



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, February 10, 2015, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

- 1.0 **Call to Order - Procedural Matters**
- 2.0 **Planning Commission Minutes** – Motion Needed
 - 2.1 November 13, 2014
- 3.0 **Information Items**
- 4.0 **Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 **Public Hearings** – Public hearings will follow the procedure listed on reverse
 - 5.1 Summary: Moving Forward Milwaukie Downtown Plan and Code Amendments #3, continued from 1/27/15
Applicant: City of Milwaukie
File: CPA-14-02, ZA-14-02
Staff: Li Alligood and Denny Egner
 - 5.2 Summary: Riverway Ln Setback Variance
Applicant/Owner: Carter Case/Linsey Forni
Address: 10545 SE Riverway Ln
File: VR-14-03
Staff: Vera Kalias
- 6.0 **Worksession Items**
- 7.0 **Planning Department Other Business/Updates**
- 8.0 **Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 **Forecast for Future Meetings:**
 - February 24, 2015
 - 1. Public Hearing: CPA-14-02 MFM Downtown Plan and Code Amendments #4
 - 2. Public Hearing: ZA-14-04 Medical Marijuana Code
 - 3. Public Hearing: Lake Rd to Main St Rename
 - March 10, 2015
 - 1. Public Hearing: CPA-14-02 MFM Downtown Plan and Code Amendments #5 *tentative*
 - 2. Worksession: Central Milwaukie Plan and Code Amendments *tentative*

Milwaukie Planning Commission Statement

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

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

Public Hearing Procedure

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

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

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

Milwaukie Planning Commission:

Sine Bone, Chair
Wilda Parks, Vice Chair
Shannah Anderson
Scott Barbur
Greg Hemer
Shaun Lowcock
Gabe Storm

Planning Department Staff:

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

**CITY OF MILWAUKIE
PLANNING COMMISSION and
DESIGN AND LANDMARKS COMMITTEE
JOINT SESSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, November 13, 2014
6:30 PM**

COMMISSIONERS PRESENT

Sine Bone, Chair
Wilda Parks, Vice Chair
Shannah Anderson
Greg Hemer
Shaun Lowcock
Gabe Storm

COMMISSIONERS ABSENT

Scott Barbur

STAFF PRESENT

Denny Egner, Planning Director
Li Alligood, Senior Planner
Peter Watts, City Attorney

DLC MEMBERS PRESENT

Sherry Grau, Chair
Val Ballestrem, Vice Chair
Adam Argo
James Fossen
Scott Jones

1.0 Call to Order – Procedural Matters*

Chair Bone called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

DLC Chair Grau called the meeting of the Design and Landmarks Committee (DLC) to order.

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.ci.milwaukie.or.us/meetings>.*

2.0 Planning Commission Minutes

2.1 August 26, 2014

It was moved by Commissioner Hemer and seconded by Commissioner Storm to approve the August 26, 2014 Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

There were no information items.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

6.0 Worksession Items

6.1 Summary: Moving Forward Milwaukie Downtown Plan and Code Amendments –
Downtown Design Review
Staff: Li Alligood and Denny Egner

Li Alligood, Senior Planner, presented the staff report via PowerPoint. The focus of this meeting was to follow up on the feedback given to staff by the Planning Commission from the past worksession on the Downtown Design Standards, and to discuss downtown design review and the proposed revisions to that process. She reviewed the project's goals with regard to the Downtown Vision. Implementation of the goals involved providing more clarity and flexibility for development, ensuring attractive and pedestrian-friendly development, and to streamline the review process.

Regarding follow-up on the Downtown Design Standards, one request from the Commission was to provide more information about incentivizing green building and open space.

Open Space:

The Commission had asked staff for information on what incentives could be used for the provision to provide publicly-accessible open space. She noted that although open space promotes vitality of the streetscape, it also reduced the developable area of a property. Options for regulatory incentives could include density bonuses; if more open space was provided, there could be additional floor area ratio (FAR) allowed, etc. She added that this additional proposal should be a discussion question.

- Staff discussed the steps and implications involved with historic buildings. The current proposals did not include incentives toward historic buildings.
- Reducing Public Area Requirements (PARs), should they remain, would not be an option through regulatory means, although the Commission could make recommendations as such.
- **The Commission** agreed that incentives for open space should be incorporated into the proposals.
- **Peter Watts, City Attorney**, clarified that although the proposed open space would be publically-accessible, it would be governed by the private property owner.
- The group was in favor of directing staff to explore the option of open space incentive but for Commissioner Hemer as he was concerned about how it would look in practice.

Green Building:

There were no current proposals for incentives or requirements but only regulatory tools could be codified in the Zoning Ordinance. Although there were other financial and monetary tools that other communities used for incentives, that option would require approval from City Council. Staff found that green building certification increased the project costs by 3-9%, but that developers have identified density bonuses as the most useful regulatory incentive.

Potential approaches were to provide FAR and/or height bonuses for certification and/or to consider providing varying levels of incentives for various certification levels.

- **Ms. Alligood** asked the Commission to consider if these options should be considered.
- To clarify, the additional cost was focused more in the actual certification process cost rather than the materials, etc.
- **Chair Bone** asked Commissioner Lowcock and DLC Member Jones how frequently a certification failed the level aimed for, although the buildings were still considered "green."
 - **DLC Member Jones** noted that there were a lot of pieces to whether a green building would pay off in terms of tenants, landlords, who was paying what utilities, etc., but did pay off over time. The industry had recognized the need for sustainable building practices regardless of certification.
 - **Commissioner Lowcock** agreed and added that LEED certification was not the universal bar for green building.

- **Ms. Alligood** stated that the proposal should be broader in terms of types of certification.
- **DLC Member Fossen** asked what other incentives were found in other jurisdictions or counties, such as financial incentives.
 - **Ms. Alligood** responded that there were financial incentives in other cities in terms of discounts on fees or waivers on certain development charges, etc., but those incentives would not be part of these proposals.
- **Ms. Alligood** noted that a challenge to tying bonuses to certification was the chance that certification was not attained after the bonuses had already been built into the development.
- **Commissioner Hemer** asked how a building that began with a design to incorporate LEED features ended up not meeting the standards.
 - **Commissioner Lowcock** noted that some factors involved source materials not being close enough, environment and climate, and other things that chipped away at points.
 - Remodels seemed to be easier to meet upgrade LEED elements rather than new development.
- **Ms. Alligood** asked the Commission if bonuses should also be applied to adaptive reuse and remodels that achieve LEED certification as well as new buildings.
 - **Chair Bone** would like to see it incorporated in some fashion but it was hard to say or to determine how. She initially felt that, since there was sensitivity to height, only living buildings or LEED Platinum should be incentivized. However, as she heard more information, she thought there was perhaps some value in allowing all of the ratings.
 - **Ms. Alligood** noted that the amount of incentive could be adjusted to the level of rating.
- **Commissioner Storm** asked how flexibility for future standards could be ensured in writing the code.
 - **Ms. Alligood** reiterated that the Commission needed to first determine if incentives should be considered and incorporated; and then different approaches could be brought back for consideration.
- **DLC Member Jones** agreed to include incentives but was hesitant to tie them to any specific certification program.
- **Ms. Alligood** noted that the broader question of green building incentives may be its own project and market research for that was outside of the scope of the regulator parameters of this project.

The group agreed to direct staff to bring more information on incorporating green building incentives back to the Commission.

Ms. Alligood asked for direction as to if these incentives should be in place of or in addition to the proposed height bonuses for projects with at least 25% residential?

- The existing code allowed for 3-5 stories with a 1-story height bonus for building with at least 25% residential for a certain portion of downtown.
- The proposal was to reduce the height limits to 3-4 stories but expand the 1-story residential height bonus throughout downtown.
- The direction needed was if the height bonus should be cumulative or in addition; a combination of residential and open space would allow for 1-story height bonus or cumulatively could result in a 2-story height bonus.
- **Chair Bone** suggested that the stories above 3 stories (4th and 5th) should be set back.

- **Ms. Alligood** agreed that that could be included in the proposals.
- **Chair Bone** liked the idea of being cumulative.
- **Commissioner Barbur** agreed that both were beneficial so should be allowed but to keep scale and design review in mind per project.

The group was in favor of the cumulative approach for height and/or FAR bonuses up to 2 additional stories, with Commissioners Storm and Barbur and DLC Member Jones in favor of a included a preference for top story stepback regulation. Commissioner Hemer opposed as he felt that green building should be through financial incentives and not through code ordinance.

Downtown Design Review:

- The purpose was to allow for communicating the community's expectations for new development, allow for public review and input, and to provide a level of clarity for a developer.
- The existing process required a Type III review for all additions and new construction, and projects were reviewed against the Downtown Design Guidelines and the limited design standards.
- Issues with this process included the need to provide 60-70% design plan that complied with the guidelines by the time the project was reviewed by the DLC, which made changing the site plan or project elements difficult and expensive. The guidelines also were general and created a lack of clarity of expectations, and the review process was very discretionary. This process was a deterrent itself and created uncertainty.
- The desired outcome for the proposals was to ensure that the guidelines were codified to establish and allow for a clear and quantifiable Type II review process. This would allow for a more flexible and streamlined review process while maintaining the Type III review option for more innovative or creative projects, or projects that didn't meet the Type II criteria.
- **Ms. Alligood** reviewed the difference between the Type II and III processes with regard to fees, timeline, public noticing, etc., all which added to the differing level of uncertainty.
- Staff was focused on creating standards and requirements that were as clear as possible to allow for a clear and objective review process that allowed for more certainty.
- Intent of the standards would be included so that applicants that did not meet the Type II review standards could demonstrate how their proposal met the intent.
- **Mr. Watts** and **Mr. Egner** reminded the group that adjustments to the standards in the future, if needed, could occur.
- **Ms. Alligood** noted the preapplication process that clarified to the applicant if they would meet the Type II standards or would require the Type III process.

The group agreed with the proposal for a Type II clear and objective review process.

Ms. Alligood thanked the Commission and DLC for their clear direction and would bring requested information back to the group. She reviewed the next steps and upcoming meetings, including the first public hearing scheduled for January 13, 2015.

Commissioner Hemer asked how the South Downtown Concept Plan would be implemented.

- **Ms. Alligood** replied that the goal was to incorporate the South Downtown Concept Plan into the Downtown and Riverfront Land Use Framework Plan. She explained that there have been a few projects of the Concept Plan that have occurred, but other elements needed to be codified and incorporated into policy documents in order for implementation to occur.

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

Mr. Egner added that prior to this meeting there was a public forum regarding extension for approval of the parklet at Wine:30 in downtown to allow use through the winter months. He noted that the parklet program's timeframe allowed for use between April and November. Thirty members of the public attended. City Council would be taking public testimony at their next meeting on Tuesday November 18, 2014

Commissioner Lowcock asked about how to form a parking agreement with the City and Car-to-Go to extend their service into Milwaukie.

- **Mr. Egner** referred him to either Steve Butler, Community Development Director, or to himself for follow-up.

Mr. Egner also noted that bus routing changes were coming up due to the Portland-Milwaukie Light Rail line and would involve some impacts to parking and congestion.

