



Work Session

WS

Milwaukie City Council

COUNCIL WORK SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

REVISED AGENDA

APRIL 4, 2023

(Revised April 3, 2023)

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-323>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 897 8131 1965 and Passcode: 519687. To raise hand by phone dial *9.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov. Council may take limited verbal comments.

Note: agenda item times are estimates and are subject to change.

Page #

1. **Bertman House – Discussion** (4:00 p.m.) 1
Staff: Peter Passarelli, Public Works Director
2. **Tree Code Amendments – Discussion** (4:30 p.m.) 4
Staff: Natalie Rogers, Climate & Natural Resources Manager
3. **Adjourn** (5:30 p.m.)

Executive Session. After the work session Council will meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (added to the agenda)

Representatives of the news media and designated staff may attend executive sessions. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Mar. 22, 2023

From: Peter Passarelli, Public Works Director, and
Damien Farwell, Fleet and Facilities Manager

Subject: **Bertman House**

ACTION REQUESTED

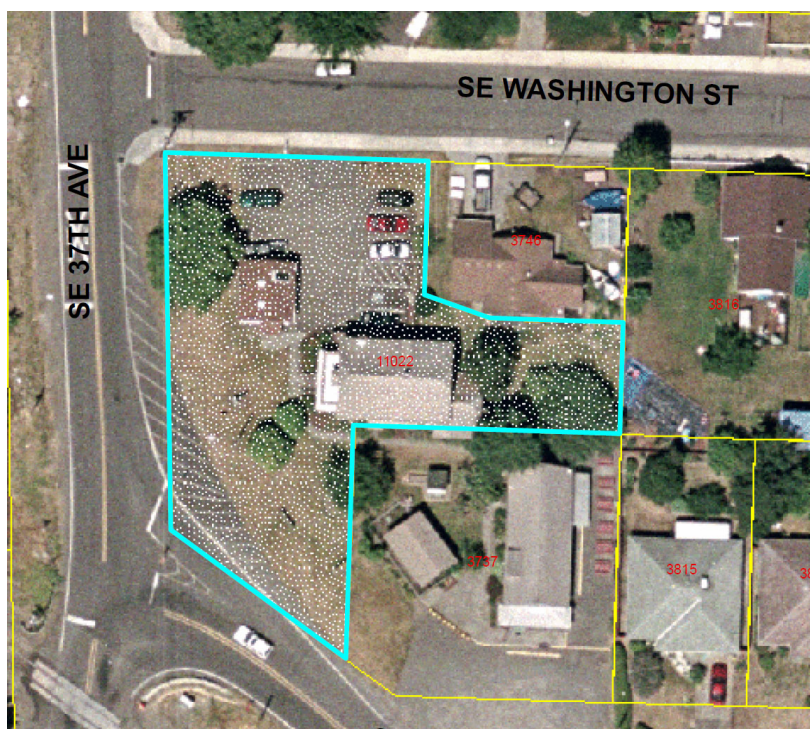
Council is asked to provide guidance on the future disposition of the Bertman House.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 3, 2007: Council approved Application HR-07-01, removing the Bertman House from the city's list of historic resources list.

ANALYSIS

The Bertman House is located at 110222 SE 37th Avenue. The property is approximately 17,250 square-feet and is adjacent to the Milwaukie Museum (see map below). The house was constructed around 1926 by John Bertman and served as the residence for the Bertman farm.



The city acquired the property on March 6, 1968, for \$18,200 using water utility funds for the purposes of constructing a new well. Well #7 located in front yard of the house was drilled in 1984 and is the city's highest producing well providing up to 1,120 gallons per minute.

After acquisition, the city used the property to house administrative offices of the old city fire and parks departments and various community groups.

Historic Review

In the 1988 inventory of local historic resources, 40 properties in Milwaukie were ranked to reflect their level of historic value to the community. The Bertman House was included in the inventory but listed as “unrankable” because there was not enough information available at the time to complete the evaluation process.

In 2007, the city engaged an historic preservation expert to evaluate the Bertman House using the same methodology as the 1988 inventory. The three primary areas of review were historical association, architecture, and environment. According to the consultant’s analysis, the Bertman House did not score well enough to merit even the lower-standard designation of “contributing.” The expert’s recommendation was that the city remove the property from the list, which Council did on April 3, 2007. As a result of this action, demolition of the property would not require further historical review.

Building Condition

The city facilities team has rated the condition of the house to be poor. Although structurally sound, the plumbing system, heating, ventilation, and air conditioning (HVAC) systems, electrical wiring, windows, and roof are dated and out of compliance with the Milwaukie Municipal Code (MMC) and have reached the end of their useful life. The interior paint is believed to be lead based. The city has budgeted \$35,000 for building envelope repairs if needed in the current biennium. Staff estimates that to rehabilitate the house would cost upwards of \$250,000. Current demolition estimates approach \$100,000, depending on whether the house contains lead paint and would require asbestos remediation and removal.

Current Use

The only current tenant of the house is the New Century Players (NCP) theater group, which uses the house for storage. NCP pays an annual lease fee to the city of \$3,000. The current lease with NCP will expire in April 2024.

Future Use

Without a significant revenue stream for the facility, the city does not have the resources to make improvements to the building. In addition, the proximity to Well #7, the need for adequate space to stage equipment for well maintenance and required wellhead protections limit the site’s future use. In combination with the unique property boundary, it makes it challenge to redevelop or sell the property.

BUDGET & WORKLOAD IMPACTS

Future revenues from rental income do not cover the costs to maintain the building. The current biennium budget does include \$35,000 for roof and window repairs if needed.

CLIMATE IMPACT

The city’s Climate Action Plan (CAP) includes a strategy of using deconstruction techniques during demolition. The Bertman House could be a candidate to demonstrate these techniques. Deconstruction would keep material out of landfills and reduces the carbon dioxide production from the manufacture of new materials. It may be a reasonable option if there is a significant number of materials that could be reused from the home. The feasibility for this option has not been analyzed.

COORDINATION, CONCURRENCE, OR DISSENT

Not applicable.

STAFF RECOMMENDATION

Not applicable.

ALTERNATIVES

Not applicable.

ATTACHMENTS

None.



CITY OF MILWAUKIE

Bertman House



The Bertman House

11022 SE 37th Ave.



Area Photo



Bertman House and Property

Land Owned

- Block 74, Lots 1-4, 7-40, Minthorn Addition to Portland
- Purchased 26, Dec. 1918



Original House (pre-Bertman ?)

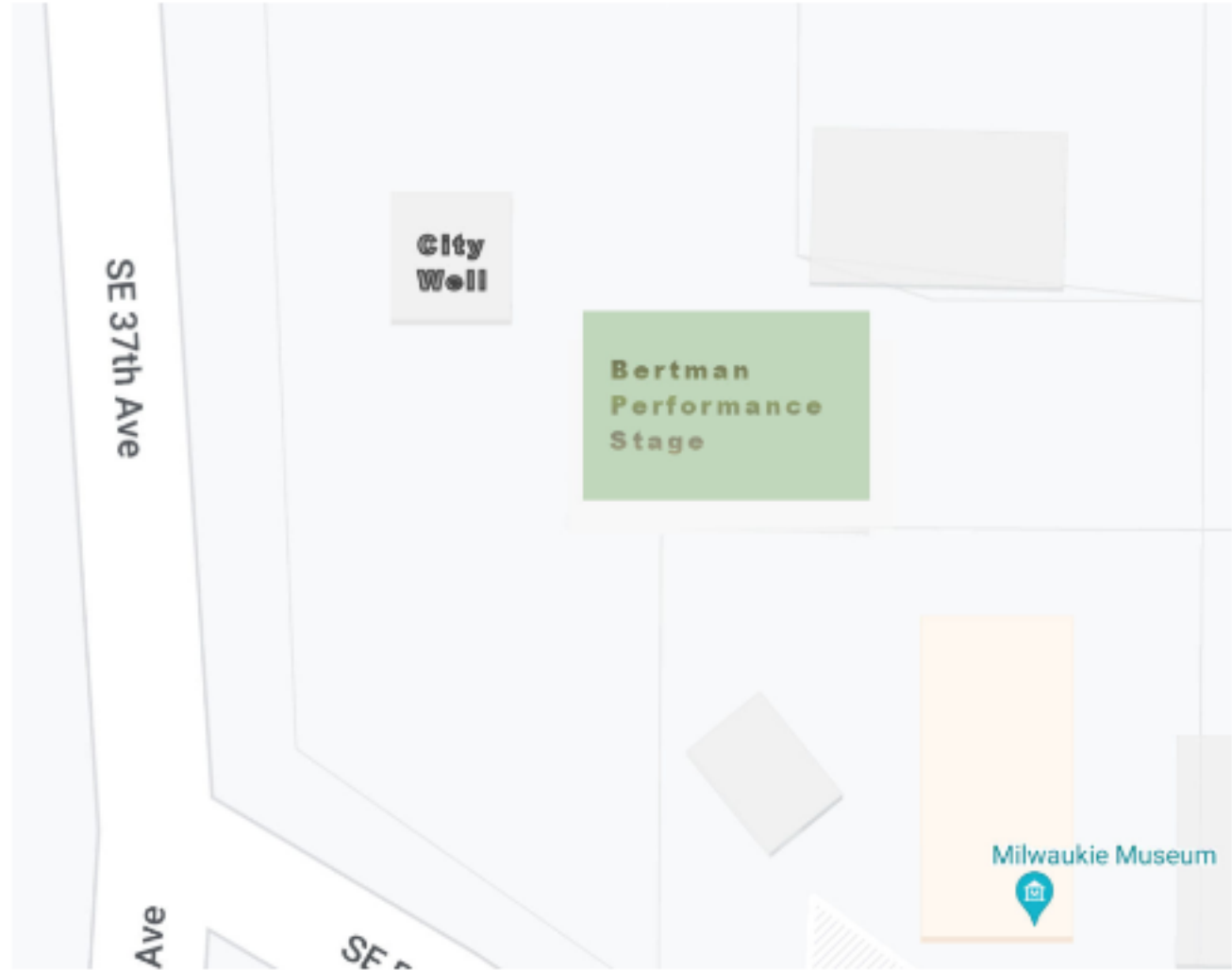


Bertman Renovations



Proposed Usage

- Performance Stage
- Dedicated City parking for well
- Public Parking





WS 1. 4/4/23
Exhibits

To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenneth Asher, Community Development and Public Works Director
Katie Mangle, Planning Director

From: Brett Kelter, Assistant Planner

Subject: Removal of 11022 SE 37th Ave. (the Bertman House) from the Historic Resources list

Date: March 22, 2007 for April 3, 2007 Regular Session

Action Requested

Approve the removal 11022 SE 37th Ave. from the local list of Unranked Historic Resources, as recommended by the Milwaukie Planning Commission.

Background

As a result of the City's recent activity to reverse the decline and deferred maintenance of the City-owned property at 11022 SE 37th Avenue (also known as the Bertman House), the Planning Director discovered that the property is covered by a special zoning overlay for Unranked Historic Properties. For "Unrankable" properties, Milwaukie Municipal Code (MMC) Subsection 19.323.5 requires that prior to undertaking any exterior alteration or demolition of an Unrankable resource, the property must go through a process to either rank it or delete it from the list of historic properties. This code requirement motivated the City to perform an evaluation of the Bertman House, which was never completed with the City's previous effort in 1988.

The Property

John and Emilie Bertman built the house at 11022 SE 37th Avenue in 1930. Immigrants from Latvia, the Bertmans were early farmers in the Milwaukie area, providing fresh dairy products, eggs, and bread to the community for many years. John Bertman died in 1953, and Emilie died in 1979. The City of Milwaukie acquired the house and, as early as 1971, used it to house administrative offices of the City Fire Department. The local Parks Department has also had offices in the building, though it is currently vacant.

In a 1988 inventory of local historic resources, 40 properties in Milwaukie were ranked to reflect their level of historic value to the community. The ranking categories were “Significant” and “Contributing.” The Bertman House and five other properties were included in the inventory but listed as “Unrankable” because there was not enough information available at the time to complete the evaluation process.

The Application

Milwaukie Municipal Code (MMC) Subsections 19.323.5 and 19.323.7 put Unrankable properties in limbo with regard to development issues. The code requires that owners of Unrankable resources complete the designation process prior to attempting to make exterior alterations or demolish the structure. Such properties must be designated as either Significant or Contributing or otherwise be removed from the list. Although there have been several alterations to the Bertman House since the 1988 designation (e.g., addition of an ADA-accessible ramp, replacement of windows, placement of a detached shed on the property), the City (as owner) never completed the designation process.

