argument is also allowed that is based on evidence already in the record and on testimony that is new or already in the record. The standard of review for the City Council is a new evaluation of existing evidence, new and existing testimony, and new and existing arguments. The City Council's decision on the appeal is the City's final decision on the initial land use application per ORS 227.178. Further appeals of the application may be made to the Oregon Land Use Board of Appeals or other court.

**DECISIONS NOT SUBJECT TO LOCAL APPEAL:**

The initial hearing for Type IV and V decisions is held by the Planning Commission. The Planning Commission does not issue a decision on these types of review and, instead, issues a recommendation to the City Council. This recommendation is not a final decision and is not appealable.

The review authority for Type IV and V decisions is the City Council. Since there is no higher authority within the City, the City Council's decisions on these types of reviews are the City's final decision on the land use application. Appeals of these types of applications may be made to the Oregon Land Use Board of Appeals or other court.

Downtown Design Review applications are considered at a public meeting by the Design and Landmarks Committee. The Design and Landmarks Committee does not issue a decision on these types of review and, instead, issues a recommendation to the Planning Commission. This recommendation is not a final decision and is not appealable.

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file	AP 14-01	\$ —	100%	NDA	\$	<p>RECEIVED</p> <p>APR 10 2014</p> <p>CITY OF MILWAUKIE PLANNING DEPARTMENT</p>
Concurrent application files		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
SUBTOTALS		\$ 0			\$	
TOTAL AMOUNT RECEIVED: \$ 0		RECEIPT #:			RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):						2A-13-02
Neighborhood District Association(s):						Historic Milwaukee
Notes:						

\*After discount (if any)

RECEIVED

APR 10 2014

CITY OF MILWAUKEE  
PLANNING DEPARTMENT

*Historic Milwaukie NDA*

*Land Use Board*

*April 7, 2014*

Location: Wood Peckers Pizza

Present: Jean Baker, Gary Klein, Dion Shepard, Ray Bryan

First the committee discussed the NHA zoning decision and reasons why they believe the planning commission made errors in arriving at their decision.

Ray moved. "We the land use committee of the Historic Milwaukie NDA support and reaffirm the vote of our NDA at its general membership meeting on March 10, 2014. To present testimony in opposition to, oppose the Northwest Housing Alternatives application ZA13-02 before the planning commission and support the appeal of the decision of the planning commission should they approve the application. We now affirm we will proceed with the appeal."

The motion was seconded by Jean Baker, and passed unanimously.

Next the committee discussed the parking lot expansion plans for the MODA office building. Gary Klein has toured the property and provided addition information to the two aerial photos of proposed and existing parking spaces brought by Jean.

Gary will pursue additional information regarding MODA's policy to encourage employees to ride transit. Committee members voiced concerns over the removal of tree canopy, and native plants and where mitigation might occur. Gary will bring back more information.

Third, the committee discussed the Moving Forward Milwaukie survey. Concerns were voiced over the wording of the survey, the participation of significant numbers of people not living in the city, and that sending out a survey to residents might get results that more accurately reflect the opinions of Milwaukie's residents.

Fourth, Jean talked about the Monroe greenway project and who will be determining the scope of the project. After discussion the group voted unanimously to invite planning staff to our NDA meeting to discuss and allow input at the early stage of the project.

The meeting was adjourned.

The pizza and service was excellent.

Submitted by Ray Bryan