Commissioner Storm asked for an update about the Road Home pilot project for Milwaukie Christian Church.

- **Ms. Alligood** noted that the approval for that had expired. If the applicant wanted to continue with the program, they would need to submit for another Community Service Use approval.

9.0 Forecast for Future Meetings:

- | | |
|-------------------|--|
| November 25, 2014 | 1. Public Hearing: ZA-14-03 Limited Commercial C-L Zone Update |
| | 2. Public Hearing: VR-14-02 9925 SE 37 th Ave Variance |
| December 9, 2014 | 1. Public Hearing: DR-14-07 Reliable Credit Parking Lot |
| | 2. Public Hearing: ZA-14-03 Limited Commercial C-L Zone Update
<i>continued tentative</i> |
| | 3. Worksession: CPA-14-02 Moving Forward Milwaukie Downtown Plan and Code Amendments |

Mr. Egner noted the Reliable Credit Parking Lot application would be going before the DLC and the Commission and reminded the group of ex parte contacts disclosure and reviewed the rules around that.

Meeting adjourned at approximately 8:45 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Denny Egner, Planning Director

From: Li Alligood, Senior Planner

Date: February 3, 2015, for February 10, 2015, Public Hearing

Subject: **File:** CPA-14-02, ZA-14-02
Downtown Plan and Code Amendments
Hearing 3 of 4

File Types: Comprehensive Plan Text Amendment, Zoning Ordinance Text
Amendment, Zoning Ordinance Map Amendment

Applicant: Dennis Egner, Planning Director, City of Milwaukie

ACTION REQUESTED

Open the public hearing for application CPA-14-02, ZA-14-02. Discuss the proposed amendments to the downtown Milwaukie development and design standards. Take public testimony if presented and provide direction to staff regarding desired revisions to the proposed amendments.

This is the third of 4 scheduled hearings on the downtown plan and code amendment package. The draft ordinance and Findings of Approval will be provided at the next hearing.

HEARING SCHEDULE

Due to the complexity of the amendment package, the hearings on the downtown plan and code amendment package have been packaged into 4 dates, each with an anticipated focus on a specific section of the draft amendments. See the [January 13, 2015, staff report](#) for the referenced attachments.

The remaining hearings schedule and anticipated topic of focus are as follows:

- February 10, 2015: Development standards. This hearing will focus on Subsection 19.304.4, contained in Attachment 3 of the January 13, 2015, staff report.
- February 24, 2015: Design standards and design review procedures. This hearing will focus on Sections 19.508 and 19.907, contained in Attachment 3 of the January 13, 2015, staff report.

BACKGROUND INFORMATION

See the [January 13, 2015](#), staff report for a discussion of project background and the public process and outreach. See the [January 27, 2015](#), staff report for a discussion of proposed revisions to definitions and permitted uses in downtown.

A. History of Prior Actions and Discussions

- **January 27, 2015:** The Commission reviewed the proposed amendments to MMC 19.201 Definitions and 19.304.2 Uses, and directed staff to apply a 20,000 square foot outright permitted size limitation to all nonresidential uses in downtown and require Type III Conditional Use review for uses that exceed that size; and to prohibit "production-related office" uses only on the ground floor of Main St.
- **January 13, 2015:** The Commission reviewed the proposed amendments to Chapter 4 of the Comprehensive Plan and the *Downtown and Riverfront Land Use Framework Plan*, and directed staff to include the following revisions in the February 24 version: revise the SDCP graphic to change the "station" label to "development site"; retain the McLoughlin Bridge crossing and add text clarifying that access over, under, and through McLoughlin Blvd should be prioritized; and add a project to install wayfinding and historical plaques throughout downtown.

B. Background

The vision document for downtown Milwaukie, the *Downtown and Riverfront Land use Framework Plan*, is implemented through the use, development, and design standards of the zoning ordinance. Use, development, and design standards work together to ensure that new buildings contribute to the streetscape with active ground floor uses; pedestrian-friendly ground-floor design; and visually interesting facades.

"Use standards" refer to the regulations that guide the types of businesses or residences that occupy a building. Generally, in downtown Milwaukie, distinctions are made between ground floor and upper floor uses, as well as ground floor uses on Main St and other streets. The January 27, 2015, public hearing focused on the appropriate type and scale of uses in downtown.

"Development standards" refer to the regulations that guide the height, size, density, and location of development on a site through height minimums and limits, maximum setbacks, and minimum and maximum floor area ratios (FARs). Development standards in downtown Milwaukie also address interior spaces of buildings to ensure that they are flexible and able to accommodate desired retail and restaurant uses. The February 10, 2015, public hearing will focus on these standards.

"Design standards" are the regulations that shape the massing, appearance, and function of buildings or developments. Together, development and design standards determine the physical appearance and pedestrian-level experience of a building. The February 24, 2015, public hearing will focus on these standards.

C. Existing Code History

The February 10 discussion will focus on the downtown development standards and downtown design standards contained in MMC 19.304.4 (beginning on page 28 of Attachment 3).

The current development standards were adopted in 2000 to implement the *Downtown and Riverfront Land Use Framework Plan (LUFPP)*. The development standards are fairly typical of similarly-sized communities, and prescribe both a minimum and maximum building height; minimum and maximum floor area ratio (FAR); minimum and maximum street setbacks; and minimum residential density requirements. Some of the existing standards (for instance, requiring a 35 ft minimum building height on Main St or a minimum lot size of 10,000 sq ft in South Downtown) are fairly aggressive and in some cases counter to the desired character in downtown.

D. Proposed Amendments

The City is proposing amendments to its existing downtown development standards to remove barriers to downtown development and strengthen pedestrian-friendly development standards for new development. The amendments are intended to implement the vision of the Downtown and Riverfront Land Use Framework Plan (as amended with components of the South Downtown Concept Plan). See Attachment 1 of the January 27, 2015, staff report for an evaluation of how the proposed amendments implement that vision.

The commentary on the amendments (see Attachment 3 of the January 13, 2015, staff report) describes in detail how the proposed amendments would change the regulations in the downtown zones. The following is a summary of the key aspects of the proposed amendments for discussion on February 10. The current development standards can be found [online](#). The page numbers below reference the document numbers rather than the packet numbers.

Key Proposals

- Minimum lot size – Current minimum lot size requirement range from 750 sf to 10,000sf. A standard minimum lot size of 750 sf is proposed to allow for a range of development options, including small-lot rowhouses and live/work units as well as small commercial occupancies. *See Attachment 3 page 28.*
- Floor area ratio – Current floor area ratios (FARs) range from 0.3:1 to 1:1. Two FAR standards are proposed: a minimum of 0.5:1 for the area of downtown north of Harrison St, as well as the two DO-zoned properties west of McLoughlin Blvd; and 1:1 minimum FAR for the rest of downtown. The maximum FAR would remain 4:1, with some opportunities to exceed the maximum by providing more open space than required or by achieving green building certification. *See Attachment 3 pages 28, 31, and 35.*
- Building Height –
 - Current minimum building heights along Main St are 35 ft; the proposal would reduce this requirement to 25 ft.
 - The maximum building heights in the downtown zones range from 3 stories to 5 stories. The proposal would reduce building heights south of Scott St/North Main Village to 3 stories/45 ft, with provisions for a residential height bonus and bonus FAR for the provision of additional open space and/or green building certification. These bonuses can be combined to allow up to 2 additional stories beyond the base height maximum, for a total height of up to 5 stories south of the North Main Village site and 6 stories north of the North Main Village site.

- A new step back requirement is proposed for buildings taller than 3 stories; stories 4 and 5 would need to be stepped back at least 6 ft from the ground floor building façade.

See *Attachment 3 pages 28, 32, and 35-36.*

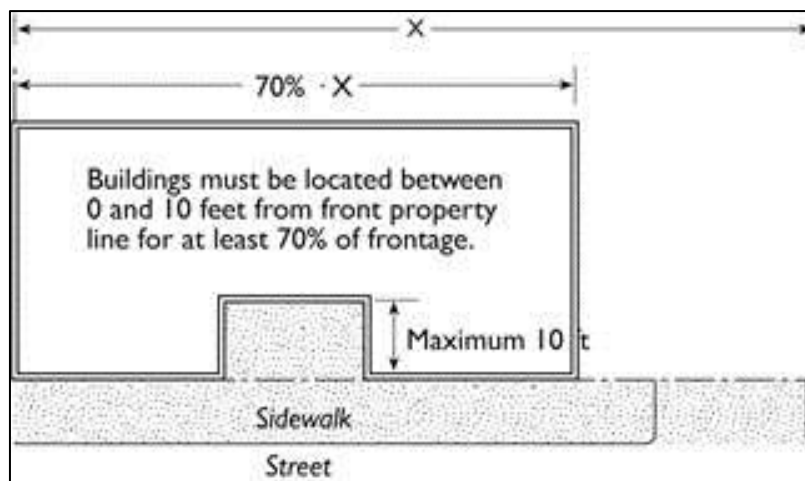
- Flexible ground floor space – The existing ground-floor height requirement for new development on Main St is increased from 12 ft to 14 ft. The existing ground-floor space depth requirement is reduced from 25 ft to 20 ft. See *Attachment 3 pages 28 and 36.*
- Street Setbacks/Build-to lines – The current Main St build-to line requirement is expanded to the rest of downtown. Requirements range from 75% of the building on Main St to 50% of the building on McLoughlin Blvd. See Figure 1. See *Attachment 3 pages 28-29, 33, and 36-37.*

As proposed and shown in Figure 19.304-5 on page 33, the build-to line would apply to key pedestrian routes, including Main St, 21st Ave, Harrison St, Monroe St, Washington St, and Adams St. As proposed, the build-to lines would not apply to the City Hall block and the Masonic Lodge building. These buildings are listed on the City's Historic Resource Inventory and are de facto Community Service Uses; expansion or redevelopment of either site would require Type III Community Service Use and Type III Historic Resource review, as well as Downtown Design Review (level of review determined by the scope of the expansion or redevelopment).

Because the existing buildings on each site are set back from the public right-of-way, staff suggests that the required Type III land use reviews would provide adequate opportunity to evaluate the site's compliance with the intent of the design standards and/or Downtown Design Guidelines. Placing a build-to line standard on these properties would most likely require that a variance to the standard be requested in order to comply with the Historic Resource review approval criteria.

- Frontage Occupancy Requirements – New standard requiring buildings to "occupy" a certain percentage of the site frontage. The requirements range from 90% on Main St to 50% on McLoughlin Blvd. See Figure 1. See *Attachment 3 pages 29, 34, and 37.*

Figure 1. Example of how the Street Setbacks/Build-to lines are used in combination with Frontage Occupancy Requirements. Numbers are examples only and do not represent proposed standards.