To complete the designation process, the City engaged Martha Richards, an expert in historic preservation, to evaluate the Bertman House using the same methodology as the 1988 inventory. The three primary areas of review were Historical Association, Architecture, and Environment. According to the consultant’s analysis, the Bertman House did not score well enough to merit even the lower-standard designation of “contributing.” Her recommendation is that the City remove the property from the list.

Consequences of the Decision

The result of the recommended de-listing is simply that no review will be necessary prior to demolition of the Bertman House. The City’s lease negotiation is not connected to this application and can proceed regardless of whether the Council decides to remove the house from the Historic Resource list or add it as a Contributing Resource.

The recommended findings of approval are provided in the attached Final Order (see Attachment 1 - Final Order, Exhibit A, Recommended Findings in Support of Approval).

Concurrence

The Planning Commission has concurred with the Planning Director’s assessment and is recommending that the Bertman House be removed from the local list of historic resources. Comments were received from two community members, neither of whom expressed opposition to the proposed de-listing. In addition, staff contacted Madeline Bohl with the Milwaukie Museum. She asked about the consequences of de-listing the Bertman House. Staff sent her a copy of the Planning Commission staff report and relevant code sections upon her request.

Fiscal Impact

This decision has no fiscal impacts to the City.

Work Load Impacts

Removing the Bertman House from the historic resources list will not result in additional workload impacts.

Alternatives

If the City Council rejects the Planning Commission's recommendation, the Council may remand the application to the Planning Commission for reconsideration. The City Council may not decide to list the property as Contributing Resource without remanding the application to Planning Commission.

Attachments

1. Final Order
Exhibit A: Recommended Findings in Support of Approval
2. Application for HR-07-01
Exhibit A: Consultant Memo
Exhibit B: Cultural Resource Survey Form for 11022 SE 37th Ave.
Exhibit C: Statement of Significance for 11022 SE 37th Ave.
Exhibit D: Cultural Resource Evaluation Form for 11022 SE 37th Ave.

Attachment 1

CITY COUNCIL OF THE CITY OF MILWAUKIE

FINAL ORDER APPROVING APPLICATION HR-07-01

Based on the evidence in the record, including evidence provided at hearings of the Planning Commission and City Council, after duly noticed public hearings, the Milwaukie City Council orders as follows:

1. The Planning Commission recommended that the City Council remove the Bertman House from the City's list of Historic Resources.
2. Application HR-07-01 is approved, thereby removing the Bertman House from the City's list of Historic Resources.
3. The attached recommended findings (Exhibit A) are adopted as findings of the City Council.

DATE OF COUNCIL ACTION: April 3, 2007

James Bernard, Mayor

Exhibit A

Recommended Findings in Support of Deletion of Historic Resource ranking

1. Milwaukie Municipal Code (MMC) Subsection 19.323.5 requires that any historic resource designated as “Unrankable” must go through a process to either give it a more specific designation (i.e., “Significant” or “Contributing”) or remove it from the list of historic properties. The designation process is a Major Quasi-Judicial one subject to the provisions of MMC Subsection 19.1011.4. A pre-application conference is required and the application must have hearings before both the Planning Commission and the City Council.

The application is being processed according to the standards of MMC Subsection 19.1011.4. A pre-application conference was held among City Department heads. Public notice was provided according to the standards of MMC Subsection 19.1011.4 (Major Quasi-Judicial Review). A public hearing with the Planning Commission was held on March 13, 2007. A public hearing with the City Council was held on April 3, 2007.

2. The 40 historic properties on the City’s list that are ranked as “Significant” or “Contributing” were evaluated using a Cultural Resource Evaluation Form that was part of the 1988 Milwaukie Historic and Cultural Resources Inventory. The evaluation form has three categories of criteria: Historical Association, Architecture, and Environment.

The City engaged Martha Richards, an historic preservation consultant, to evaluate the Bertman House. She was asked to use the Cultural Resources Inventory Form and Cultural Resources Evaluation Form along with her best professional judgment to recommend a course of action for the City among three options: 1) designate the Bertman House as Significant, 2) designate it as Contributing, or 3) remove it from the inventory list.

3. The consultant completed the Cultural Resource Survey Form, which provides basic facts and data about the house. The consultant also produced a Statement of Significance for the property, which provides a narrative description of the history and architectural features of the house.

The consultant completed the Cultural Resource Evaluation Form, which provides scoring criteria for three areas of concern: Historical Association, Architecture, and Environment (see Attachment 6 – Cultural Resource Evaluation Form for 11022 SE 37th Avenue). The Bertman House scored 34 out of 88 possible points and did not score a “10” in any of the possible categories. As such, it does not meet the standards for either Significant” or Contributing” resources as outlined in MMC Subsection 19.323.3.

The consultant produced a memorandum to elaborate on her findings and recommended that the property be removed from the list of historic resources. The Planning Commission voted to recommend that the City Council remove 11022 SE 37th Avenue from the local list of historic resources. The City Council finds that it is appropriate to remove 11022 SE 37th Avenue from the local list of historic resources.



Memorandum

To: Katie Mangle, Planning Director, Milwaukie
From: Martha Richards
Date: February 12, 2007
Subject: John Bertman House (#44, 11022 SE 37th Ave.)

This memo is to recommend that Milwaukie Planning Commission remove the John Bertman House, located at 11022 SE 37th Avenue, from the local list of historic resources. As the attached Cultural Resource Survey Form notes, the house and grounds have suffered from numerous alterations that have compromised its historical integrity. Numerous windows have been replaced with modern aluminum sash windows; a large wooden ADA ramp was built on the north side of the house and caused the removal of a portion of the original front porch balustrade; the second story porch balustrade was replaced with a decidedly un-decorative railing; and the north side of the house is pierced with an impressive array of air conditioning units. The house's historical context – a single-family home on a residential lot in a developing neighborhood – has likewise been compromised by the addition of a large asphalt parking lot and prominent maintenance shed in the front yard. In its current state, the house is only a fair representation of the architecture of its period.

The Bertman House is one of Milwaukie's many early twentieth-century houses and its history is readily documentable; indeed, many descendants of the Bertmans still live in the Milwaukie area. Many of the alterations are potentially reversible, some more easily than others. If future renovations were made to rehabilitate the house in a way that is historically appropriate, the house could become an asset to the neighborhood and a visual reminder of the area's history. As it now stands, however, the house is not worthy of being designated either a "Significant Historic Resource" or a "Contributing Historic Resource."

Cultural Resource Survey Form

Clackamas County

I.D.

Number M-36-328

Study

Area: Milwaukie

Legal:

T: 1 R: 1E Sec.: 36AD

Tax

(lots): 2500

Zone:

R-5 Lot Size: 17,258 sf

IDENTIFICATION

Common/Historical Name: John Bertman House

Address: 11022 SE 37th Avenue

Area: Milwaukie

Current Owner: City of Milwaukie

Use: Government Offices

Original Owner: John & Emilie Bertman

Original Use: Residence

Area of Significance: Town: _____ County: _____ City: _____ Nation: _____

HISTORIC INTEREST

Theme: Architecture -- 20th Century

Date: 1930

Description: Built in 1930 by John and Emilie Bertman, this house replaced an earlier structure at the same location. The Bertmans immigrated from Latvia and had a farm that supplied food to area residents. The City of Milwaukie now owns the house and has used it to house a variety of offices and services.

ARCHITECTURAL INTEREST

Style: Eclectic, with Prairie Style influences

Stories: 2

Date Constructed: 1930

Condition: fair

Architect: _____

Siding: Painted Stucco

Roof: Clipped front gable with gable end returns. Wide overhanging eaves.

Doors: Panel and single pane door

Windows: Some 1/1 double-hung wood sash; some aluminum sash horizontal sliding windows. Multi-light Queen Anne fixed sash with colored glass in gable peak.

Main Entrance: Two-story front porch supported by thick plain posts on concrete bases. Decorative balustrade on first floor and replacement balustrade on 2nd.

ADA ramp wraps around north side of house and enters porch from north.

Notes: Numerous alterations have compromised the house's historical integrity.

Modern shed and asphalt parking lot compromise the context,



View of west facade

Date: Martha Richards
Recorder: February 2007

CITY OF MILWAUKIE
CULTURAL RESOURCE INVENTORY
Statement of Significance

ADDRESS: 11022 SE 37th Avenue, Milwaukie

This house was constructed by John Bertman, a carpenter who had immigrated from Latvia around 1908. His wife Emilie immigrated in 1912; they moved to Milwaukie in 1926. It appears that this house, constructed by the Bertmans in 1930, replaced an earlier structure at the same location. According to the 1988 Cultural Resource Inventory, that earlier structure was built by the Bertmans in 1926. The reason for its replacement is unknown.

The Bertmans farmed the land around the house and provided fresh dairy products, eggs and bread to much of the surrounding community for many years. John Bertman died in 1953 and Emilie in 1979. The house was eventually acquired by the City of Milwaukie. It has been used to house a variety of public services, including Fire Department Offices, and, most recently the Parks Department.

The house is an eclectic design combining a variety of styles. It is two stories tall with a clipped front gable. The windows were originally one over one double-hung wood sash, but many have been replaced with horizontal aluminum frame sliders. The house is rectangular in plan with a shed roofed back porch. The front facade faces west and has a two-story porch with wide cement steps leading to the single front door. The door is flanked by two large double-hung windows. The wooden porch railing on the first floor has an ornamental starburst design flanked by closely spaced vertical slats. The railing on the north side of the porch has been sawn off to accommodate a wooden ramp leading from the parking lot to the porch. The railing on the second floor porch was the same design when the house was inventoried in 1983, but it has since been replaced by regularly-spaced 2x2 posts. A wide assortment of window air conditioners adorns the windows and walls of the north facade of the house.

The house currently sits on a small city lot at the corner of 37th and Railroad Avenues across the street from the railroad tracks. The northern portion of the lot is paved with an asphalt parking lot, and a modern gable-roofed shed with T-111 siding is located in the northeastern corner of the lot.

This house has been modified to serve municipal, rather than residential, uses during the City's ownership. Although many of the alterations are reversible, in its current state the house has lost much of its architectural integrity, not to mention its historical context as a residence.

BIBLIOGRAPHY:

1983 Clackamas Cultural Resource Survey Form
Sanborn Fire Insurance Maps (1928 and 1936)

Date: February 2007
Recorder: Martha Richards

CITY OF MILWAUKIE
CULTURAL RESOURCE EVALUATION FORM
Criteria for Establishing Significance

Name: Bertman House
Address: 11022 SE 37th Ave
Date of Construction: 1930
Style:
Type:

Rank:
Legal:
Zone:
Land Size:
Use:

HISTORICAL ASSOCIATION

A PERSON/GROUP/ORGANIZATION: Associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the community, state, or nation.

Particularly Strong		10
Strong	Milwaukie's early history was strongly agricultural, and the	7
Some	Bertmans were farmers. Their products were important to the	5
None	community. However, the Bertmans were important but not significant people.	0

B EVENT: Associated with an event that has made a significant contribution to the community, state, or nation.

Particularly Strong		10
Strong		7
Some		5
None		0

C PATTERN: Associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, state, or nation.

Particularly Strong		10
Strong	Milwaukie's early history was strongly agricultural. Bertmans	7
Some	were farmers.	5
None		0

SUBTOTAL:

12

ARCHITECTURE.

A. STYLE/BUILDING TYPE/CONVENTION: Significance as an example of a particular architectural style, building type, or convention.

Excellent	Bertman was a carpenter, and it looks like he might have	10
Very Good	designed and built the house himself (not altogether uncommon	5
Good	to do that in the area and at the time). Good house, but	3
Of little interest	not necessarily architecturally spectacular.	0

B. DESIGN/ARTISTIC QUALITY: Significance due to quality of composition, detailing, and craftsmanship.

Excellent	Original railing pattern, gable-end window, and (originally)	4
Very Good	fully trimmed. Somewhere between "Good" and "Very Good"	3
Good	because it's a well-built place that has nice proportions.	2
Of little interest		0

C. MATERIALS/CONSTRUCTION: Significance as an example of a particular material or method of construction.

Excellent	Continuing on that theme...a fine (but not spectacular) example	4
Very Good	of what it is -- a carpenter's farmhouse from the early part	3
Good	of last century.	2
Of little interest		0

D. INTEGRITY: Significance because it retains its original design features, materials, and character.

	In spite of historically inappropriate	
No apparent alterations	(but reversible) alterations, the house has	7
Minor alterations	maintained its overall character	5
Major alterations but overall character preserved		3
Severely altered little character preserved		0

E. RARITY: Significance as the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction.

One of a kind	It's unique in that there is no other exact copy of the	10
One of a few	house, but its overall style, massing, and materials	7
One of several	are consistent with other houses of that period.	3
One of many		0

SUBTOTAL:

14

ENVIRONMENT

LANDMARK: Significance as a visual landmark.