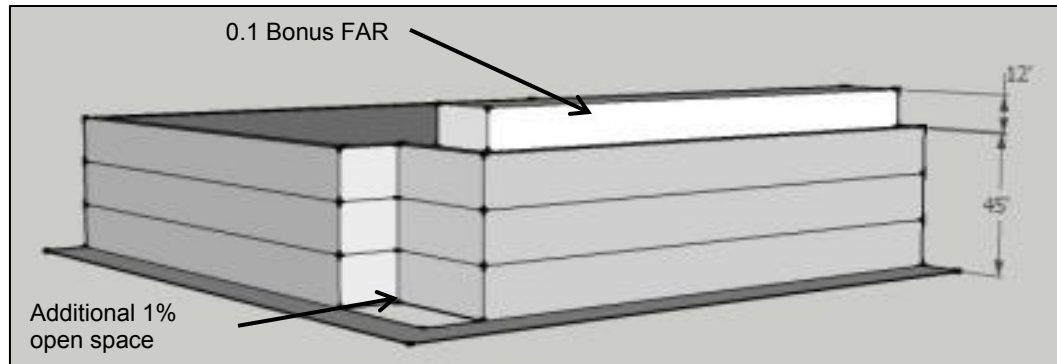
- Primary entrances – This language expands current requirements that primary entrances face key downtown streets, and provides additional direction for situations where the primary entrance is not located on the street frontage. The new language also requires the primary entrance of a building located on the corner of Main St and another street to be located on Main St. *See Attachment 3 pages 29 and 37-38.*
- Off-street parking –
 - Currently, off-street parking is required north of Harrison St and south of Washington St; the area south of Harrison St and north of Washington St is exempt from off-street parking requirements. The proposal would establish off-street parking requirements for residential development in the currently-exempt areas, and exempt all non-residential uses in downtown from providing off-street parking. Residential development would be required to provide at least 1 off-street parking space per dwelling unit.
 - Revised language clarifies that off-street parking lots and curb cuts within 50 ft of the Main St right-of-way can be permitted through Type III Variance review and approval by the Planning Commission.
 - New language prohibits off-street parking between a building and street-facing lot line. Off-street parking must be located adjacent to or behind a building.

See Attachment 1 MMC 19.605 and Attachment 3 pages 29 and 38.

- Open Space – The existing minimum vegetation requirements are deleted, and replaced with an open space provision. In the event a building is set back from the sidewalk, at least 50% of the setback area must be usable public open space. *See Attachment 3 pages 29, 34, and 38-39.*
- Transition area measures – Downtown is currently exempt from these standards. The proposal would make them applicable and add additional standards requiring step backs within 50 ft of lower-density residential zones. *See Attachment 3 page 48 and Attachment 3 pages 29 and 39 for.*
- Residential density – A minimum residential density is established for rowhouses and live/work units (both new uses in downtown); the stand-alone residential density is unchanged; and minimum residential densities for mixed use buildings are removed. *See Attachment 3 pages 29 and 39.*
- Development incentive –
 - The existing residential height bonus is expanded to apply throughout downtown. This bonus allows an additional story (up to 12 ft) in height if at least 25% of the building is in residential use. The residential component of the building is not limited to a specific floor or floors.
 - FAR Bonus Incentives – New incentives provide additional FAR for the provision of additional open space and/or green building certification. See Figure 2.

See Attachment 3 pages 39-40.

Figure 2. Demonstration of how FAR bonus for open space would apply. In this example, the development site is 40,000 sf; 1% additional open space = 400 sf and 0.1 FAR = 4,000 sf.



KEY ISSUES

Summary

The following key issues have been identified for the Planning Commission's deliberation. During worksession discussions leading up to the hearings on this proposal, the Planning Commission reviewed the draft amendments and provided direction to staff regarding potential revisions. Staff has highlighted policy choices as key issues on which Commission direction is being requested.

- A. Should taller buildings be permitted east of Main Street?
- B. At what height should building step backs apply?

Analysis

A. Should taller buildings be permitted east of Main Street?

Currently, permitted base building heights in downtown range from 3 stories to 5 stories. There is currently a 1-story residential height bonus in much of the downtown "core." See Figure 3.

The proposed amendments would:

- Reduce the base building height throughout downtown to 3 stories or 45 ft, whichever is less, south of North Main Village, and to 4 stories or 55 ft north of North Main Village.
- Apply the existing residential height bonus throughout downtown, and would allow an additional story (up to 12 ft) if at least 25% of the development is residential.
- Apply a new floor area ratio (FAR) bonus to developments that provide additional open space and/or receive green building certification.

When combined, developers would have the opportunity to receive height and FAR bonuses of up to 2 additional stories. See Figures 2 and 4.

Figure 3. Existing building height limits and bonuses

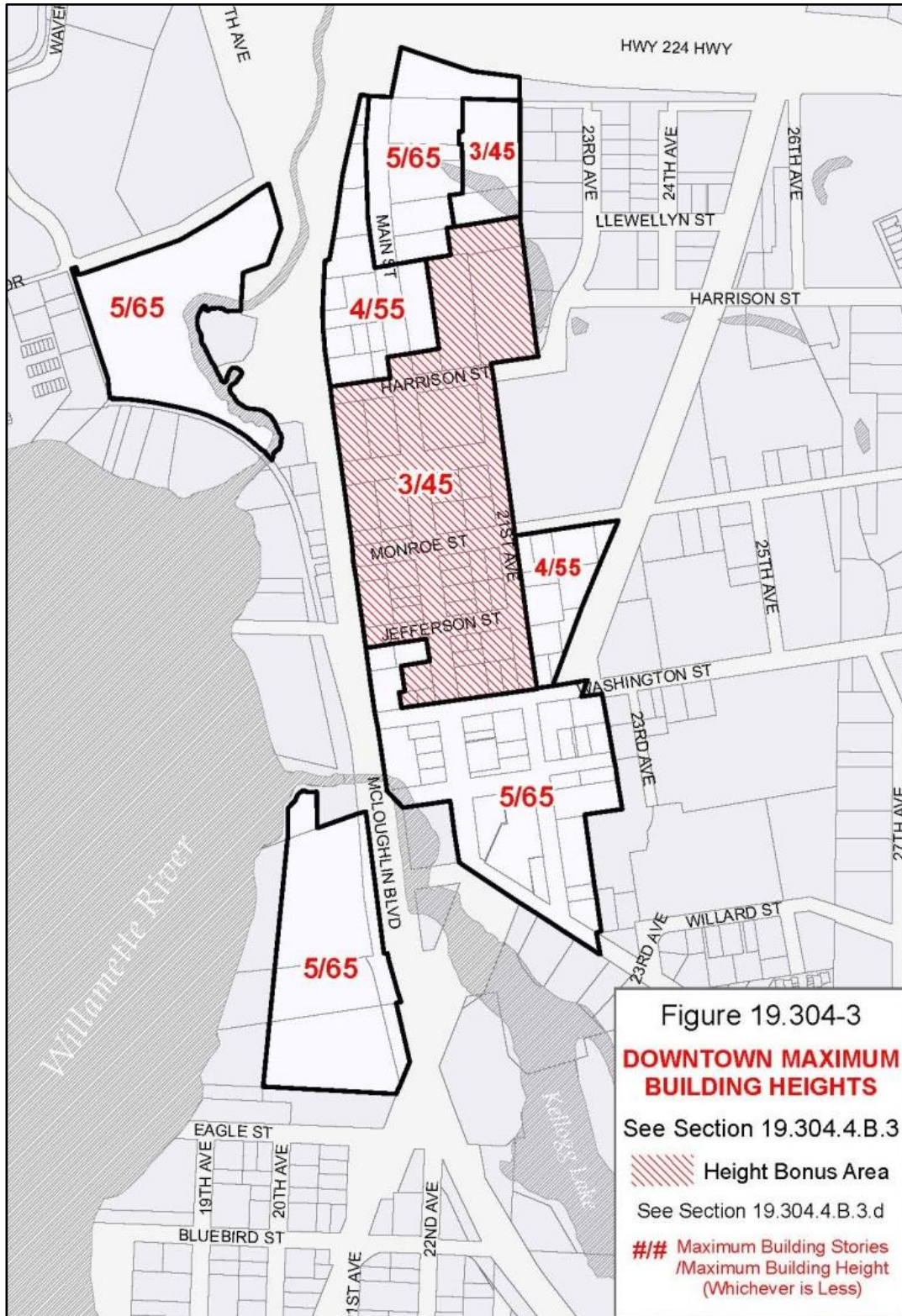
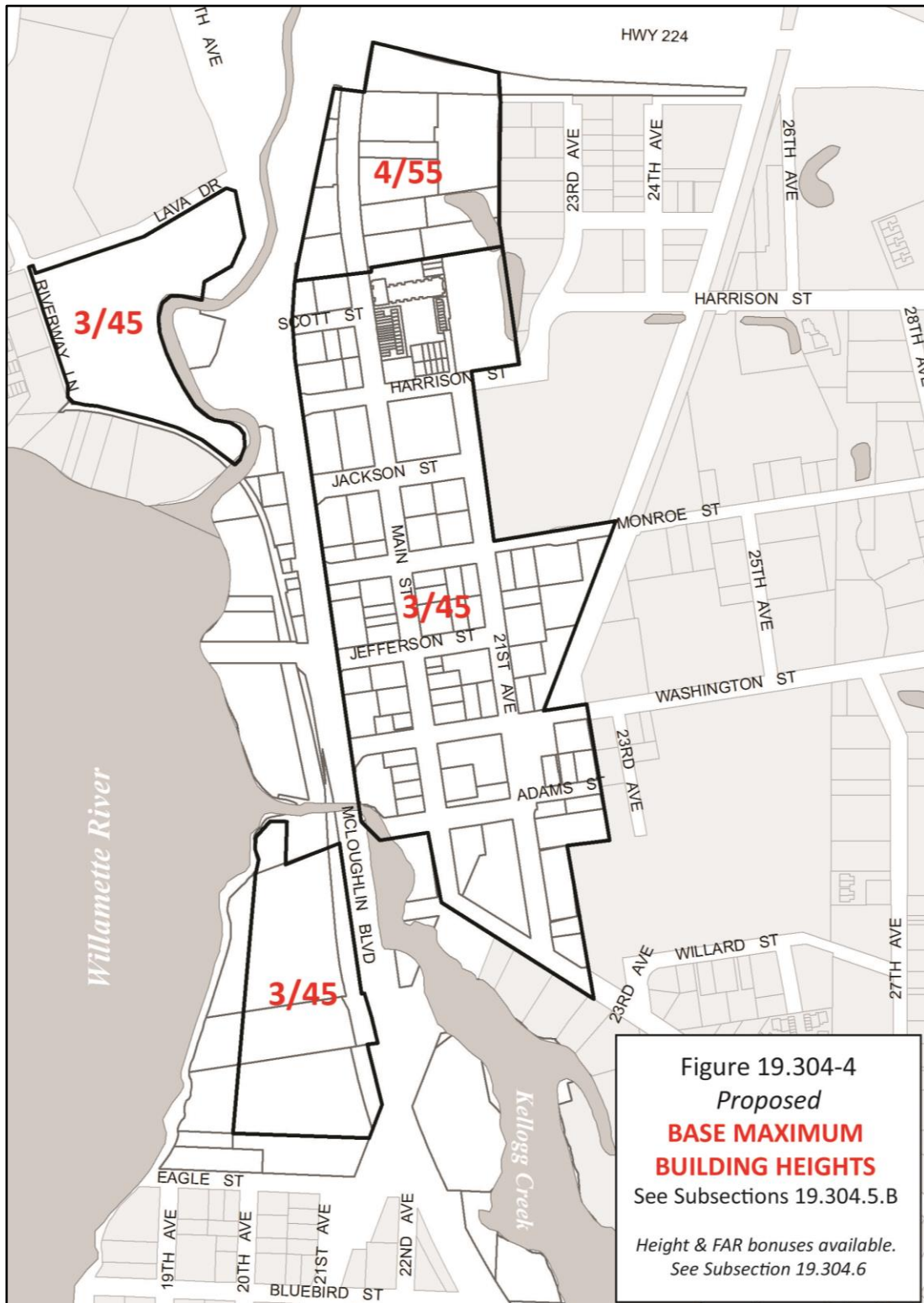


Figure 4. Proposed base building height limits. Height and FAR bonuses would apply throughout downtown, except within 50 ft of the R-5 zone.



The proposed amendments were drafted in response to several inputs:

- Public Advisory Committee (PAC) feedback indicating a preference for 3-4 story buildings on downtown opportunity sites.¹
- City Council discussions and feedback during winter 2013 and spring 2014, during which Council expressed a preference for maximum building heights between 3 stories on Main St and 4-5 stories elsewhere.²
- Direction contained in the *South Downtown Concept Plan*, which describes buildings of 4 stories or less in the South Downtown area.³

Since the draft amendments were released, members of the public have submitted written comments and provided verbal testimony to the Planning Commission suggesting that building heights be increased. Suggestions include:

- Incremental by-right height increases east of Main St
- By-right height increases throughout downtown

Overall, the goal of the Moving Forward Milwaukie project and the resulting plan and code amendments is to remove barriers, provide incentives, and allow development that implements the community's vision. The research for the Moving Forward Milwaukie project found that allowing a by-right 5th story of height had little to no impact on the project pro forma, as there are costs associated with construction of an additional story. However, providing a by-right additional height allowance would provide additional flexibility for potential future development that implements the community's goals for downtown Milwaukie.

Staff is seeking Planning Commission direction regarding the appropriate range of heights in downtown Milwaukie.

B. At what height should building step backs apply?

Planning Commission direction during worksessions on the draft plan and code amendments was to allow up to 2 stories of additional height through the use of height and FAR bonuses. However, the Commission was concerned about the scale of the buildings and suggested that higher floors be "stepped back" from the front building façade in order to reduce the perceived scale of the building.

Currently, there is no step back requirement for buildings of any height in downtown. The proposed amendments would require any building taller than 3 stories to step back at least 6 ft from the front ground floor building façade, beginning at the 4th story. A 6 ft step back is proposed because it would allow the step back space to be used as outdoor space that meets the proposed building façade details of 19.508.4.A.2.a(2)(b) (see Attachment 3 page 51). See Figure 5.

¹ Feedback from the November 18, 2013, PAC meeting available at <http://www.milwaukieoregon.gov/planning/moving-forward-milwaukie-project-advisory-committee-meeting-3>.

² Staff reports and meeting minutes for Council discussions available at <http://www.milwaukieoregon.gov/planning/community-involvement-and-outreach-0>.

³ The adopted South Downtown Concept Plan is available at http://www.milwaukieoregon.gov/sites/default/files/fileattachments/south_downtown_booklet-edited_final_09162011.pdf.

Figure 5. Example of a building step back (3810 SE Division St)



Proposed: 4th
story stepped
back 6 ft from
facade

Source: Urban Development Partners

Staff is seeking Planning Commission direction regarding:

- Whether buildings should be required to step back
- If so, which stories should be stepped back

CONCLUSIONS

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

Reach consensus on the recommended draft amendments and agreement on recommended actions in advance of the anticipated February 24, 2015, vote on the full amendment package.

COMMENTS

See the January 13, 2015, staff report for a summary of comments received as of January 6, 2015. No comments were received in advance of the January 13 public hearing. One additional written comment was received at the January 27, 2015, public hearing, and was provided to the Planning Commission at that hearing.

ATTACHMENTS

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

	PC Packet	Public Copies	E-Packet
1. MMC Subsection 19.605.1 Minimum and Maximum Requirements	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-120>.

Milwaukie Municipal Code						
Up	Previous	Next	Main		Search	Print

[TITLE 19 ZONING](#)
[CHAPTER 19.600 OFF-STREET PARKING AND LOADING](#)

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

The Downtown Storefront (DS) Zone and the portion of the Downtown Office (DO) Zone north of Washington Street and east of McLoughlin Boulevard are exempt from the requirements of Section 19.605.

19.605.1 Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1. Modifications to the standards in Table 19.605.1 may be made as per Section 19.605. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.
- B. When a specific use has not been proposed or identified at the time of permit review, the Planning Director may elect to assign a use category from Table 19.605.1 to determine the minimum required and maximum allowed parking. Future tenants or property owners are responsible for compliance with Chapter 19.600 per the applicability provisions of Section 19.602.
- C. If a proposed use is not listed in Table 19.605.1, the Planning Director has the discretion to apply the quantity requirements of a similar use listed in the table upon finding that the listed use and unlisted use have similar parking demands. If a similar use is not listed, the quantity requirements will be determined per Subsection 19.605.2.
- D. Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall be rounded to the nearest whole number.
- E. Parking spaces for disabled persons, and other improvements related to parking, loading, and maneuvering for disabled persons, shall conform to the Americans with Disabilities Act and shall be subject to review and approval by the Building Official. Spaces reserved for disabled persons are included in the minimum required and maximum allowed number of off-street parking spaces.
- F. Uses that have legally established parking areas that exceed the maximum number of spaces allowed by Section 19.605 prior to June 17, 2010, the effective date of Ordinance #2015, shall be considered nonconforming with respect to the quantity requirements. Such uses shall not be considered parking facilities as defined in Section 19.201.

<p>Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements</p>

Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing). a. Dwelling units with 800 sq ft of floor area or less. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory dwelling units (ADU)—Types I and II.	Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.

Table 19.605.1 CONTINUED		
Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
B. Community Service and Other Public Uses		
1. Religious institutions.	1 space per 4 seats.	1 space per 2 seats.
2. Day-care center (“family day-care” as defined in Section 19.201 has no parking requirements).	2 spaces per 1,000 sq ft of floor area.	3.5 spaces per 1,000 sq ft of floor area.
3. School—elementary or junior high.	1 space per classroom.	2 spaces per classroom.
4. School—senior high.	0.25 spaces per student, plus 1 space per staff.	0.33 spaces per student, plus 1 space per staff.

5. Meeting room, club, lodge, or association.	5 spaces per 1,000 sq ft of floor area, or 1 space per 4 seats if seats are permanently installed.	16.66 spaces per 1,000 sq ft of floor area, or 1 space per 3 seats if seats are permanently installed.
6. Library, museum, art gallery.	1 space per 1,000 sq ft of floor area.	1.2 spaces per 1,000 sq ft of floor area.
7. Nursing, convalescent, and extended-care facilities.	1 space per 4 beds.	1 space per 3 beds.
C. Lodging Places		
1. Motel, hotel, boarding house.	1 space per lodging unit.	1.5 spaces per lodging unit.
2. Bed and breakfast establishments.	1 space per lodging unit, plus 1 space for the permanent residence.	1.5 spaces per lodging unit, plus 2 spaces for the permanent residence.
D. Commercial Uses—Recreational		
1. Indoor recreation, such as a health club, gym, bowling alley, arcade, etc.	3 spaces for each 1,000 sq ft of floor area.	5.5 spaces per 1,000 sq ft of floor area.
2. Theater, auditorium, or stadium.	1 space per 4 seats.	1 space per 3 seats.
E. Commercial Uses—Retail Goods		
1. Eating and drinking establishments.	4 spaces per 1,000 sq ft floor area.	15 spaces per 1,000 sq ft of floor area.
2. General retail—grocery stores, convenience stores, specialty retail and shops.	2 spaces per 1,000 sq ft of floor area.	5 spaces per 1,000 sq ft of floor area.
3. Bulk retail—furniture and home furnishings, appliances, vehicles, building materials, and similar large items.	1 space per 1,000 sq ft of floor area.	3 spaces per 1,000 sq ft of floor area.
4. Gas stations.	No minimum.	1.25 spaces per 4 pumps.
F. Commercial Uses—Services		
1. General office, including banks.	2 spaces per 1,000 sq ft of floor area.	3.4 spaces per 1,000 sq ft of floor area.
2. Medical/dental office (nonhospital), veterinary clinic.	3.9 spaces per 1,000 sq ft of floor area.	4.9 spaces per 1,000 sq ft of floor area.
Table 19.605.1 CONTINUED		
Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed

F. Commercial Uses—Services CONTINUED		
3. Personal services, such as a barbershop, beauty parlor, etc.	4 spaces per 1,000 square floor area.	5.4 spaces per 1,000 sq ft of floor area.
4. Commercial services, such as dry cleaners and repair shops (does not include vehicle repair).	2.8 spaces per 1,000 sq ft of floor area.	5.1 spaces per 1,000 sq ft of floor area.
5. Vehicle repair.	2 spaces per 1,000 sq ft of floor area.	2.5 spaces per 1,000 sq ft of floor area.
6. Quick vehicle repair and servicing, such as oil change and tire shops.	2 spaces per service bay.	3 spaces per service bay.
7. Mortuary/funeral home.	1 space per 5 chapel or parlor seats.	1 space per 3 chapel or parlor seats.
8. Car wash.	No minimum.	2 spaces per wash bay for self-service washes, or 2 spaces per 1,000 sq ft of floor area for full-service washes.
G. Industrial Uses		
1. Manufacturing.	1 space per 1,000 sq ft of floor area.	2 spaces per 1,000 sq ft of floor area.
2. Storage, warehouse, wholesale establishment less than 150,000 sq ft.	0.5 spaces per 1,000 sq ft of floor area.	1 space per 1,000 sq ft of floor area.
3. Storage, warehouse, wholesale establishment 150,000 sq ft or greater.	0.3 spaces per 1,000 sq ft of floor area.	0.4 spaces per 1,000 sq ft of floor area.
4. Mini-warehouse; self-service storage.	1 space per 45 storage units, plus 1 space per employee of the largest shift.	1 space per 20 storage units, plus 1 space per employee of the largest shift.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with large parking demands.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning Director may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
 - a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
 - b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
 - c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Director shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Director, based on the applicant's materials and other data the Planning Director deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
 - a. The use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
 - b. The reduction of off-street parking will not adversely affect available on-street parking.
 - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
 - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
 - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
 - c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Commercial General (C-G) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the Commercial General (C-G) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

- a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- b. Parking for multifamily uses may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- c. Parking for all uses except single-family attached and detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop.
- d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Director shall have the authority to determine when multiple uses exist on a site.

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.
- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for all non-single-family residential uses may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed

for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Director, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

19.605.4 Shared Parking

Some or all of a use's required parking spaces may be accommodated off-premises on the parking area of a different site through shared parking, pursuant to the standards of Subsection 19.605.4. The standards of Subsection 19.605.4 do not apply to voluntary shared parking agreements that are not created in order to conform to the quantity requirements of Section 19.605.