It's a large, two-story house on a major street

Symbol for the City	across from an open lot.	10
Conspicuous/well-known in community		7
Conspicuous/well-known in neighborhood		(5)
Not conspicuous/well-known		0

SETTING: Significance because current land-use surrounding the property contributes to the integrity of the pertinent historic period.

Doesn't convey the sense of a farmhouse. The asphalt parking lot

Excellent	and maintenance shed make it look particularly non-residential.	4
Very Good		3
Good	The historical museum's streetcar on display next door	2
Fair/Poor	contributes to the non-residential character of the vicinity.	(0)

CONTINUITY: Significance because the property contributes to the continuity or character of the street, neighborhood, or community.

House on a residential street.

Establishes character		7
Important in maintaining character		5
Compatible		(3)
Incompatible		0

SUBTOTAL:

TOTAL:

88 pts. possible

34



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Kenny Asher, Community Development and Public Works Director

Subject: Lease Agreement with New Century Players for Property at 11022 SE 37th Avenue

Date: March 22, 2007 for April 3 Regular Session

Action Requested

Authorize the City Manager to execute a commercial lease agreement with the New Century Players theater group for the purpose of restoring city property at 11022 SE 37th Avenue and supporting local arts in Milwaukie.

Background

On September 13, the City received a proposal from a local theater nonprofit organization called the New Century Players ("NCP"), requesting that the City consider NCP's offer to renovate and then lease from the city, the city-owned house at 37th and Washington. The City Manager subsequently asked Community Development/Public Works staff to address the feasibility of NCP's proposal, which included tens of thousands of dollars worth of in-kind renovation work in exchange for use of the property.

City staff presented its findings to the City Council November 21st 2006. Staff reported to council on the city's ongoing interest in an on-site well utility, land use considerations like zoning, parking, transportation impacts and historic preservation, and the feasibility and desirability of the NCP proposal itself, which included an itemization from the city Building Official of necessary and desired restoration elements.

There was consensus among the council that staff should proceed with NCP to determine if an agreement could be reached concerning the property.

Staff would direct Council to the November 21st staff report for additional background on the NCP proposal and city interests on the site.

Since November, staff has worked with NCP on a lease agreement that meets the needs of both organizations (Attachment 2). The City's principal interest in the arrangement is to restore the property back to a stable and functional state, through the occupancy and care of the tenant (NCP). Secondly, the City seeks to establish the seed for an incubator space that can support the work of local artists and arts organizations.

NCP's principal interest is in the use of commercial space in Milwaukie to support its growing operation. NCP is an IRS recognized 510c3 not for profit arts organization, dedicated to building community in Milwaukie by providing opportunities for artistic expression through live performance. The theater company is three and a half years old and in need of office, meeting and storage space.

After several months of negotiations, City staff and NCP are prepared to move forward with a five-year lease for the use of the property, pending City Council approval. The lease meets the needs of both parties by stipulating a schedule of building repair and renovation work that NCP will provide at their own expense, in lieu of rent payments to the City. These include:

- Repair of the entry ramp and exterior handrails
- Improvements to the electrical and HVAC systems, as necessary
- Refurbishment of the first and second floors and basement
- Removal and replacement of all insect damaged wood
- Roof, chimney and window replacement and repair
- Continual maintenance and upkeep of the building grounds and exterior

Additionally, the lease requires that NCP make office space, meeting space and wall space available to other local artists and arts organizations as such space is available.

The lease further limits the use of the property to office space (it will not be a venue for public theater performances), limits the parking on site to the paved areas only (and not next to the well house), and continues the city's real property tax exemption.

Please refer to the lease (Attachment 2) for a complete description of the agreement.

Concurrence

The City Attorney drafted the lease and consulted with the Community Development Director on all aspects of this transaction. The City Attorney concurs with the action. The Planning Director consulted on the land use questions and concurs with the action. The Building Official has made several tours of the property and has consulted with NCP on the renovation schedule and NCP's capacity to execute the repairs. The Building Official concurs with the action. The Operations Director has consulted with the city Water Quality Specialist and Facilities Manager. The Operations Director concurs with the action. Finally, city staff consulted with the Hector Campbell Neighborhood Association and Madeleine Bohl early in the process. Both expressed support for the new use.

Fiscal Impact

The lease does not bind the City to any future fiscal obligations. As a city owned asset, the action will lead to an appreciation in value for the property (and surrounding properties) and will therefore have a positive fiscal impact on the City's balance sheet. Indirectly, the availability of arts and support for the arts has been shown to support local economic development efforts, and is sound economic development strategy.

Work Load Impacts

Workload impacts are minimal. The city currently expends virtually no time and energy at the property (which accounts for its declining state). In a landlord position, operations staff (facilities) can expect to see a nominal increase in its requests for information and support. Likewise, the Building Official can expect to be called on for inspections and advice. These are negligible workload impacts.

Alternatives

Council can direct staff to seek to modify the lease, according to some clearly stated criteria or desire. Council can also reject the lease altogether, though this would reverse the direction provided at the November 21st 2006 meeting.

Attachments

Attachment 1: Resolution

Attachment 2: Lease, with attachments showing the premises, property and recently completed inspection report.

Attachment 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH NEW CENTURY PLAYERS, AN IRS RECOGNIZED 501C3 ARTS ORGANIZATION, FOR RENOVATION AND USE OF CITY-OWNED PROPERTY AT 11022 SE 37TH AVENUE

WHEREAS, the City of Milwaukie owns real property at 11022 SE 37th which for several years has been vacant and vulnerable to continued decline and disrepair; and

WHEREAS, in September 2006, the City received a proposal from the New Century Players, a local IRS recognized 501(c)3 nonprofit theater group, offering to restore the property in exchange for its use as an office and storage area for the theater group; and

WHEREAS, the City Council expressed strong support for this proposal at a council meeting on November 21 2006, owing to the theater company's Milwaukie roots and the clear advantages available to communities that have strong arts offerings; and

WHEREAS, the City has no existing plans for an alternate use of the property, nor any plans to demolish the property, nor any significant funding available to maintain the property; and

WHEREAS, the City and the New Century Players have developed a draft lease that details the improvements that will be made to the property and the obligations that the New Century Players will have for maintenance of the building and grounds; and

WHEREAS, the City Council has reviewed the draft lease and agrees that the terms of the lease benefit both the City and the new Century Players, and

WHEREAS, once certain repairs are completed, in accordance with the lease, the New Century Players will make portions of the building available for use to other artists, arts organizations or city-sponsored events; and

WHEREAS, the adjoining neighborhood association (through its Chair) and Milwaukie Museum (through its Executive Director) have expressed support for the new use; and

WHEREAS, the City expects to benefit from the improved appearance of the building and its grounds, stronger property values in the immediate vicinity, and enhanced theater offerings as a result of the operational efficiencies gained by the theater company as a result from the lease arrangement; and

WHEREAS, the City is engaged in multiple activities that support its adopted vision as a vibrant and family-friendly Town Center, of which the arts are one important aspect.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager to finalize and execute a lease agreement that is substantially in conformance with the draft lease reviewed by Council on April 3, 2007, and any other necessary documents required to make the

Attachment 1

real property at 11022 SE Washington available to the New Century Players for office, meeting and storage space.

Introduced and adopted by the City Council on April 3, 2007.

This resolution is effective on April 3, 2007.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, & Corrigan, LLP

Pat DuVal, City Recorder

City Attorney

COMMERCIAL LEASE

Date: _____, 2007

Between: THE CITY OF MILWAUKIE ("Landlord")
10722 SE Main Street
Milwaukie, OR 97222

And: NEW CENTURY PLAYERS ("Tenant")
7740 SE Harmony Road 2
Milwaukie, OR 97222

Landlord leases to Tenant and Tenant leases from Landlord the following described property (the "Premises") on the terms and conditions stated below:

See Exhibit "A" attached hereto

Section 1. Occupancy

1.1 Original Term. The term of this lease shall commence April 4, 2007, and continue through April 4, 2012 unless sooner terminated as hereinafter provided.

1.2 Possession. Tenant's right to possession and obligations under the lease shall commence on April 4, 2007.

1.3 Renewal Option. If the lease is not in default at the time each option is exercised or at the time the renewal term is to commence, Tenant shall have the option to renew this lease for one (1) five year term as follows:

(1) The renewal term shall commence on the day following expiration of the preceding term.

(2) The option may be exercised by written notice to Landlord given not less than 6 months prior to the last day of the expiring term. The giving of such notice shall be sufficient to make the lease binding for the renewal term without further act of the parties, other than the Landlord and Tenant shall then be bound to negotiate the rent. The rent will be negotiated once the notice of election to renew is received by Landlord. The terms and conditions of the lease for each renewal term shall be identical with the original term except for rent and except that Tenant will no longer have any option to renew this lease that has been exercised.

(3) If the parties do not agree on the rent within 60 days after notice of election to

renew, the rent shall be determined by arbitration as provided in Section 14.

Section 2. Rent

2.1 Tenant shall secure any required permits or approvals, complete the following improvements to the property, and complete an annual report documenting the repairs and maintenance performed in lieu of rent payments to Landlord, in exchange for use of the property within the five year lease term:

- Year One:
- a. Repair the accessible entry ramp to a safe condition.
 - b. Install a code compliant handrail on at least one side of the front entry stair.
 - c. Install a code compliant handrail on at least one side of the stairs to the second floor and replace the window on the landing with tempered glazing.
 - d. Contract with a licensed electrical contractor to permit and repair all electrical deficiencies noted in the inspection report provided by Crawford Inspection Service dated July 13, 2004.
 - e. Engage a reputable HVAC contractor to service the existing furnace and verify its safety.
 - f. Refurbish the interior first and second floors to the satisfaction of the tenant.
 - g. Refurbish, clean or improve basement/cellar access to the satisfaction of the tenant. Structural alterations will require permits and prior approval from the landlord.
 - h. Maintain continual upkeep and landscaping maintenance on building grounds and exterior.
 - i. Make available office space, meeting space and wall space for other local artists, arts organizations or city-sponsored events. Availability shall be determined at the sole discretion of the tenant. Tenant shall notify landlord of any arrangements that will result in on ongoing co-occupancy of the premises, subject to Section 9.
 - j. Prepare and submit to Landlord an annual report documenting progress made toward the completion of items a. through i. noted above. The report shall include photo documentation of work performed and the results.
- Years Two & Three:
- a. Repair all damaged or blocked attic or under-floor vents.
 - b. Remove and replace all insect damaged wood noted in inspection report and treat the structure for the removal of carpenter ants and powder post beetles. Chemicals used to accomplish this must have prior approval of Landlord described in Section 3.3.

- c. Abandon use of the existing oil furnace. This may be accomplished by converting to an alternative heating system or by utilizing a series of electric baseboards or cadet type heaters. A permit will be required for this work.
- d. Replace the roof and repair any related dry rot or structural damage. Remove chimney or clean and implement additional chimney stabilization measures on the north side of the building. A licensed structural engineer must design any such measures. A permit will be required for this work.
- e. Maintain continual upkeep and landscaping maintenance on building grounds and exterior.
- f. Make available office space, meeting space and wall space for other local artists, arts organizations or city-sponsored events. Availability shall be determined at the sole discretion of the tenant. Tenant shall notify landlord of any arrangements that will result in on ongoing co-occupancy of the premises, subject to Section 9.
- g. Prepare and submit to Landlord an annual report documenting progress made toward the completion of items a. through e. noted above. The report shall include photo documentation of work performed and the results.