A. Review

The Planning Director shall determine, in accordance with Section 19.1004 Type I Review, whether the shared parking standards are met. The Planning Director may require a nonconforming parking area be brought into conformance, or closer to conformance as per Subsection 19.602.5, before it may be used for shared parking.

B. Standards

1. The applicant must demonstrate that the shared parking area has a sufficient quantity of spaces for the uses that will share the parking area. The Planning Director may require the applicant to provide data substantiating the claim that the proposed parking is sufficient for multiple uses during peak hours of demand for each use.
2. The nearest parking spaces shall be no further than 1,000 ft from the principal structure(s) or use(s). The measurement shall be along a route that is adequately illuminated; has vertical or horizontal separation from travel lanes within the right-of-way; uses legal crosswalks for right-of-way crossing; and has an asphalt, concrete, or similar surface material. The applicant may propose to construct new facilities or modify existing facilities to comply with Subsection 19.605.4.B.2.
3. Legal documentation between the property owners that guarantees access to the shared parking shall be recorded with the County. The documentation shall be reviewed and approved by the Planning Director prior to being recorded. The agreement shall run with the land and not be tied to property ownership. The agreement shall not be terminated without City approval. The request for terminating the agreement must demonstrate that the properties in the agreement and their uses will comply with the quantity requirements

of Section 19.605 after dissolution of the agreement. A copy of the recorded documentation shall be provided to the City prior to obtaining a building permit.

(Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

View the [mobile version](#).



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Dennis Egner, Planning Director

From: Vera Kalias, Associate Planner

Date: February 2, 2015 for February 10, 2015, Public Hearing

Subject: File: VR-14-03
Applicant: Carter Case
Owner(s): Linsey Forni
Address: 10545 SE Riverway Lane
Legal Description (Map & Taxlot): 11E35AB00300
NDA: Historic Milwaukie

ACTION REQUESTED

Deny application VR-14-03 to allow an addition to a single family home to encroach into the front yard setback and adopt the recommended Findings found in Attachment 1.

As an alternative to denial, the Commission could reconsider this recommendation if the applicant provides additional information to adequately address the alternatives analysis.

BACKGROUND INFORMATION

The existing home is located on SE Riverway Lane, a private road. The minimum front yard setback in the underlying R-2 Residential zone is 15 ft from the property line. The side of the home faces the roadway.

SE Riverway Lane is a 15'-wide private road. Directly abutting the private road to the west is a 15'-wide public road right-of-way, which has not been constructed. In July 1961, Pendleton Woolen Mills granted a non-exclusive, permanent easement for roadway purposes, for a 15' wide roadway that is "a private easement" and should "not be construed as constituting...a public road."¹ This is what is currently known as SE Riverway Lane. In February 1968, Frank and Elma Forni, in a deed of gift, deeded to the public for "public road purposes, forever..." the public right-of-way adjacent to SE Riverway Lane.²

¹ Clackamas County Recorder, Book 592 Page 253

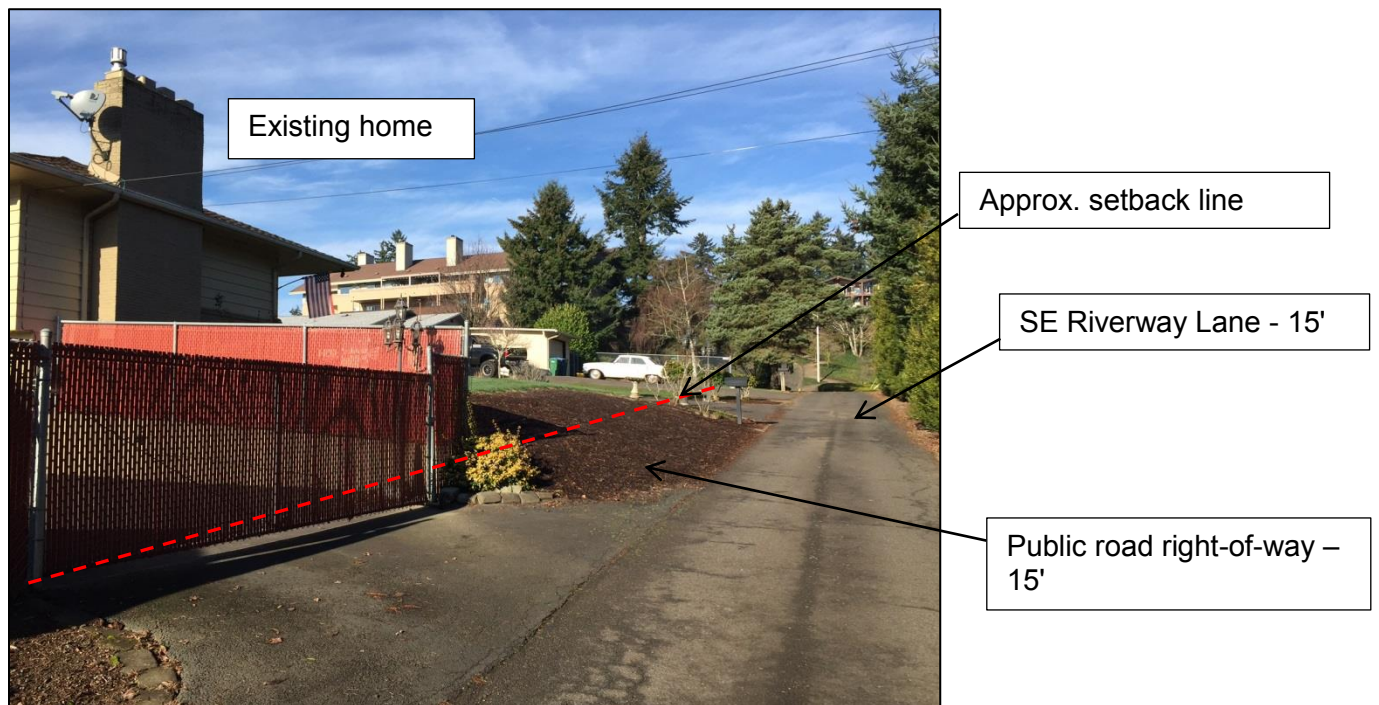
² Clackamas County Recorder, Document 68-3692

Figure 1. Site context



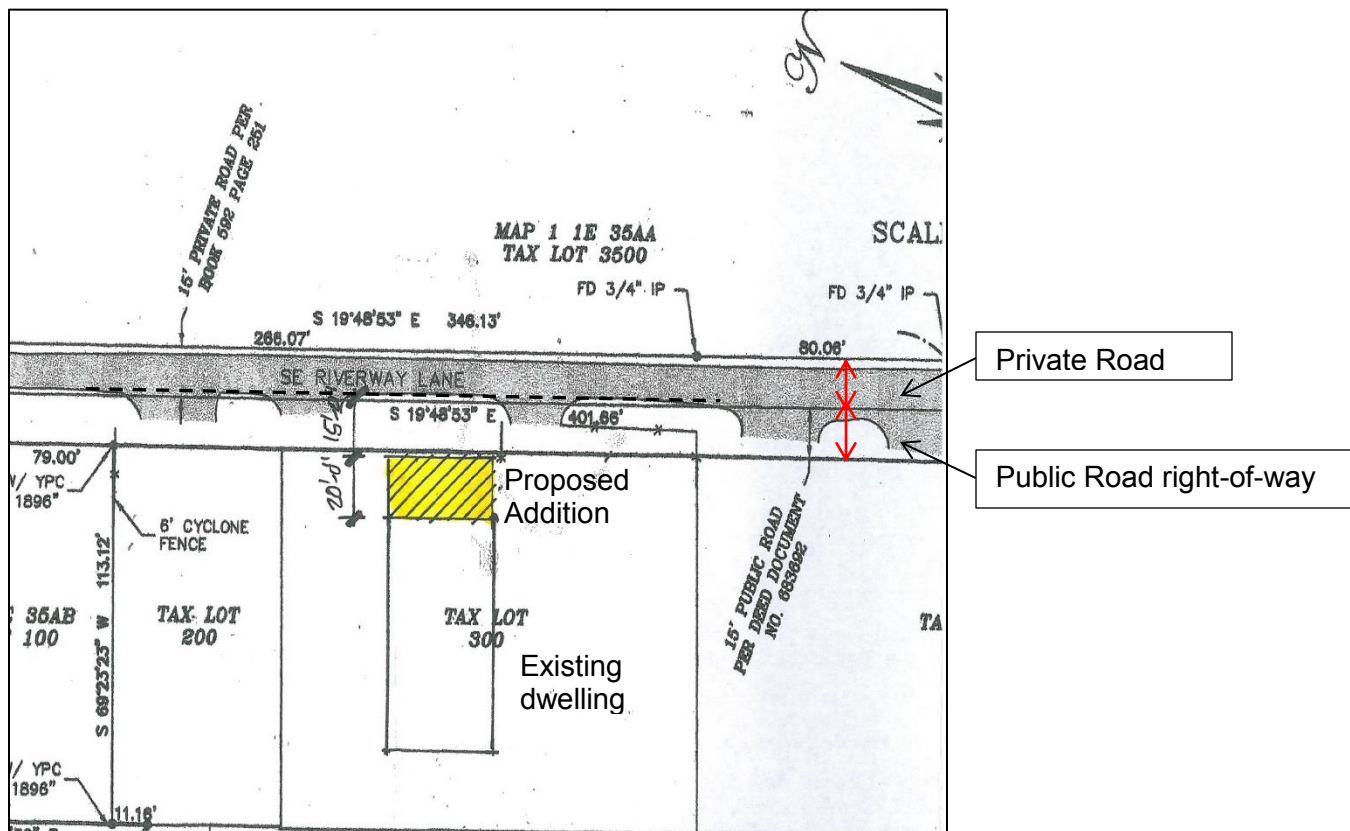
Source: 2014 RLIS data

Figure 2. Existing conditions



Source: staff photo

Figure 3. SE Riverway Lane



Source: Applicant's materials

As shown in Figure 3, the existing home is located outside the minimum 15' front yard setback from the public right-of-way. The applicant's proposal would result in a 0' front yard setback from the deeded public right-of-way. Because the proposed addition would be located within the required front yard setback of the deeded public right-of-way, a variance is required.

A. Site and Vicinity

The subject property is a residentially-zoned R-2 lot in the Historic Milwaukie neighborhood. The property is located on SE Riverway Lane. The property is approximately 14,896 SF in area and is developed with a single-family detached dwelling and an attached garage built in 1954, prior to the adoption of the City's first zoning ordinance.

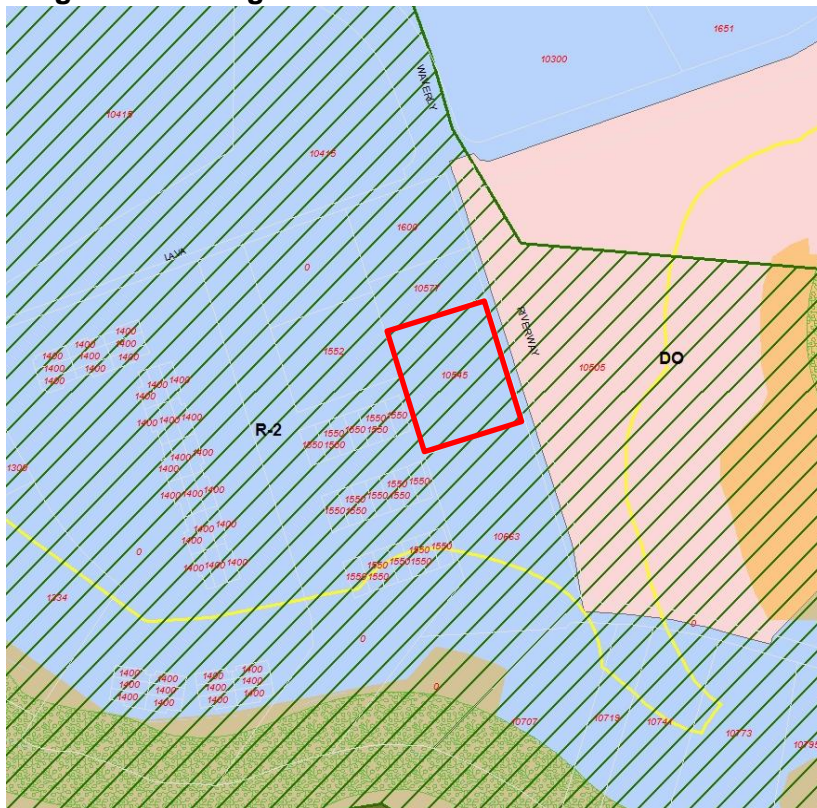
The property is also located within the Willamette Greenway and any development would be subject to Conditional Use Approval for Development within the Greenway.

The existing dwelling is set back 20 ft from the eastern property line. The properties to the north and south are developed with single-family detached dwellings. To the west are multi-family dwellings. The MODA offices and parking lot located to the east.

B. Zoning Designation

Residential R-2

Willamette Greenway WG overlay zone

Figure 4. Zoning

Source: 2014 RLIS

C. Comprehensive Plan Designation

High Density Residential HD

D. Land Use History

No previous conditional use review was completed as the existing structure was built in 1954 and prior to the adoption of the City's Willamette Greenway section of the zoning ordinance. Therefore, the use is considered a "de facto conditional use" and can apply for a major or minor modification per MMC 19.905.

D. Proposal

The applicant is seeking land use approvals for a variance to the required front yard setback of the R-2 zone. The variance is being sought to allow for the construction of a 640 SF addition, including a 400 SF garage underneath the living space. See Attachment 2 for details.

As described above, the required front yard setback of the R-2 zone is 15 ft. Although the proposed addition would be 15 ft from the paved portion of SE Riverway Lane, it would be 0' from the deeded public right-of-way.

The proposal requires approval of the following applications (see Attachment 2):

1. Type III Variance Review: Variances of more than 25% of the street side yard setback, or which reduce the setback to less than 15 ft, are subject to Type III review.

2. The development would also require Conditional Use Approval for development in the Willamette Greenway. The proposal of a 1-story addition with 400 SF garage underneath would likely be a Type I Minor Modification review. (Note: the applicant is aware of this subsequent land use application requirement, and has elected to submit only a variance application at this time.)

KEY ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's consideration.

Does the proposed variance have any negative impacts?

Analysis

Does the proposed variance have any negative impacts?

The proposal would result in the home extending toward the street far beyond any of the other dwellings on Riverway Lane, which could be construed as a visual impact to adjacent properties. However, none of the adjacent property owners have registered concerns about the application.

The larger issue is the proximity of the proposed addition to the public right-of-way. A 0-ft setback would result in significant impacts to the City's ability to make improvements on its roadway in the future. This is particularly true given that the zoning in this area is R-2, a high density residential zone. Although the 8 existing residences on Riverway Ln are single-family homes, provisions must be made to ensure that infrastructure is in place should the area redevelop. Without having grade information, it appears as though the proposed development would significantly impact the City's ability to construct necessary roadway improvements. More precisely, constructing the addition up to the right-of-way could prevent the City's ability to construct the pedestrian facilities associated with roadway construction in the future. In this case, the City would likely need to construct a retaining wall within the right-of-way, before adding sidewalks, in order to prevent the proposed structure from falling into the right-of-way.

Further, the proposal includes a 400 SF garage under the upper level living space; the garage door will be facing south and would therefore utilize a second driveway. This presents an issue for two reasons:

1. Per MMC 12.16.040.D.3, one accessway is allowed per single-family residential lot that has a single frontage. In some cases, an additional accessway may be approved if the driveways are more than 150 feet apart while still remaining 7.5 feet from the property line to which it is serving. Since the property located at 10545 SE Riverway Lane only fronts SE Riverway Lane for 133 feet, only one driveway is allowed.
2. The location of the second driveway would cause a clear vision issue because:
 - a. The proposed structure is over 36 inches in height, and
 - b. The proposed structure is located within a 20 foot radius of where the lot line and the edge of the driveway intersect.

In order to mitigate these impacts, in addition to the issue of the second driveway, a minimum setback from the right-of-way is required. The minimum distance is dependent on the specific design of the structure.

CONCLUSIONS

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

Deny the Variance Review for extension of the existing dwelling and adopt the attached Findings of Denial. The Commission may wish to reconsider this recommendation if the applicant provides additional information to adequately address the alternatives analysis.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Section 19.302 High Density Residential Zones
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III Review

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

The Commission has 3 decision-making options as follows:

- A. Deny the application per the recommended Findings of Denial.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Continue the hearing in order to provide time for the applicant to provide an alternative that mitigates the identified impacts of the proposal. Staff requests continuation to a date certain to avoid costs associated with sending another 20-day hearing notice. The continuation should be contingent on the applicant waiving the right to a decision within 120 days of submittal of a complete application.

The final decision on this application, which includes any appeals to the City Council, must be made by April 14, 2015, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building and Engineering, Historic Milwaukie Neighborhood District Association (NDA), and Clackamas Fire District #1. The following is a summary of the comments received by the City. See Attachment 4 for further details.

- **Jason Rice, Engineering Director:** Comments in opposition to the proposed variance due to impacts to future construction of the public right-of-way and clear vision issues.
- **Gary Klein, 10795 SE Riverway Lane:** Stated that the proposed addition is in the side yard, as the front door and driveway are located to the north and that the easement that the city has should be reduced by 10 feet in width if the water line is within that area.

Staff Response: Although the front door of the house faces north, the front yard is defined in the code as "A yard between side lot lines, measured horizontally and at right angles to the front lot line from the front lot line to the nearest point of the building." The proposed addition is proposed in the front yard. Regarding the City's easement, as noted above, in February 1968 Frank and Elma Forni, in a deed of gift, deeded to the public for "public road purposes, forever..." the public right-of-way adjacent to SE Riverway Lane.

ATTACHMENTS

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

	Early PC Mailing	PC Packet	Public Copies	E-Packet
1. Recommended Findings of Denial	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Applicant's Narrative and Supporting Documentation dated June 21, 2014 and October 10, 2014. (Sent to the PC January 21, 2015)				
a. Application (dated June 21, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative – Existing and Proposed Uses; Type III Variance (dated October 10, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Narrative – Request #2 (dated June 3, August 4, and September 4, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Site Plan #1 (not dated; received July 16, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Site Plan #2 (not dated; received July 16, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
h. North Elevation (not dated; received December 15, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
i. South Elevation (not dated; received December 15, 2014)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Comments Received	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

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

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-116>.

Recommended Findings of Denial
File #VR-14-03, 10545 SE Riverway Ln Variance

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

1. The applicant, Carter Case on behalf of Linsey Forni, has applied for relief from the front yard setback to extend the existing single-family home with a one-story addition with daylight basement within the required front yard setback at 10545 SE Riverway Ln. This site is in the R-2 Zone and Willamette Greenway Overlay. The land use application file number is VR-14-03.
2. The proposal requires a variance to the required 15 ft front yard setback of the R-2 zone. The development would also require Conditional Use Approval for development in the Willamette Greenway. The proposal of a 1-story addition with a 400 SF garage underneath the living space would likely be a Type I Minor Modification review. (Note: the applicant is aware of this subsequent land use application requirement, and has elected to submit only a variance application at this time.)
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.302 High Density Residential Zones
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Section 19.911 Variance Review
 - MMC Section 19.1006 Type III Review
4. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on February 10, 2015, as required by law.
5. MMC 19.302 High Density Residential Zones
 - a. MMC 19.302 establishes the development standards that are applicable to this site. The required front yard setback of the R-2 zone is 15 ft. The applicant has proposed an addition that would be 15 ft from the paved portion of SE Riverway Lane, but would be 0' from the deeded public right-of-way.

The Planning Commission finds that the proposal does not comply with the applicable standards of the R-2 zone.
6. MMC Chapter 19.700 Public Facility Improvements
 - a. MMC 19.702 establishes the applicability of this section

The applicant proposes an expansion of the existing home by 640 sq ft. The Engineering Department finds that MMC Chapter 19.700 is triggered by this variance application because the addition of habitable living space is greater than 200 sq ft.

The City has conducted a review to determine if the proposed development has a sufficient nexus and impacts to warrant the imposition of right-of-way dedication under the standards established by the US Supreme Court through *Koontz v. St. Johns River Water Management District* (2013) and other case law.

Although there is a sufficient *nexus* to warrant the imposition of right-of-way dedication relating to the expansion, it has been determined that the *impacts* do not warrant the imposition of right-of-way dedication.

The Planning Commission finds that this section is applicable, and there is sufficient nexus but insufficient impacts to require right-of-way dedication and no right-of-way dedication will be required.

7. MMC Chapter 19.911 Variances

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

The applicant has requested a variance to extend the existing home into the front yard setback by adding a 640 sq ft addition, resulting in a 0-ft front yard setback from the deed public right-of-way. This request exceeds 25% and is less than the minimum 15 ft, and must be processed through Type III review.

The Planning Commission finds that the application is subject to Type III review for the proposed addition.

- b. MMC 19.911.4.B establishes criteria for approving Type III Variance applications.

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

The applicant has chosen to address the criteria of 19.911.4.B.1 Discretionary Relief Criteria.

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

The applicant has not identified any impacts from the proposal. The applicant has stated that the impacts would be minimal and would be mitigated, though no details are given.

The applicant has identified the following benefits of the variance proposal: in the proposed design, the garage door will be facing south, thus vehicles will not be backing into the street.

The alternatives analysis does not, however, discuss the possible development alternatives that could avoid the need for a variance. The subject property is regularly shaped and large enough that an addition could be accommodated in compliance with the required setbacks on other sides of the structure. The alternatives analysis also does not provide a proposal for a smaller addition that would provide some setback from the property line.

Although the applicant states that it is unlikely that SE Riverway Ln would ever change, nevertheless the City must preserve its ability to construct a roadway in the public right-of-way in the future should the need ever arise. This is particularly true given that the zoning in this area is R-2, a high density residential zone. Although the existing residences on Riverway Ln are single-family homes, provisions must be made to ensure that infrastructure is in place should the area redevelop. A structure located 0' from the public right-of-way would significantly impact the City's ability to construct additional roadway width, a sidewalk, etc. in the public right-of-way. The Engineering Director has submitted comments in opposition to the proposed variance. Without having grade information, it appears as though the proposed development would harm the City's ability to construct necessary roadway improvements. More precisely,

constructing the addition up to the right-of-way could prevent the City's ability to construct the pedestrian facilities associated with roadway construction in the future. In this case, the City would likely need to construct a retaining wall within the right-of-way, before adding sidewalks, in order to prevent the proposed structure from falling into the right-of-way.