- Years Four & Five:
- a. Permit and install energy efficient windows throughout the building. Permit and repair any related dry rot or structural damage.
 - b. Maintain continual upkeep and landscaping maintenance on building grounds and exterior.
 - c. Make available office space, meeting space and wall space for other local artists, arts organizations or city-sponsored events. Availability shall be determined at the sole discretion of the tenant. Tenant shall notify landlord of any arrangements that will result in on ongoing co-occupancy of the premises, subject to Section 9.
 - d. Prepare and submit to Landlord an annual report documenting progress made toward the completion of items a. and b. noted above. The report shall include photo documentation of work performed and the results.

2.2 Additional Rent. All taxes, insurance costs, and utility charges shall be additional rent to be paid by the landlord in years one, two and three of the original term. Landlord and tenant shall negotiate payment of additional rent for years four and five during year three.

Section 3. Use of the Premises

3.1 Permitted Use. The Premises shall be used for office space and for no other purpose without the consent of Landlord, which consent shall not be withheld unreasonably.

3.2 Restrictions on Use. In connection with the use of the Premises, Tenant shall:

(1) Conform to all applicable laws and regulations of any public authority affecting the premises and the use, and correct at Tenant's own expense any failure of compliance created through Tenant's fault or by reason of Tenant's use.

(2) Refrain from any activity that would make it impossible to insure the Premises against casualty, would increase the insurance rate, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant pays the additional cost of the insurance.

(3) Refrain from any use that would be reasonably offensive to owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the premises.

(4) Refrain from loading the electrical system or floors beyond the point considered safe by a competent engineer or architect selected by Landlord.

(5) Refrain from making any marks on or attaching any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of the premises without the written consent of Landlord. Tenant is permitted to hang a temporary (e.g. "New Home of...") banner or sign for up to 90 days from occupancy, provided the banner or sign is no larger than 16 square feet. Tenant is also permitted to display a permanent sign provided it is no larger than four square feet.

3.3 Protective Restrictions.

1) Tenant shall not cause or permit use of herbicides or pesticides on the premises without permission of Landlord. A written request for such use must be presented to Landlord at least 45 days in advance and reviewed by the City's Water Quality Control Coordinator and the Oregon Drinking Water Program Hydrologist. The request must contain the following information:

- A. Purpose of chemical use.
- B. Label name of product and copy of label and Material Safety Data Sheet (MSDS).
- C. Graphic depiction of area of use.
- D. Application rate and total use.

2) Tenant may use only small amounts of low nitrate organic fertilizer in landscape areas and only with prior approval of the City's Water Quality Control Coordinator.

3) Storage of Hazardous Substances (other than routine household cleaners in less than one gallon containers) is prohibited. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material organic or synthetic as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

4) Parking. Vehicle parking is limited to paved areas only. There is no parking allowed in the first position next to north side of well house located on the site. All tenant vehicles must be able to be moved on short notice to facilitate emergency repair to well site or emergency operations.

Section 4. Obligations

4.1 Landlord's Obligations. Landlord shall be under no obligation to make or perform any repairs, maintenance, replacements, alterations, or improvements on the Premises.

4.2 Tenant's Obligations. The following shall be the responsibility of Tenant:

(1) Repair of interior walls, ceilings, doors, windows, and related hardware, light fixtures, switches, and wiring and plumbing from the point of entry to the Premises.

(2) Any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 5.2 dealing with waiver of subrogation.

(3) Ordinary maintenance of the heating and air conditioning system and any repairs necessary because of improper maintenance.

(4) As set forth in Section 3.2, any repairs or alterations required under Tenant's obligation to comply with laws and regulations as set forth in Section 4.2.

(5) Prepare and provide annual reports documenting repairs and maintenance that are required in Section 2.

4.3 Landlord's Interference with Tenant. In performing any repairs, replacements, alterations, or other work performed on or around the Premises, Landlord shall not cause unreasonable interference with use of the Premises by Tenant.

4.4 Reimbursement for Repairs Assumed. If Tenant either fails or refuses to make repairs that are required by Section 3 or this Section 4, Landlord may make the repairs and charge the actual cost of repairs to Tenant. Such expenditures shall be reimbursed by Tenant on demand by Landlord.

4.5 Inspection of Premises. Landlord shall have the right to inspect the Premises at any reasonable time or times with 24 hour written notice to Tenant.

4.6 Limitation on Tenant Obligation to Make Repairs. If while performing repairs Tenant encounters unforeseen latent conditions in the building that cause it to be unable to complete the requirements of Section 2.1, Tenant shall inform Landlord to discuss the concern. Tenant and Landlord shall meet and discuss whether a modification of the improvement schedule in Section 2.1 is needed. Upon independent evaluation and verification of the conditions, Landlord will grant permission to a modification of the improvement schedule.

Section 5. Insurance

5.1 Insurance Required. Landlord shall keep the Premises insured at Landlord's expense against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage. Tenant shall carry similar insurance insuring the property of Tenant on the Premises against such risks.

5.2 Waiver of Subrogation. Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in the event of insured loss, neither party's insurance company shall have a subrogated claim against the other. This waiver shall be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to use best efforts to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

Section 6. Taxes

6.1 Personal Property Taxes. Tenant shall pay as due all taxes on its personal property located on the Premises.

6.2 Real Property Taxes. Landlord is exempt from paying real property taxes levied against the Premises as long as Tenant files an Application For Real and Personal Property Tax Exemption under ORS 307.166 and is approved for an exemption under ORS 307.130. As used herein, real property taxes includes any fee or charge relating to the ownership, use, or rental of the Premises, other than taxes on the net income of Landlord or Tenant or personal property.

Section 7. Liability and Indemnity

7.1 Liens.

(1) Except with respect to activities for which Landlord is responsible, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens. If Tenant fails to pay any such claims or to discharge any lien, Landlord may do so and collect the cost as additional rent which shall be

payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default.

(2) Tenant may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within 10 days after knowledge of the filing, secure the discharge of the lien or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

7.2 Indemnification. Tenant shall indemnify and defend Landlord from any claim, loss, or liability arising out of or related to any negligent activity of Tenant on the Premises or any condition of the Premises in the possession or under the control of Tenant including any such claim, loss, or liability that may be caused or contributed to in whole or in part by Landlord's own negligence or failure to effect any repair or maintenance required by this lease. Landlord shall have no liability to Tenant for any injury, loss, or damage caused by third parties, or by any condition of the Premises.

7.3 Liability Insurance. Before going into possession of the Premises, Tenant shall procure and thereafter during the term of the lease shall continue to carry the following insurance at Tenant's cost: Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

Coverage	Limit
General Aggregate	1,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	50,000
Medical Expense (Any one person)	5,000

Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the premises. Such insurance shall protect Tenant against the claims of Landlord on account of the obligations assumed by Tenant, and shall name Landlord as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring a 10 day written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the property.

Section 8. Quiet Enjoyment; Mortgage Priority

Landlord's Warranty. Landlord warrants that it is the owner of the Premises and has the right to lease them free of all encumbrances. Landlord will defend Tenant's right to quiet enjoyment of the Premises from the lawful claims of all persons during the lease term.

Section 9. Assignment and Subletting

No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of Landlord. This provision shall apply to all transfers by operation of law. Landlord may withhold or condition such consent in its sole and arbitrary discretion.

Section 10. Default

The following shall be events of default:

10.1 Default in Rent. Failure of Tenant to perform its obligations as stated in Section 2.

10.2 Default in Other Covenants. Failure of Tenant to comply with any term or condition or fulfill any obligation of the lease (other than Section 2) within 15 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 15 day period, this provision shall be complied with if Tenant begins correction of the default within the 15 day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

10.3 Insolvency. Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within 10 days shall constitute a default. If Tenant consists of two or more individuals or business entities, the events of default specified in this Section 10.3 shall apply to each individual unless within 10 days after an event of default occurs, the remaining individuals produce evidence satisfactory to Landlord that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the lease.

10.4 Abandonment. Failure of Tenant for 30 days or more to occupy the Premises for one or more of the purposes permitted under this lease, unless such failure is excused under other provisions of this lease.

Section 11. Remedies of Default

11.1 Termination. In the event of a default, the lease may be terminated at the option of Landlord by written notice to Tenant. Whether or not the lease is terminated by the election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant of the default, and Landlord may reenter, take possession of the premises, and remove any persons or property by legal

action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

11.2 Reletting. Following reentry or abandonment, Landlord may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but Landlord shall not be required to relet for any use or purpose other than that specified in the lease or which Landlord may reasonably consider injurious to the Premises, or to any tenant that Landlord may reasonably consider objectionable. Landlord may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

Section 12. Surrender at Expiration

12.1 Condition of Premises. Upon expiration of the lease term or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Premises in first-class condition and broom clean. Alterations constructed by Tenant with permission from Landlord shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose for which the Premises are leased shall be excepted but repairs for which Tenant is responsible shall be completed to the latest practical date prior to such surrender.

12.2 Fixtures

(1) All fixtures placed upon the Premises during the term, other than Tenant's trade fixtures, shall, at Landlord's option, become the property of Landlord. If Landlord so elects, Tenant shall remove any or all fixtures that would otherwise remain the property of Landlord, and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the legal rate from the date of expenditure.

(2) Prior to expiration or other termination of the lease term Tenant shall remove all furnishings, furniture, and trade fixtures that remain its property. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within 10 days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Landlord.

12.3 Holdover

(1) If Tenant does not vacate the Premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of

this lease except the provisions for term and renewal, or to eject Tenant from the Premises and recover damages caused by wrongful holdover. Failure of Tenant to remove fixtures, furniture, furnishings, or trade fixtures that Tenant is required to remove under this lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

(2) If a month-to-month tenancy results from a holdover by Tenant under this Section 12.3, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given not less than 60 days prior to the termination date which shall be specified in the notice. Tenant waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

Section 13. Miscellaneous

13.1 Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

13.2 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees at trial, on petition for review, and on appeal.

13.3 Notices. Any notice required or permitted under this lease shall be given when actually delivered or 48 hours after deposited in United States mail as certified mail addressed to the address first given in this lease or to such other address as may be specified from time to time by either of the parties in writing.

13.4 Succession Subject to the above-stated limitations on transfer of Tenant's interest, this lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

13.5 Recordation. This lease shall not be recorded without the written consent of Landlord.

13.6 Time of Essence. Time is of the essence of the performance of each of Tenants obligations under this lease.

THE CITY OF MILWAUKIE, an Oregon
municipal corporation

Printed Name: _____
Title: _____
By: _____

NEW CENTURY PLAYERS, an Oregon
non-profit corporation

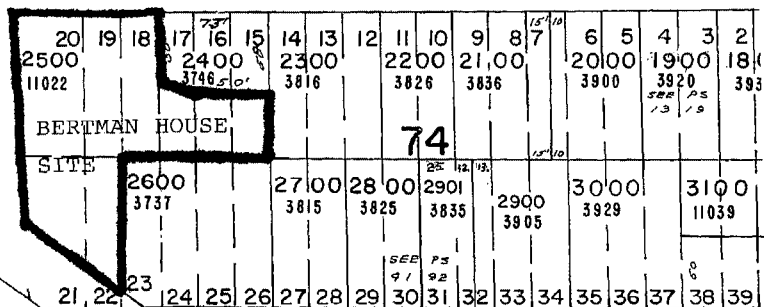
Printed Name: _____
Title: _____
By: _____

CANCELLED NOS.

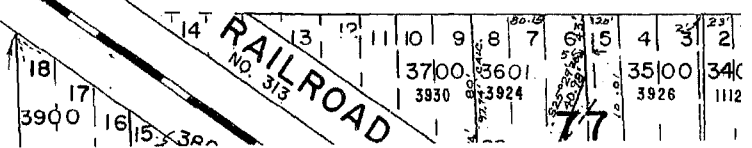
TL 7400	5601	6200
8300	3200	6300
5900	3300	6400
4000	6100	6500
4001	6101	6800
		6900
		7000
		7100
		8400
		8500

SOUTHERN

WASHINGTON



ADAMS



11022 SE 37th Avenue
(Bertman House)

Assessor Map #: 1S1E36AD02500

Description: Lots 18-22 and part of lots 15-17
of block 74, Minthorn Addition (1890)

CRAWFORD INSPECTION SERVICE

P.O Box 665; West Linn, OR 97068

(503) 628-1003 Fax: (503) 892-9599

CCB# 76914

BUILDING ANALYSIS REPORT



Property Location:

**11022 SE 37th Ave.
Milwaukie, OR 97222**

CRAWFORD INSPECTION SERVICE

P.O Box 665; West Linn, OR 97068

(503) 628-1003 Fax: (503) 628-4901

CCB# 76914

<u>Customer</u>	<u>Property Location</u>
City of Milwaukie Attn: William Miller 6101 SE Johnson Creek Blvd. Milwaukie, OR 97206	11022 SE 37 th Ave. Milwaukie, OR 97222

This is our report of a visual inspection of the readily accessible areas of this building, in accordance with the terms, conditions and limitations in the INSPECTION AGREEMENT, which is a part of this report and incorporated herein. Please read the REMARKS printed on each page as well as our typed or hand written notes. Call us for an explanation of any aspect of this report, written or printed, which you do not fully understand. Also, call us if you want a more thorough inspection, and can obtain the sellers permission.