Further, the proposal includes a 400 SF garage underneath the upper level living space; the garage door will be facing south and would therefore utilize a second driveway. This presents an issue for two reasons:

1. Per MMC 12.16.040.D.3, one accessway is allowed per single-family residential lot that has a single frontage. In some cases, an additional accessway may be approved if the driveways are more than 150 feet apart from the other while still remaining 7.5 feet from the property line in which it is serving. Since the property located at 10545 SE Riverway Lane only fronts SE Riverway Lane for 133 feet, only one driveway is allowed.
2. The location of the second driveway would cause a clear vision issue because:
 - a. The proposed structure is over 36 inches in height, and
 - b. The proposed structure is located within a 20 foot radius of where the lot line and the edge of the driveway intersect.

In order to mitigate these impacts, in addition to the issue of the second driveway, a minimum setback from the right-of-way is required. The minimum distance is dependent on the specific design of the structure.

The Planning Commission finds that this criterion is not met.

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

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

The proposed variance will affect the eastern façade of the home, which is not adjacent to any other property. However, as stated in 7.b (1) 2 above, the location of the second driveway would cause a clear vision issue with the proposed addition.

The Planning Commission finds that this criterion is not met.

- (b) *The proposed variance has desirable public benefits.*

"Public benefits" are typically understood to refer to benefits to be enjoyed by members of the general public as a result of a particular project, or preservation of a public resource. Aesthetic improvements of a specific and limited nature do not typically constitute a public benefit.

The Planning Commission finds that this criterion is not applicable.

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

This criterion encourages flexibility in site planning and development when the existing built or natural environment provide challenges to standard

development or site planning. The site is flat and rectilinear and is developed with a conventional single-family dwelling.

The Planning Commission finds that this criterion is not applicable.

The Planning Commission finds that the applicant has not demonstrated that the project meets criteria (2)(a) within this subsection, and therefore this subsection is not satisfied.

(3) *Impacts from the proposed variance will be mitigated to the extent practicable.*

The applicant has not identified any impacts from the proposed project, but states that any impacts would be minimal and would be mitigated. However, staff has identified a significant impact to the City's ability to construct in the public right-of-way in the future (See 7.b (1) above).

The Planning Commission finds that there are impacts to be mitigated, and this criterion is not met.

The Planning Commission finds that these criteria are not met.

8. The application was referred to the following departments and agencies on December 31, 2014: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Historic Milwaukie Neighborhood District Association Chairperson and Land Use Committee. Notice of the application was also sent to surrounding property owners within 300 ft of the site on January 21, 2015, and a sign was posted on the property on January 26, 2015. The following is a summary of the comments received by the City.

- **Jason Rice, Engineering Director:** Opposes the application.

- **Gary Klein, 10795 SE Riverway Ln, Milwaukie, OR:** Supports the application.



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

Application for Land Use Action

Master File #: VR-14-03

Review type*: I II III IV V

CHECK ALL APPLICATION TYPES THAT APPLY:

- Amendment to Maps and/or Ordinances:
 - Comprehensive Plan Text Amendment
 - Comprehensive Plan Map Amendment
 - Zoning Text Amendment
 - Zoning Map Amendment
- Code Interpretation
- Community Service Use
- Conditional Use
- Development Review
- Director Determination
- Downtown Design Review
- Extension to Expiring Approval
- Historic Resource:
 - Alteration
 - Demolition
 - Status Designation
 - Status Deletion

- Land Division:
 - Final Plat
 - Lot Consolidation
 - Partition
 - Property Line Adjustment
 - Replat
 - Subdivision
- Miscellaneous:
 - Barbed Wire Fencing
 - Bee Colony
 - Mixed Use Overlay Review
 - Modification to Existing Approval
 - Natural Resource Review
 - Nonconforming Use Alteration
 - Parking:
 - Quantity Determination
 - Quantity Modification
 - Shared Parking
 - Structured Parking

- Planned Development
- Residential Dwelling:
 - Accessory Dwelling Unit
 - Duplex
 - Manufactured Dwelling Park
 - Temporary Dwelling Unit
- Sign Review
- Transportation Facilities Review
- Variance:
 - Use Exception
 - Variance
- Willamette Greenway Review
- Other: _____

Use separate application forms for:

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

RESPONSIBLE PARTIES:

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

Center Case

Mailing address:

232 SE Oak Portland or

Zip:

97214

Phone(s):

503 863 4235

E-mail:

centercase@clearnet

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address:

Zip:

Phone(s):

E-mail:

SITE INFORMATION:

SI E35 AB 00300

Address:

10545 SE Riverway Ln

Map & Tax Lot(s):

12-02

T.L. 300

Comprehensive Plan Designation:

Zoning:

R2

Size of property:

14,896

PROPOSAL (describe briefly):

Addition to existing residence 640 one story.

SIGNATURE:

[Signature]

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

Submitted by:

[Signature]

Date:

6/21/14

IMPORTANT INFORMATION ON REVERSE SIDE

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

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

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

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

REVIEW TYPES:

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

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

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file	VR-14.03	\$2000			\$	<p>RECEIVED</p> <p>JUL 16 2014</p> <p>CITY OF MILWAUKIE PLANNING DEPARTMENT</p>
Concurrent application files		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
SUBTOTALS		\$		\$		
TOTAL AMOUNT RECEIVED: \$2000		RECEIPT #: 553913		RCD BY: <i>Atkinson</i>		
Associated application file #s (appeals, modifications, previous approvals, etc.):						
Neighborhood District Association(s): <i>Historic Milwaukie</i>						
Notes:						

*After discount (if any)



PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@ci.milwaukie.or.us

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

Submittal Requirements

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

Contact Milwaukie Planning staff at 503-786-7630 or planning@ci.milwaukie.or.us for assistance with Milwaukie's land use application requirements.

1. **All required land use application forms and fees**, including any deposits.

Applications without the required application forms and fees will not be accepted.

2. **Proof of ownership or eligibility to initiate application** per MMC Subsection 19.1001.6.A.

Where written authorization is required, applications without written authorization will not be accepted.

3. **Detailed and comprehensive description** of all existing and proposed uses and structures, including a summary of all information contained in any site plans.

Depending upon the development being proposed, the description may need to include both a written and graphic component such as elevation drawings, 3-D models, photo simulations, etc. Where subjective aspects of the height and mass of the proposed development will be evaluated at a public hearing, temporary on-site "story pole" installations, and photographic representations thereof, may be required at the time of application submittal or prior to the public hearing.

4. **Detailed statement** that demonstrates how the proposal meets all applicable application-specific approval criteria (check with staff) and all applicable development standards (listed below):

- a. **Base zone standards** in Chapter 19.300.
- b. **Overlay zone standards** in Chapter 19.400. ✓
- c. **Supplementary development regulations** in Chapter 19.500.
- d. **Off-street parking and loading standards and requirements** in Chapter 19.600.
- e. **Public facility standards and requirements**, including any required street improvements, in Chapter 19.700.

5. **Site plan(s), preliminary plat, or final plat** as appropriate.

See Site Plan, Preliminary Plat, and Final Plat Requirements for guidance.

6. **Copy of valid preapplication conference report**, when a conference was required.

APPLICATION PREPARATION REQUIREMENTS:

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

ADDITIONAL INFORMATION:

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

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

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

Applicant Signature: [Signature]

Date: 7/16/14

Official Use Only

Date Received (date stamp below):

Received by: _____

Variance request:

10545 SE Riverway Lane
Milwaukie, Or

RECEIVED

OCT 10 2014

CITY OF MILWAUKIE
PLANNING DEPARTMENT

Narrative:

We are proposing an expansion of the existing residence. The area where we want to locate the expansion is 15' feet back from the existing road and private road easement.

However, it would be less than fifteen feet back from the deeded public right of way.

The owners of all the properties adjacent to and who use SE Riverway Lane are happy with the location of the existing street and would actively fight the City if a street were ever built in the currently un-used right of way.

Therefore, the owners have asked me to apply for a variance to the front yard setback requirement.

Existing conditions:

The property in question currently has a 2,900 square foot one story single family residence with a daylight basement.

The property also includes a private driveway coming off Riverway Lane which accesses a two car attached garage.

Proposed uses:

The proposal (if the variance is granted) is to add 640 square foot of living space to the existing residence plus a 400 square foot garage under the living space.

Approval criteria

Type III variance:

1. Discretionary relief criteria.

1a. Alternatives analysis:

This is an unusual case in that the existing street is to the east of the City's right of way. All the structures and properties along the existing SE Riverway Lane are situated with the assumption that the street will stay where it is.

There are five other properties to the south of the property in question and four tax lots under the same ownership that use this street on a daily basis.

Impacts:

The impact of our proposed variance will be minimal since all nine parcels have driveways that enter off of SE Riverway Lane, and all except the property in question have garages facing the street.

Benefits/Mitigation:

In our proposed design, the garage door will be facing south, thus vehicles will not be backing into the street.

1b. We believe our proposal is reasonable & appropriate and meets the following:

(1) Our proposal avoids or minimizes impacts to surrounding properties.

In fact, all the surrounding properties are in favor of our proposal.

(3) The proposed expansion will respond to the built and natural environment in a sensitive manner.

1c. Any impacts from the proposed variance will have minimal impact and will be mitigated as much as possible.