This report is prepared for the sole, confidential and exclusive use of the named Customer; no other person should rely on, or take action based on, its contents. No other use is permitted, and Crawford Inspection Service shall not be responsible for any such use unless authorized in writing and signed by both the customer and the President of Crawford Inspection Service.

This report is written assuming that the front of the house faces to the: ☐ North ☐ South ☐ East ☒ West

Inspection Date: 7/13/04

Weather Conditions: Clear

Outside Temperature: Mid 70 's

Oregon Certified Home Inspector: Paul E. Louis (OCHI # 583)

Inspector Signature:



STRUCTURAL

Structure	<p>Single family home converted to governmental office use.</p> <p>Foundation Type: <input checked="" type="checkbox"/> Concrete <input checked="" type="checkbox"/> Masonry <input type="checkbox"/> Other <input type="checkbox"/> Not Visible</p> <p>Floor Framing: <input type="checkbox"/> Post and Beam <input checked="" type="checkbox"/> Joists <input type="checkbox"/> N/A</p> <p>Floor Surface: <input checked="" type="checkbox"/> T&G Decking <input checked="" type="checkbox"/> Plywood/OSB Sheeting <input checked="" type="checkbox"/> Concrete Slab</p> <p>Roof Structure: <input checked="" type="checkbox"/> Rafters <input type="checkbox"/> Trusses <input type="checkbox"/> Open Beam Decked <input type="checkbox"/> Vaulted</p> <p>Walls: <input checked="" type="checkbox"/> Wood Frame <input type="checkbox"/> Other</p> <p>Inaccessible areas, obstructions, etc. in the living space and around the exterior of the house at the time of the inspection:</p> <p style="padding-left: 40px;">Fixed ceilings, fixed wall covering, floor covering, insulation, cabinets or shelving, appliances, furniture and personal items, stored items, and exterior finishes. The offices were actively being used and minimal disruptions were caused. Most of the switches and outlets in the office areas were not tested or evaluated.</p> <p>Live carpenter ants were found crawling on the front porch, near the steps. Powder post beetle infested wood was found in the front porch crawl space. Beetle damage was noted in the front two main support posts, under the remaining tree bark. All insect damaged wood should be removed and replaced with new materials. A treatment for wood destroying insects is recommended. These insects typically are more active during the spring and fall.</p>
------------------	---

BASEMENT (OR LOWER LEVEL)

Basement <input type="checkbox"/> N/A	<input type="checkbox"/> None <input checked="" type="checkbox"/> Partial <input type="checkbox"/> Full Inaccessible areas and/or items restricting view: <input checked="" type="checkbox"/> Personal items <input checked="" type="checkbox"/> Finished walls/ceiling <input checked="" type="checkbox"/> Heating ducts <input checked="" type="checkbox"/> Other: Stored Items
Floor	<input checked="" type="checkbox"/> Concrete <input type="checkbox"/> Dirt Other _____ <input type="checkbox"/> N/A
Floor Drain	<input checked="" type="checkbox"/> Present <input type="checkbox"/> Not Found <input type="checkbox"/> Tested <input checked="" type="checkbox"/> Not Tested <input type="checkbox"/> N/A
Sump Pump	<input type="checkbox"/> Operating <input type="checkbox"/> Not Operating <input checked="" type="checkbox"/> None Found
Basement Ceiling	<input checked="" type="checkbox"/> Open <input type="checkbox"/> Finished <input checked="" type="checkbox"/> Signs of Past or Present Leaks <input type="checkbox"/> N/A
Basement Dampness	<input type="checkbox"/> None Noted <input type="checkbox"/> Some Signs <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Extensive <input type="checkbox"/> N/A <input type="checkbox"/> Past <input checked="" type="checkbox"/> Present <input type="checkbox"/> Not Known The interior skim coat on the basement walls is deteriorated in many areas due to moisture penetration through the foundation. Spaulding on the exposed bricks on the south foundation wall was noted due to moisture penetration. The skim coat has fallen off most of the brick.

Crawl Space <input type="checkbox"/> N/A	Access: <input checked="" type="checkbox"/> Readily Accessible <input type="checkbox"/> Not readily accessible <input type="checkbox"/> N/A Floor: <input checked="" type="checkbox"/> Concrete <input type="checkbox"/> Dirt <input type="checkbox"/> Other _____ Joist Clearance: <input checked="" type="checkbox"/> Adequate <input type="checkbox"/> Inadequate in some areas <input type="checkbox"/> Inadequate. Dampness: <input checked="" type="checkbox"/> Some Signs <input type="checkbox"/> Standing Water <input type="checkbox"/> None Noted Ventilation: <input checked="" type="checkbox"/> Adequate <input type="checkbox"/> Inadequate Vapor Barrier: <input type="checkbox"/> Present <input checked="" type="checkbox"/> Missing <input type="checkbox"/> Partially missing/misplaced Insulation: <input type="checkbox"/> In-floor <input type="checkbox"/> Perimeter walls <input checked="" type="checkbox"/> None <input type="checkbox"/> N/A Insect damaged wood was noted in the front crawl space. All stored wood and debris should be removed from both crawl spaces to prevent an insect pest infestation. Dead animal bodies were found in the front crawl space. Inaccessible areas and/or items restricting view: <input type="checkbox"/> Insulation <input type="checkbox"/> Vapor barrier <input checked="" type="checkbox"/> Heating ducts <input checked="" type="checkbox"/> Other: Stored items and debris.
--	---

HEATING AND COOLING

Heating System	Fuel:	<input type="checkbox"/> Gas <input checked="" type="checkbox"/> Oil <input type="checkbox"/> Electric	Medium:	<input checked="" type="checkbox"/> Forced Air <input type="checkbox"/> Gravity Distribution <input type="checkbox"/> Gravity Hot Water Boiler <input type="checkbox"/> Hot Water Boiler, Pumped <input type="checkbox"/> Steam Boiler <input type="checkbox"/> Radiant Heat <input checked="" type="checkbox"/> Baseboard Electric <input type="checkbox"/> Heat Pump <input type="checkbox"/> In-Wall Electric
Capacity	Input BTUH:	Unknown <input type="checkbox"/> N/A	Approx. Age:	Unknown
Heating System Recommendations	<p>The furnace was not operated during the inspection. A heavy smell of oil was noted when entering the basement. Oil residue was found on the floor of the basement around the furnace. An oil furnace should be serviced regularly to ensure safe and efficient operation throughout its life. Due to the age of the furnace, a service and evaluation by a licensed HVAC company is recommended.</p> <p>Checking the condition of heat exchangers, typically found in oil and gas furnaces, is beyond the scope of a home inspection.</p> <p>Homes with gas, oil, propane or other fossil fuel burning heat systems should have a carbon monoxide detector for safety.</p> <p>The baseboard electric heater in the first floor bathroom did not operate when turned on at the control knob.</p>			
Exhaust	<input checked="" type="checkbox"/> Viewed <input type="checkbox"/> Not Viewed <input checked="" type="checkbox"/> Appears Intact <input type="checkbox"/> N/A			
Distribution	<input checked="" type="checkbox"/> Ductwork Air Flow <input type="checkbox"/> Convectors <input type="checkbox"/> In-wall Electric <input checked="" type="checkbox"/> Baseboard Electric <input type="checkbox"/> Ceiling Radiant <input type="checkbox"/> Radiators <input type="checkbox"/> N/A		Comments: One of the heat ducts in the basement has been disconnected. A couple of damper controls in the duct runs appear to be missing or damaged.	
Filter system	<input type="checkbox"/> Washable <input checked="" type="checkbox"/> Disposable <input type="checkbox"/> Electronic <input type="checkbox"/> Missing Filter <input type="checkbox"/> N/A			
Supplementary Heat	Location: <input checked="" type="checkbox"/> N/A			
Cooling	<input type="checkbox"/> Central Air <input checked="" type="checkbox"/> Room Unit <input type="checkbox"/> Operated <input checked="" type="checkbox"/> Not Tested <input checked="" type="checkbox"/> N/A Compressor Age: N/A Room unit air conditioners were found in many of the individual office rooms. These units were not tested during the inspection.			

PLUMBING

Water Service	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Well <input type="checkbox"/> Unknown Main shut-off location: Basement
Interior Pipes	<input checked="" type="checkbox"/> Copper <input type="checkbox"/> Plastic <input checked="" type="checkbox"/> Galvanized <input type="checkbox"/> Unknown <input type="checkbox"/> Plumbing Leaks Alterations to the plumbing lines were noted throughout the basement.
Hose Bibs	<input type="checkbox"/> Operating <input checked="" type="checkbox"/> Not Operating <input type="checkbox"/> Not Tested <input type="checkbox"/> None Found <input checked="" type="checkbox"/> Interior Shut Offs The hose bibs may be turned off at the shut off valves.
Waste Pipes	<input type="checkbox"/> Copper <input checked="" type="checkbox"/> Plastic <input checked="" type="checkbox"/> Galvanized <input checked="" type="checkbox"/> Cast Iron <input type="checkbox"/> Unknown <input type="checkbox"/> Plumbing Leaks Some reverse flow drain lines were noted at the kitchen sink drain to the main stack. Another drain line that may be abandoned was found to be installed with reverse flow from the furnace area toward the main plumbing drain stack.
Waste Discharge	<input type="checkbox"/> Slow drain <input checked="" type="checkbox"/> Fixtures Drain Adequately
Hot Water Heater	<input type="checkbox"/> Gas <input checked="" type="checkbox"/> Electric <input type="checkbox"/> Integral w/heating system <input type="checkbox"/> Seismic Straps Capacity: 50Gallons Ample for 3 -4 people Est. Age: 10 - 15 years

BATHROOMS

Fixtures	First Floor Bath: Wall sink and toilet. The toilet was loose and the sink faucet was constantly dripping. Second Floor Bath: Sink, faucet, toilet and leg tub. The leg tub has been boxed in around the perimeter and items were stored inside the tub. Its water and drain operation was not evaluated. Condition of the tub was also not evaluated.
Bathtub	<input type="checkbox"/> Built-in <input checked="" type="checkbox"/> Leg Tub <input type="checkbox"/> Tub/Shower Combo <input type="checkbox"/> Spa Tub <input type="checkbox"/> Access Panel Surround: <input type="checkbox"/> Fiberglass <input type="checkbox"/> Ceramic Tile <input type="checkbox"/> Plastic Laminate <input type="checkbox"/> Other Tub was boxed in.
Stall Shower	<input type="checkbox"/> Ceramic Tile <input type="checkbox"/> Fiberglass <input type="checkbox"/> Laminate <input type="checkbox"/> Vinyl <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Other:
Floor	<input type="checkbox"/> Ceramic Tile <input checked="" type="checkbox"/> Sheet Vinyl <input type="checkbox"/> Laminate <input type="checkbox"/> Resilient Tile <input type="checkbox"/> Carpet <input type="checkbox"/> Wood <input type="checkbox"/> Other:
Ventilation	<input type="checkbox"/> Fan <input checked="" type="checkbox"/> Window <input type="checkbox"/> Vented Outside <input type="checkbox"/> Vented into Attic <input type="checkbox"/> No Ventilation

ELECTRICAL

Service	<p>150 Amps <input type="checkbox"/> Fuses <input checked="" type="checkbox"/> Circuit Breakers 120/240 Volts Service Entry: <input checked="" type="checkbox"/> Overhead <input type="checkbox"/> Underground <input checked="" type="checkbox"/> Grounded At Panel Service Entry Conductors: <input type="checkbox"/> Copper <input checked="" type="checkbox"/> Aluminum <input type="checkbox"/> Tin Clad Copper Service Panel Location: Basement</p> <p>A couple of breakers have been "double tapped" in the panel. Each circuit should have its own breaker for safety and proper breaker operation. Additional breakers or split breakers should be added to the panel and one of the circuits moved to each of the new breakers.</p> <p>The ground wires exiting the structure on the south side of the building near the electrical meter should be properly secured to the building for safety.</p>
Conductors (120 Volt)	<p>Wiring: <input checked="" type="checkbox"/> Copper <input type="checkbox"/> Aluminum <input type="checkbox"/> Tin Clad Copper</p> <p>A mixture of wire types was found throughout the structure.</p> <p>Knob and tube wires were found in the attic areas. Some may be covered with the blown-in insulation.</p> <p>Some non-standard wiring practices were found in the basement.</p> <p>Conditions observed include missing metal box bushing clamps and lock nuts, improper knob & tube wire splices, wires stapled to the bottom of the ceiling joists, etc.</p> <p>The electrical wire running up the north exterior wall to the wall mounted light fixture should be installed in protective conduit for safety.</p>
Outlets and Fixtures (Random Testing)	<p>GFI outlet(s): <input type="checkbox"/> Functioning <input type="checkbox"/> Not Functioning <input checked="" type="checkbox"/> None Found</p> <p>GFI outlets are recommended in all wet locations</p> <p>Blank plugs were missing on the surface mounted exterior conduit boxes and a plate cover was loose on the east exterior wall.</p> <p>Plate covers should be installed on all uncovered interior junction boxes, outlets, and switches around the house.</p> <p>Smoke Detectors: <input type="checkbox"/> Functioning <input type="checkbox"/> Not Functioning <input type="checkbox"/> None Found</p> <p>Smoke detectors were noted in various locations on the first and second floors. The detectors were not tested during the inspection.</p> <p>The smoke detectors throughout the house should be updated to a type containing a 'hush' button and a 10-year battery.</p> <p>Any electrical repairs should be carried out by a licensed electrician.</p>

KITCHEN AND APPLIANCES

Cabinets	<input checked="" type="checkbox"/> Wood <input type="checkbox"/> Wood Composite <input type="checkbox"/> Metal <input type="checkbox"/> Other <input checked="" type="checkbox"/> Satisfactory Condition
Countertop	<input checked="" type="checkbox"/> Laminate <input type="checkbox"/> Ceramic Tile <input type="checkbox"/> Wood <input type="checkbox"/> Natural Stone <input type="checkbox"/> Manmade Composite <input type="checkbox"/> Other
Sinks and Fixtures	The kitchen sink and faucet are built into the under-counter refrigerator.
Floor	<input type="checkbox"/> Resilient Tile <input checked="" type="checkbox"/> Sheet Goods <input type="checkbox"/> Wood <input type="checkbox"/> Laminate <input type="checkbox"/> Ceramic Tile <input type="checkbox"/> Carpet Other: _____
Dishwasher	<input checked="" type="checkbox"/> Operated <input type="checkbox"/> Not Tested <input type="checkbox"/> Built-In <input type="checkbox"/> Portable <input type="checkbox"/> N/A
Disposal	<input type="checkbox"/> Operated <input type="checkbox"/> Not Tested Size: N/A <input checked="" type="checkbox"/> N/A
Range/Oven	<input type="checkbox"/> Wall Oven <input type="checkbox"/> Cook Top <input type="checkbox"/> Range <input type="checkbox"/> Operated <input type="checkbox"/> Not Operating <input type="checkbox"/> Gas <input type="checkbox"/> Electric <input checked="" type="checkbox"/> N/A
Ventilation	<input type="checkbox"/> Exhaust Fan <input type="checkbox"/> Micro/Hood Combo <input type="checkbox"/> Ductless <input type="checkbox"/> Vented To Outside <input checked="" type="checkbox"/> N/A
Washer/Dryer Hook-ups	<input type="checkbox"/> Hook-Ups Present <input type="checkbox"/> Vented to Outside Dryer: <input type="checkbox"/> Gas <input type="checkbox"/> Electric <input checked="" type="checkbox"/> N/A
APPLIANCES NOT TESTED INCLUDE THE FOLLOWING: REFRIGERATORS, MICROWAVE OVENS, WASHERS AND DRYERS, AND OTHERS NOT LISTED IN THIS SECTION OF THE REPORT	

INTERIOR

Floors	<input type="checkbox"/> Wood <input type="checkbox"/> Laminate <input checked="" type="checkbox"/> Wall to Wall Carpet <input type="checkbox"/> Resilient Tile <input type="checkbox"/> Ceramic Tile <input type="checkbox"/> Rugs <input checked="" type="checkbox"/> Sheet goods <input type="checkbox"/> Marble/Granite <input type="checkbox"/> Other
Walls/Ceilings	<input checked="" type="checkbox"/> Drywall <input checked="" type="checkbox"/> Plaster <input type="checkbox"/> Wood <input type="checkbox"/> Wallpaper <input type="checkbox"/> Other <input type="checkbox"/> Dropped Ceilings <input type="checkbox"/> Fiberboard/Tile <input checked="" type="checkbox"/> Shrinkage Cracks noted <input type="checkbox"/> Nail pops noted <input checked="" type="checkbox"/> Settling Cracks noted Some interior walls have been modifies from the original floor plan to accommodate office uses.
Stairs	<input checked="" type="checkbox"/> Handrails <input type="checkbox"/> N/A Hand rails should be added at the front porch steps for safety.
Closets	<input type="checkbox"/> Walk-in closet <input checked="" type="checkbox"/> Appears Satisfactory
Fireplace	<input checked="" type="checkbox"/> Masonry <input type="checkbox"/> Wood Stove <input type="checkbox"/> Metal Pre-Fabricated <input type="checkbox"/> Fireplace Insert <input checked="" type="checkbox"/> Damper <input type="checkbox"/> N/A The damper chain has broken off of the damper. The damper in the fire box was found in the closed position.
Doors (inside)	<input checked="" type="checkbox"/> Wood <input type="checkbox"/> Glass <input type="checkbox"/> Other
Windows	<input checked="" type="checkbox"/> Wood <input checked="" type="checkbox"/> Metal <input type="checkbox"/> Vinyl <input checked="" type="checkbox"/> Insulated Glass <input type="checkbox"/> Casement <input type="checkbox"/> Awning <input type="checkbox"/> Double Hung <input checked="" type="checkbox"/> Sliding <input type="checkbox"/> Storm Windows <input checked="" type="checkbox"/> Single Hung <input checked="" type="checkbox"/> Fixed Sash <input checked="" type="checkbox"/> Single Pane It is not always possible to determine if an insulated window has a damaged seal. Under some lighting conditions, or if the damage occurred recently, the evidence of damage (moisture, dirt and cloudiness) may not be visible. We do not warrant that seals are not damaged. The kitchen sink metal insulated glass window has a damaged seal. Many of the older wood windows are in poor condition. Among the conditions noted are missing/broken sash counterweight cords, missing/malfunctioning latching mechanisms, painted shut sashes, and cracked panes of glass.

ATTIC

Access	<input checked="" type="checkbox"/> Scuttle hole <input type="checkbox"/> Pull down <input type="checkbox"/> Stairs <input checked="" type="checkbox"/> Door <input type="checkbox"/> No Access Location: Interior Hallway and second level bathroom Attic was viewed from: <input checked="" type="checkbox"/> Access Point(s) <input checked="" type="checkbox"/> Attic entered The main house attic area was entered. The single floor level attic area was observed from the access opening. Attic spaces will not be accessed if the entry is obstructed or restricted, when entry could damage any property, when insulation is covering the tops of the joists or lower truss cords, or when there is inadequate clearance to safely traverse the tops of the joists or lower truss cords (to avoid stepping/falling through ceilings).
Attic Insulation	Type: <input checked="" type="checkbox"/> Loose Fill <input type="checkbox"/> Batting Ave Inches; <u>10</u> Installed In: <input type="checkbox"/> Rafters <input type="checkbox"/> Attic Floor <input type="checkbox"/> Pony Walls Approx. R-Value; R30
Ventilation	<input type="checkbox"/> Window <input type="checkbox"/> Attic Fan <input checked="" type="checkbox"/> Gable Vents <input type="checkbox"/> Thru-house Fan <input type="checkbox"/> Ridge Vent <input type="checkbox"/> Soffit Vent <input type="checkbox"/> Roof Vent <input checked="" type="checkbox"/> No Visible Ventilation The only gable vent found on the home was at the east side of the single level room addition area. It was boarded over to keep animal pests out of the attic area. The vent should be repaired and re-screened so that the attic area can ventilate.

ROOFING

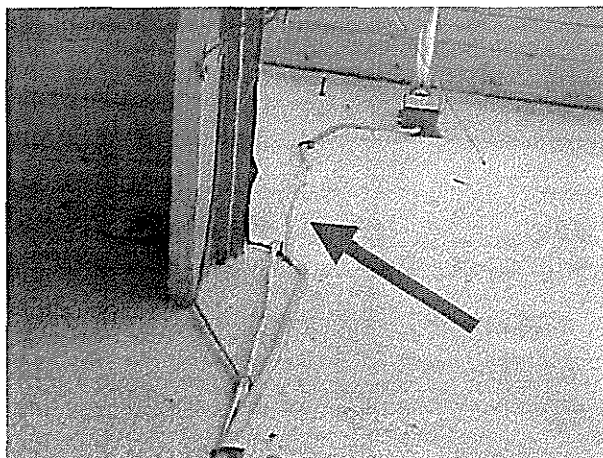
Roof Covering	Location	Material	Estimated Age
	Entire Home: Front Porch Balcony:	Composition Shingles Torch Down	more than 20 years 5 to 10 years
	<p>Method used to view the roof: <input checked="" type="checkbox"/> Walked on <input checked="" type="checkbox"/> From the gutter line <input checked="" type="checkbox"/> From the ground</p> <p>Multiple layers of roof shingles were found. The top composition layer is at the end of its service life. Moss and debris build up were noted on the east single level addition area. Keeping the roof free of moss, leaves, and other debris will help prevent premature breakdown of the roofing materials.</p> <p>The front porch balcony torch down roof is not designed to take heavy foot traffic. A protective deck surface or other appropriate coverings should be installed if the balcony is to be used for people activities.</p> <p>Only roofs that can be safely accessed with a 12-foot ladder will be. Others will be viewed from the ground and/or from the top of the ladder at the gutter line.</p>		
Flashing	<p>Barge rafter edge flashings were missing in areas. The masonry fireplace chimney flashings appear to be deteriorating, with noted repairs applied at the chimney roof line.</p> <p>The front porch balcony flashings at the siding have been adhered to the surface face of the siding. The sealant is breaking down and a gap between the siding and flashing has occurred. Water can penetrate between the siding and the flashing and enter into the porch roof structure area.</p>		
Gutters and Downspouts	<p><input checked="" type="checkbox"/> Metal <input type="checkbox"/> Plastic <input type="checkbox"/> Wood <input checked="" type="checkbox"/> Rain Drains <input type="checkbox"/> Splash Blocks</p> <p>The gutter seam was leaking at the southeast corner of the newer addition to the house.</p>		

EXTERIOR

Doors	<input type="checkbox"/> Appear satisfactory The south exterior door to the basement is deteriorated due to exposure to the elements.	
Windows	<input type="checkbox"/> Appear satisfactory See interior window notes.	
Exterior Walls and Trim	Location: Entire house Keep all dirt and landscaping material at least 6" away from the bottom of the siding to prevent moisture/insect infestation.	Materials: Masonry Stucco Some cracking in the stucco surface was noted on the south and west walls. Patches from window changed were visible. Some cracking and deterioration in the exterior foundation skim coat was noted. Window trim on the south and west walls have some wood rot and other deteriorated conditions. The paint on the trim is also peeling and loose in areas.
Chimney	Viewed chimneys from top of ladder only. The masonry fireplace chimney is deteriorated with cracks in the stucco covering and a loss of the chimney cap material. Water was noted at the base of the basement furnace chimney. Water could be entering through the chimney cap.	
Garage/Carport	<input type="checkbox"/> Garage <input type="checkbox"/> Carport <input type="checkbox"/> Attached <input type="checkbox"/> Detached <input type="checkbox"/> Automatic Opener <input type="checkbox"/> Operated <input type="checkbox"/> Did Not Operate <input checked="" type="checkbox"/> N/A	
Porch	The front porch is deteriorating due to its exposure to the elements. Conditions noted include rotted railings on the lower section, loose railings and warped pressure treated materials on the upper balcony, cracking and flaking concrete at the steps and pillar bases, and wood rot in the soffit boards at the eaves. The exposed rebar at the exterior and interior of the stairs is rusted and breaking apart. The underside of the stairs is crumbling as viewed in the front crawl space. The exposed rebar in this area is also breaking apart. <input type="checkbox"/> N/A	

GROUNDS

Grading	<p>General grading, slope and drainage: <input type="checkbox"/> Appears satisfactory The grade slopes from northeast to southwest. Grading and slope at house wall: (within 5 feet from building) <input type="checkbox"/> Appears satisfactory The grade at the northeast corner of the house slopes toward the foundation and could be contributing to the moisture accumulation in the basement in this area. The surface grade has washed away in areas on the north and east sides of the house. Measures should be taken to adjust the grade around the house so that it slopes away from the foundation.</p>
Sidewalk	<input checked="" type="checkbox"/> Concrete <input type="checkbox"/> Flagstone <input type="checkbox"/> Brick <input type="checkbox"/> Step Stones <input type="checkbox"/> Other : <input checked="" type="checkbox"/> Some Cracking and Settling <input type="checkbox"/> N/A
Driveway	<input type="checkbox"/> Concrete <input checked="" type="checkbox"/> Asphalt <input type="checkbox"/> Brick <input type="checkbox"/> Gravel <input type="checkbox"/> Other <input checked="" type="checkbox"/> Some Cracking and Settling <input type="checkbox"/> N/A
Window Wells	<input checked="" type="checkbox"/> N/A
Retaining Wall	<input type="checkbox"/> Brick <input type="checkbox"/> Block <input type="checkbox"/> Stone <input type="checkbox"/> Concrete <input type="checkbox"/> Wood <input type="checkbox"/> Other : <input type="checkbox"/> Mortared Joints <input type="checkbox"/> Dry <input type="checkbox"/> Weep Holes <input checked="" type="checkbox"/> N/A
Trees and Shrubbery	Maintain 12" clearance from the house to prevent wood rot and/or insect infestation. Keep all vegetation trimmed away from siding and roof.
Attached Wood Deck	<input type="checkbox"/> Underside Inaccessible <input type="checkbox"/> N/A The wheel chair ramp has loose railing posts in areas. The ramp is made of pressure treated materials.
Attached Patio, Terrace	<input type="checkbox"/> Brick <input type="checkbox"/> Concrete <input type="checkbox"/> Flagstone <input type="checkbox"/> Other : <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Some Cracking
Foundation Venting	<input type="checkbox"/> Vents and Screens are satisfactory <input checked="" type="checkbox"/> Screens or frames are damaged and need repair <input type="checkbox"/> N/A The crawl space vent screens have been covered over in some areas on both front and rear crawl spaces. Missing screens were noted on the front porch vent openings. The vents should be opened and repaired for proper crawl space ventilation and to keep animal pests from entering the crawl spaces.



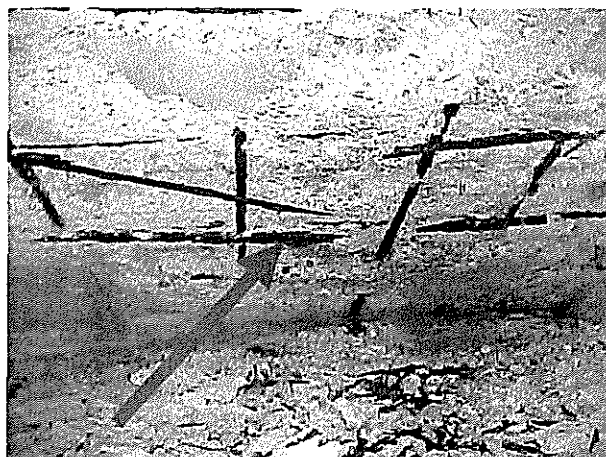
Electrical wire should be installed in exterior rated conduit.



Sample of a deteriorated basement window.



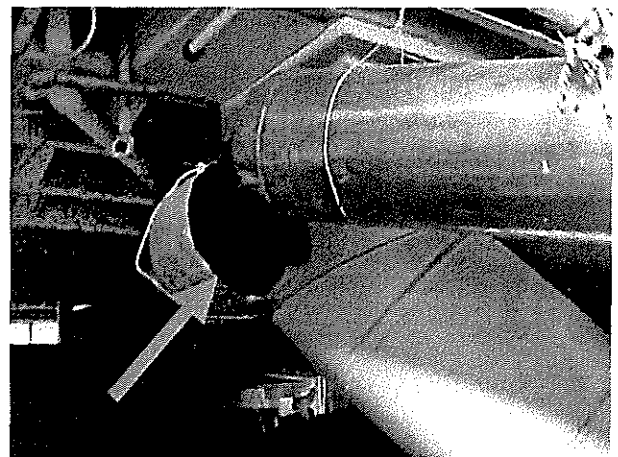
Rotted railing at the front porch. Cracked and chipped concrete At the stairs and pillars.



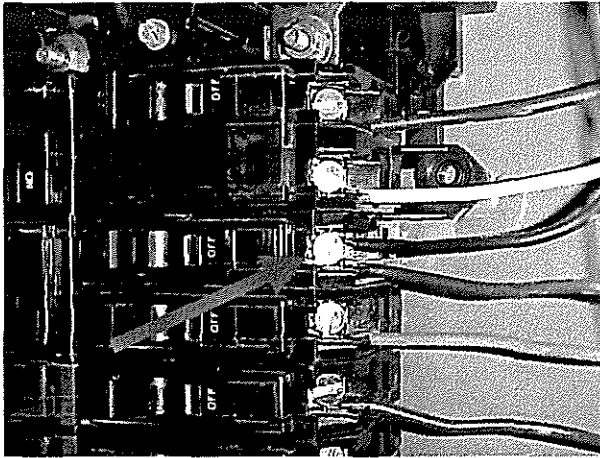
Deteriorating concrete at the underside of the front porch stairs.



Insect damaged wood at the basement center beam support post.



Separated heat duct in the basement.



Double tapped breaker in the electrical panel.



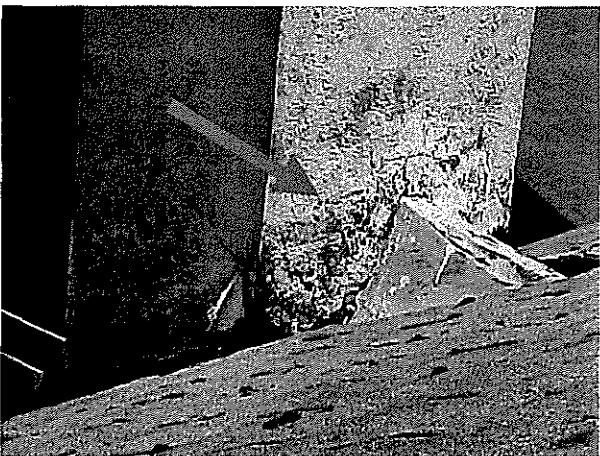
Basement interior wall skim coat deteriorated from moisture penetration.



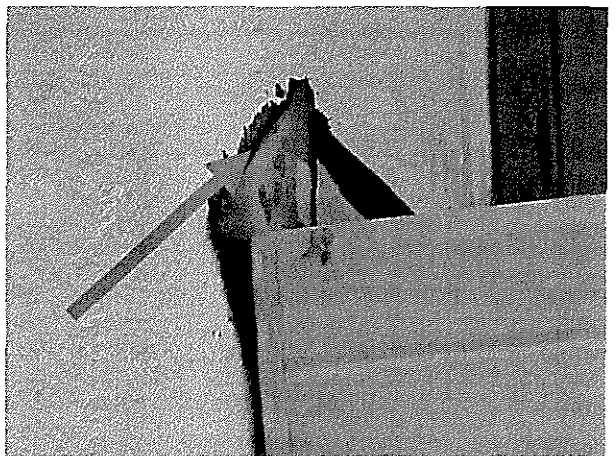
Poor roof shingle condition with moss build up and old hardware penetration through the shingles.



Cracked and chipped stucco on the fireplace chimney with deteriorated chimney cap.



Fire place chimney flashing repairs.



Improperly installed front porch balcony roof flashings.

Crawford Inspection Services Wood Destroying Insect Information	Conventional Loan Form	Report Status: Preliminary <input checked="" type="checkbox"/> Final <input type="checkbox"/>

Read the Statement of Pest Control Operator Carefully before Completing this Form.

Name of Inspection Company: Crawford Inspection Services		Name of Property Owner/Seller if known:
Address of Inspection Company: (including zip code) P.O. Box 665 West Linn, OR 97068		Address of Property 11022 SE 37th Ave Milwaukie, OR 97222
Telephone Number: (include area code) (503) 628-1003 Fax: (503) 628- 4901	Pest Control Operator License Number: 171089	Structure(s) Inspected: Dwelling only

Findings

1A. Were any Areas of the Property Obstructed or Inaccessible? (If "Yes," explain) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	1B. Obstructions or Inaccessible Areas: (specify -- read item 5B before completing) Fixed ceilings, fixed wall covering, floor covering, insulation, cabinets or shelving appliances, furniture and personal items, stored items, and exterior finishes.
2. Based on Careful Visual Inspection of the Readily Accessible Areas of the Property: (specify -- read Statement of Pest Control Operator below) <input checked="" type="checkbox"/> A. Visible evidence of wood destroying insects was observed. No control measures were performed. Insects observed: <u>Live carpenter ants were found crawling on the front porch. Crumbling wood and powder post beetle frass in the crawl space and basement.</u> <input type="checkbox"/> B. No visible evidence of infestation from wood destroying insects was observed. <input type="checkbox"/> C. Visible evidence of infestation was noted; proper control-measures were performed. <input checked="" type="checkbox"/> D. Visible damage due to <u>Powder post beetles and wood rot</u> has been observed in the following areas: (If necessary, continue on the reverse) <u>Wood rot in the front porch railings and eave soffit boards, beetle damage in the wood debris in the front porch crawl space and in the main basement beam center posts.</u> <input type="checkbox"/> E. Visible evidence of previously treated infestation, which is now inactive, was observed. (Explain in item 4)	
3. Damage Observed Above, If Any: (check one) <input type="checkbox"/> A. Will be/has been corrected by this company. <input type="checkbox"/> B. Will be corrected by another company (see attached contract). <input checked="" type="checkbox"/> C. Will not be corrected by this company. Recommend that damage be evaluated by qualified building expert.	4. Additional Comments: (If necessary, continue on the reverse.) All damaged wood should be replaced with new materials, using pressure treated materials where applicable. Grade adjustment measures should be taken to help control the moisture problem in the basement. A treatment for wood destroying insects is recommended. All wood, debris, and stored materials should be removed from the crawl space areas. Crawl space foundation vents should be opened and repaired.

5. Statement of Pest Control Operator


A. The visual inspection covered the readily accessible areas of the property, including attics and crawl-spaces which permit entry.

B. The inspection did not include areas which were obstructed or inaccessible at the time of inspection. Areas that were inaccessible or obstructed (item 1B) may include, but not limited to, wall covering, fixed ceilings, floor coverings, furniture or stored articles, insulation, wet crawlspace, wood covered by earth. The inspector should list, in item 1B, those obstructions or areas and conditions which inhibit the inspection.

C. This is not a structural damage report. Neither is this a warranty as to the absence of wood destroying organisms.

D. Neither I nor the company for which I am acting have had, presently have, or contemplate having any interest in the property.

~~I do further state that neither I nor the company for which I am acting is associated with any party to this transaction.~~

6A. Signature of Authorized Company Representative: 	6B. Title: Inspector Paul E. Louis License #: 170489	6C. Date: 7/13/04
--	---	----------------------

Statement of Purchaser

I have received the original or a legible copy of this form.

7A. Signature of Purchaser:	(City of Milwaukie)	7B. Date:
-----------------------------	---------------------	-----------

April 5, 2007

File: HR-07-01

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie City Council on April 3, 2007.

Applicant:	Kenneth Asher for City of Milwaukie
Location:	11022 SE 37th Avenue
Tax Lot:	1S1E36AD02500
Application Type:	Historic Review
Decision:	Approval of request to remove subject property from local list of historic resources
Review Criteria:	<u>Milwaukie Zoning Ordinance:</u> <ul style="list-style-type: none">• Section 19.323 – Historic Preservation Overlay zone HP• Section 19.1011.4 – Major Quasi-Judicial Review
Neighborhood(s):	Ardenwald-Johnson Creek and Hector Campbell

Appeals to the State are handled by the Land Use Board of Appeals (LUBA) at: 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552, (503) 373-1265 (<http://luba.state.or.us/>). They can provide proper forms and procedures.

Findings in Support of Deletion of Historic Resource ranking

1. Milwaukie Municipal Code (MMC) Subsection 19.323.5 requires that any historic resource designated as “Unrankable” must go through a process to either give it a more specific designation (i.e., “Significant” or “Contributing”) or remove it from the list of historic properties. The designation process is a Major Quasi-Judicial one subject to the provisions of MMC Subsection 19.1011.4. A pre-application conference is required and the application must have hearings before both the Planning Commission and the City Council.

The application is being processed according to the standards of MMC Subsection 19.1011.4. A pre-application conference was held among City Department heads. Public notice was provided according to the standards of MMC Subsection

19.1011.4 (Major Quasi-Judicial Review). A public hearing with the Planning Commission was held on March 13, 2007. A public hearing with the City Council was held on April 3, 2007.

2. The 40 historic properties on the City's list that are ranked as "Significant" or "Contributing" were evaluated using a Cultural Resource Evaluation Form that was part of the 1988 Milwaukie Historic and Cultural Resources Inventory. The evaluation form has three categories of criteria: Historical Association, Architecture, and Environment.

The City engaged Martha Richards, an historic preservation consultant, to evaluate the Bertman House. She was asked to use the Cultural Resources Inventory Form and Cultural Resources Evaluation Form along with her best professional judgment to recommend a course of action for the City among three options: 1) designate the Bertman House as Significant, 2) designate it as Contributing, or 3) remove it from the inventory list.

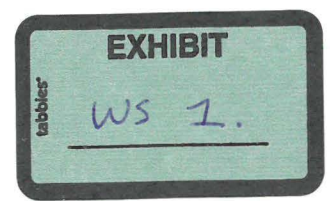
3. The consultant completed the Cultural Resource Survey Form, which provides basic facts and data about the house. The consultant also produced a Statement of Significance for the property, which provides a narrative description of the history and architectural features of the house.

The consultant completed the Cultural Resource Evaluation Form, which provides scoring criteria for three areas of concern: Historical Association, Architecture, and Environment. The Bertman House scored 34 out of 88 possible points and did not score a "10" in any of the possible categories. As such, it does not meet the standards for either "Significant" or "Contributing" resources as outlined in MMC Subsection 19.323.3.

The consultant produced a memorandum to elaborate on her findings and recommended that the property be removed from the list of historic resources. The Planning Commission voted to recommend that the City Council remove 11022 SE 37th Avenue from the local list of historic resources. The City Council finds that it is appropriate to remove 11022 SE 37th Avenue from the local list of historic resources.

Katie Mangle
Planning Director

cc: Kenny Asher, Applicant & Community Development/Public Works Director
Planning Commission
Katie Mangle, Planning Director
Gary Parkin, Engineering Director
Zach Weigel, Civil Engineer
Tom Larsen, Building Official
Bonnie Lanz, Permit Specialist
Ron Schumacher, Deputy Fire Marshal
NDAs: Ardenwald-Johnson Creek, Hector Campbell
Interested Persons
File: HR-07-01



Bertman House and Grounds Discussion

This is an outline presented by the Milwaukie Historical Society [MHS] for the grounds around the Bertman House and the future of the Bertman House for discussion with the City of Milwaukie [City].

At present the Milwaukie Historical Society maintains the plants and small shrubs around the Museum and uses space behind the Museum / Bertman house for small performances.

We would like to discuss the following:

MHS has no differences to the removal of the Bertman House by the City

MHS would like input on the future of the site if the Bertman house is removed.

If the house is removed, we would like to see a performance area / green space for the community.

MHS would propose to design and maintain the small shrubs and plant on the whole site and will use native plants whenever possible.

The City of Milwaukie would be responsible for the trees and grass cutting. With the exception of the Japanese Maple and the Bellflower Apple trees.

MHS would propose to coordinate the events on the site under one special event permit each year. The City, and Neighbors within 100 feet, would be provided notice at least one week in advance of events.

The City would restripe the Bertman parking area and add spaces for 24 hour access to the Well side [2, 24/7 Marked access spaces] Other spaces would be for Authorized uses in coronation with MHS, for events at the museum and the performance area. Parking could be limited to 4 hours or some other length of time. No overnight parking. Enforcement and Posting by the City.

The Design of the performance area has not been defined at this point and would be part of the discussion.

A site sign would be located on the site noting the history of the former Bertman House.

Scott Stauffer

From: Leesa Gratreack <leesa.gratreack@gmail.com>
Sent: Tuesday, April 4, 2023 3:28 PM
To: OCR
Subject: Bertman House

This Message originated outside your organization.

Dear Council,

History-enthused folks within the Milwaukie community are hoping to learn more about the next steps and plans for the Bertman House.

Has the city considered a re-evaluation of the building under the National Register Criteria for Evaluation? Though I recognize that the building likely lacks sufficient integrity under NR Criterion C for its architecture as it has been altered (a few windows have been replaced, as well as the second-story porch railing), it does appear to retain sufficient integrity for listing under Criterion A, though additional research would be needed to confirm its association with significant themes or trends. The 2007 evaluation would generally be considered moot based on its age, perhaps an updated evaluation could occur.

In addition, has there been any discussion regarding potential reuse of building materials if it cannot be saved, including some of the intact 100-year-old molding and millwork?

Thank you for taking the time to consider my questions, I look forward to hearing more.

Best Regards,

Leesa Gratreack
Milwaukie Historian

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Mar. 23, 2023

Reviewed: Peter Passarelli, Public Works Director

From: Natalie Rogers, Climate and Natural Resources Manager

Subject: **Tree Code Clean Up**

ACTION REQUESTED

Council is asked to hear a report and provide comment on proposed amendments to Milwaukie Municipal Code (MMC) Title 16 (Tree Code). Staff will collect feedback and return to Council later with draft language revisions for review.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Following three work sessions in August 2021, the Planning Commission held three public hearings on the proposed housing and tree code amendments ([October 12](#), [October 26](#), and [November 9](#)) and voted 5-2 to recommend approval of the amendments with specific revisions and recommendations.

[December 21, 2021](#): Council work session. Council was presented with the proposed code amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information, specifically on building height and accessory dwelling units (ADUs), and the proposed tree code.

[January 4, 2022](#): Council work session. Council was presented with the proposed code amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information specifically on parking, maximum lot coverage, and flag lots/back lots.

[January 18, 2022](#): Public hearing #1. Staff presented the project background and the proposed code amendments. Council asked clarifying questions and continued the hearing to February 1 to hear the proposed fee schedule and to take public testimony.

[February 1, 2022](#): Public hearing #2. Staff presented the fee schedule for the proposed tree code. Council asked clarifying questions and continued the hearing to February 15.

[February 15, 2022](#): Public hearing #3. Staff presented small modifications to the proposed tree code and fee schedule based on stakeholder feedback. Council asked clarifying questions, temporarily closed the public testimony, and proceeded with initial deliberations. Council moved to reopen public testimony and continue the hearing on March 15.

[March 15, 2022](#): Public hearing #5. Staff addressed council questions regarding housing, parking, and development related tree code in the context of housing code amendments. Council moved to continue the hearing at a special session on March 29.

[March 29, 2022](#): Public hearing #6. Council continued deliberations on housing, parking, and tree code.

[April 5, 2022](#): Public hearing #7. Council continued deliberations on housing, parking, and tree code with a focused discussion on tree code related fees.

[April 19, 2022](#): Council adopted the residential tree code.

ANALYSIS

Please refer to the [January 18](#) staff report for a detailed review of the project background and the policy mandate related to tree preservation.

Summary of Residential Tree Code

Before the adoption of the residential tree code in April 2022, only trees in the public right-of-way (ROW) or on city-owned public property required permits before removal. To meet the city's goal of a 40 percent tree canopy, as identified in the Climate Action Plan (CAP), the Urban Forestry Management Plan (UFMP), and the Comprehensive Plan policies, it was determined that trees on private residential property were a conservation priority as canopy over private property accounted for the majority of Milwaukie canopy cover. Residential tree code was included in the 2021-2022 Comprehensive Plan implementation process to complement new housing code, with the final residential tree code being adopted in April 2022 and implemented in May 2022. Adoption and ongoing community outreach and education on the new tree code included direct mailings, website overhauls, new informational materials and handouts, and integration of the natural resources division into existing development review processes.

Through implementation of the residential tree code and administrative processes, staff have identified code and fees schedule revisions that would improve clarity of code language, streamline implementation, and assist in enforcement of the adopted code and permitting program. Based on feedback from the city's code enforcement team and city prosecutor code and fee schedule changes, such as the addition of a violations section, are needed to enforce the city's tree code as intended when adopted. Staff are also interested in amending the code so that development tree code would not apply when construction of an additional dwelling unit does not result in building expansion, reducing applicant and staff workload.

At the April 4 work session, staff will present learnings from implementation of the code and propose recommendations for code changes to correct deficiencies and improve clarity and process. Staff will collect council feedback and return with draft code language reflecting discussed revisions.

BUDGET IMPACT

None.

WORKLOAD IMPACT

Code revisions could reduce workload for administration and enforcement of tree code for public works and code enforcement staff.

CLIMATE IMPACT

Tree preservation and canopy expansion is critical for climate mitigation and adaptation in Milwaukie. Tree code is essential to tree protection, and the proposed revisions will help ensure optimal ongoing implementation.

COORDINATION, CONCURRENCE, OR DISSENT

Public work's natural resources staff worked with code enforcement and planning staff on the proposed code revisions.

ATTACHMENTS

None.

Tree Code Cleanup

April 4, 2023

Natalie Rogers

Climate and Natural Resources Manager

Peter Passarelli

Public Works Director

WS 2. 4/4/23
Presentation



Residential tree code has been in effect for almost a year!

PUBLIC TREES



Reg. at $\geq 2''$ DBH

1. Major pruning permit
2. Removal permit

PRIVATE RESIDENTIAL NON-DEVELOPMENT TREES



Reg. at $\geq 6''$ DBH

1. Type 1 'qualified' permit
2. Type 2 'discretionary' permit

PRIVATE RESIDENTIAL DEVELOPMENT TREES



Reg. at add. dwelling unit

1. Streamlined standards
2. All standards

Urban forest team busy processing permits:

RESIDENT-SUBMITTED PERMITS SUBMITTED SINCE MAY 2022			
PERMIT TYPE	TOTAL SUBMITTED	APPROVED	DENIED
Private Type 1 Qualified tree removals Free permits	78	69	9
Private Type 2 Discretionary tree removals Permit fees per DBH	6	6	0*
Private Development Residential development	8 (6 in review)	2	-
Public ROW / Public property	8	8	0
* Urban Forester works with applicant to discuss whether a Type 2 permit would be approved before a permit is submitted			

Learnings from implementation:

- Community awareness of tree code is growing
 - Majority of staff time spent on customer service, education, permit questions
- Current permitting system/workflow brings additional challenges. New permitting system should help.
- Staff have to carefully balance administrative and operational responsibilities
- Code cleanup needed to correct challenges in enforcement



Recommended code changes:

Need to make changes to clarify terms/intent and create consistency:

- Topping vs Pollarding
- Building footprint
- Percentages for canopy cover

Violations/Enforcement

- Prosecutor recommended creating violations section to apply to entire tree code
- Adjust fee schedule language to match intent for violations



TOPPING

Damaging removal of tree canopy, improper pruning



POLLARDING

Pruning technique started at young age

Recommended code changes:

Remove streamlined permit requirement for development if no expansion of building footprint

- Reduce administrative burden
- Trees still covered under non-development permit requirements

Remove replanting requirement for dead/dying trees with no mitigation option

- Reduce replanting inspections
- Encourage removal of dead trees
- *Potential conflict with canopy goals*



Next steps for code cleanup

Accept feedback and translate into code changes

- Review with code compliance

Bring back to council

Modify outreach/education materials to reflect new changes



Thank you!



Questions?

Natalie Rogers

Climate and Natural Resources Manager

503-786-7668

RogersN@milwaukieoregon.gov

www.MilwaukieClimateAction.com