Base zone requirements:

Our proposal meets the R2 base zone requirements as follows:

Minimum lot size: 5,000 sf req'd 15,044 sf provided **complies**

Lot coverage: maximum of 45% req'd 41% provided **complies**

Height: 3 stories max req'd 2 stories provided **complies**

Off street parking: Garage provided **complies**

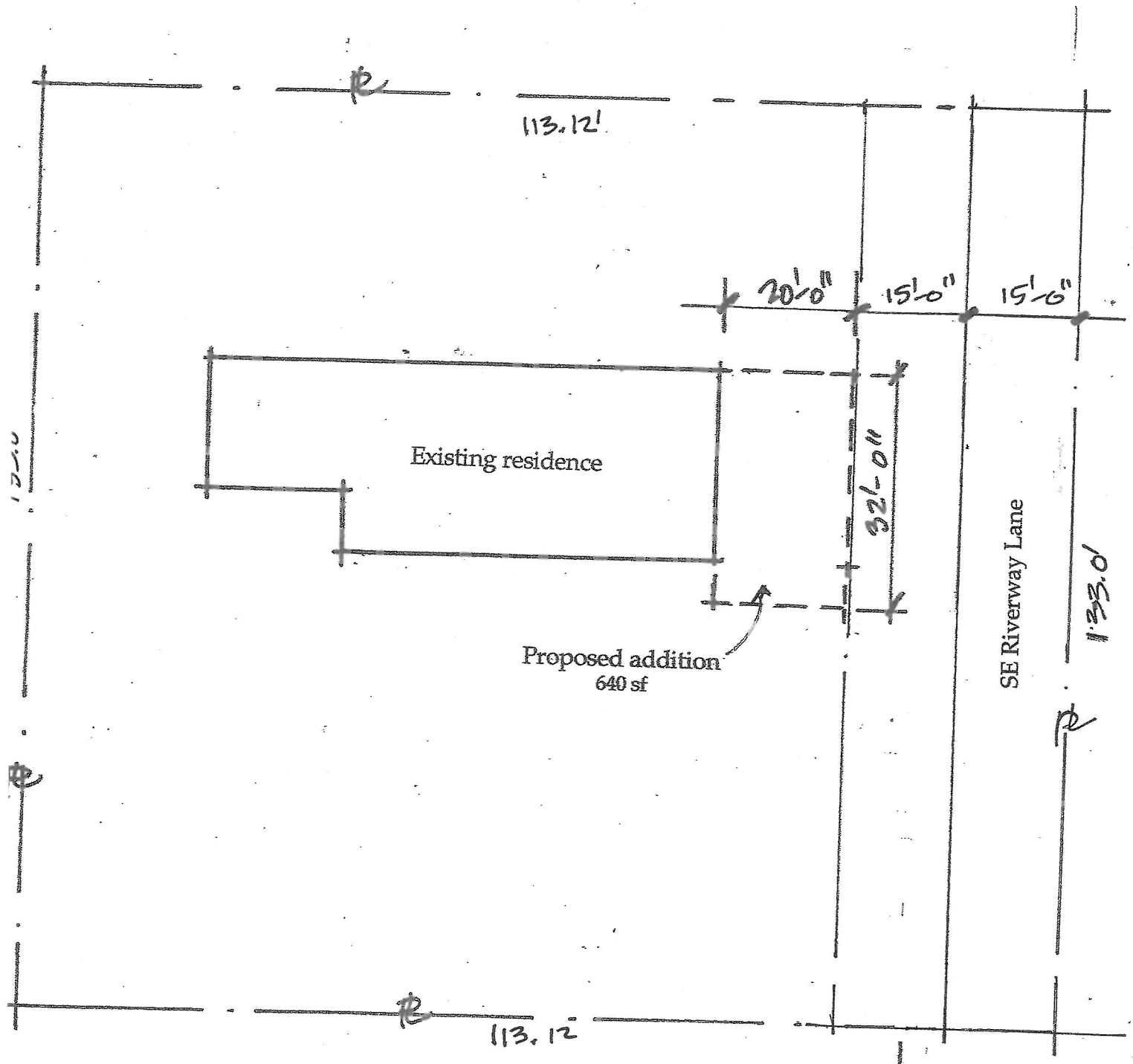
Setbacks: Side & rear **complies** Front yard **need this variance to comply**

Conclusion:

Since the existing location of SE Riverway Lane is unlikely to ever change and would be opposed by 100% of the land owners that use the street, we feel our proposal is reasonable and meets the approval criteria>

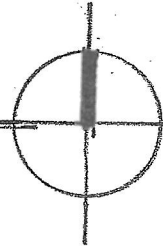
Respectfully submitted

Carter Case
Applicant
503 863 4235

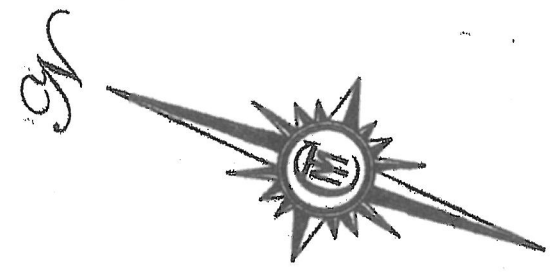


Site Plan

1" = 20'-0"



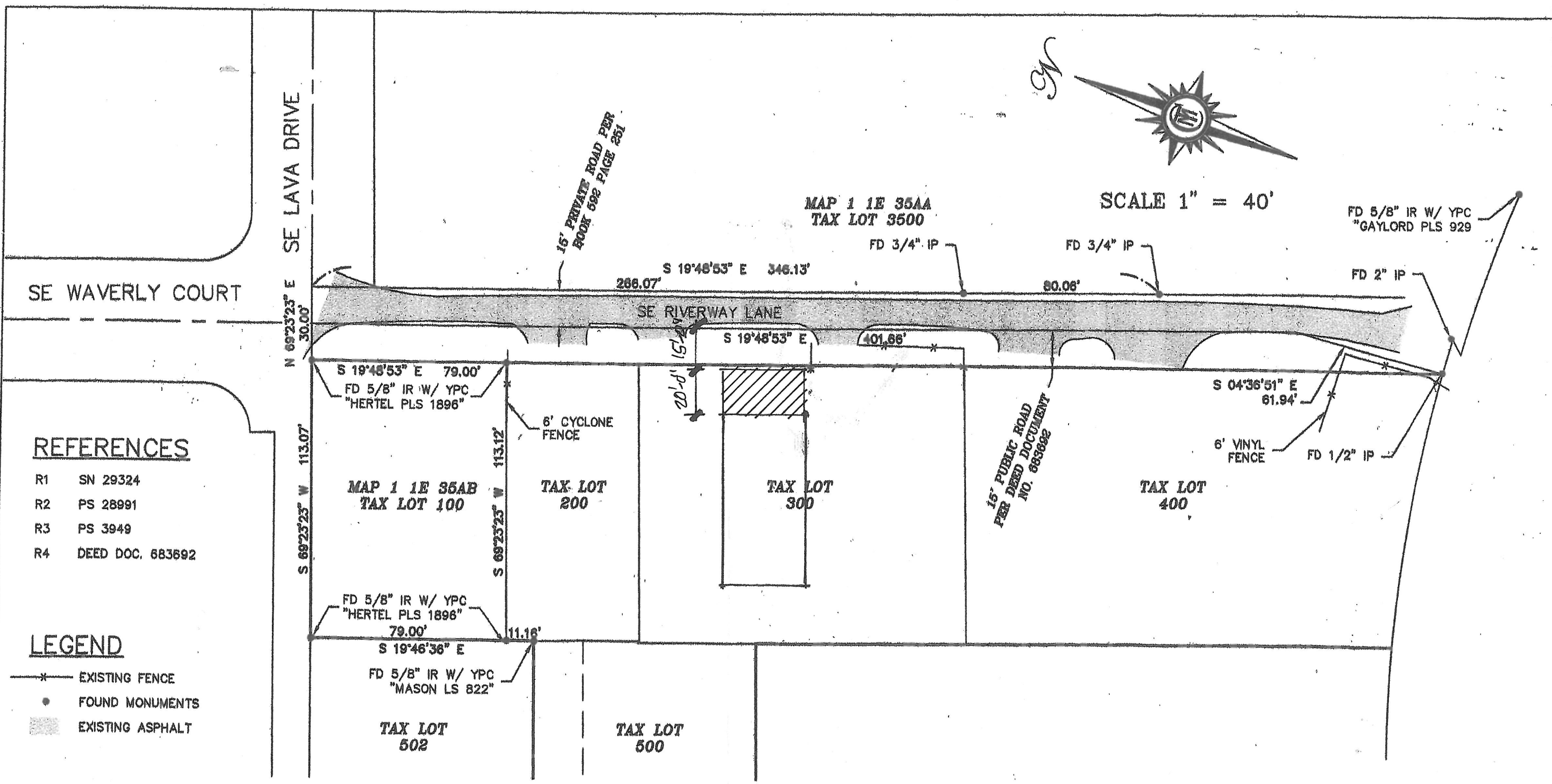
Forni Residence
10545 SE Riverway Lane
Milwaukie, Or



SCALE 1" = 40'

MAP 1 1E 35AA
TAX LOT 3500

FD 5/8" IR W/ YPC
"GAYLORD PLS 929"



REFERENCES

- R1 SN 29324
- R2 PS 28991
- R3 PS 3949
- R4 DEED DOC. 683692

LEGEND

- * EXISTING FENCE
- FOUND MONUMENTS
- ▨ EXISTING ASPHALT

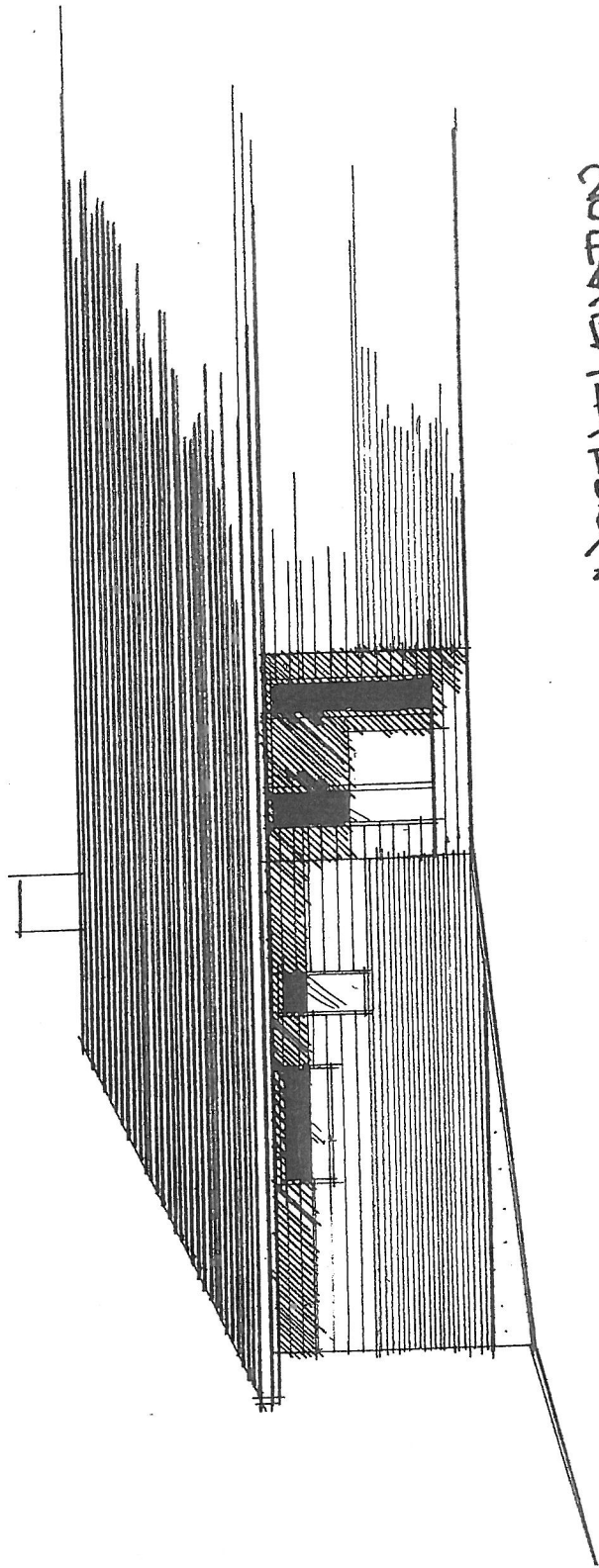
NOTES

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE EXISTING ROADWAY ALONG SE RIVER LANE.

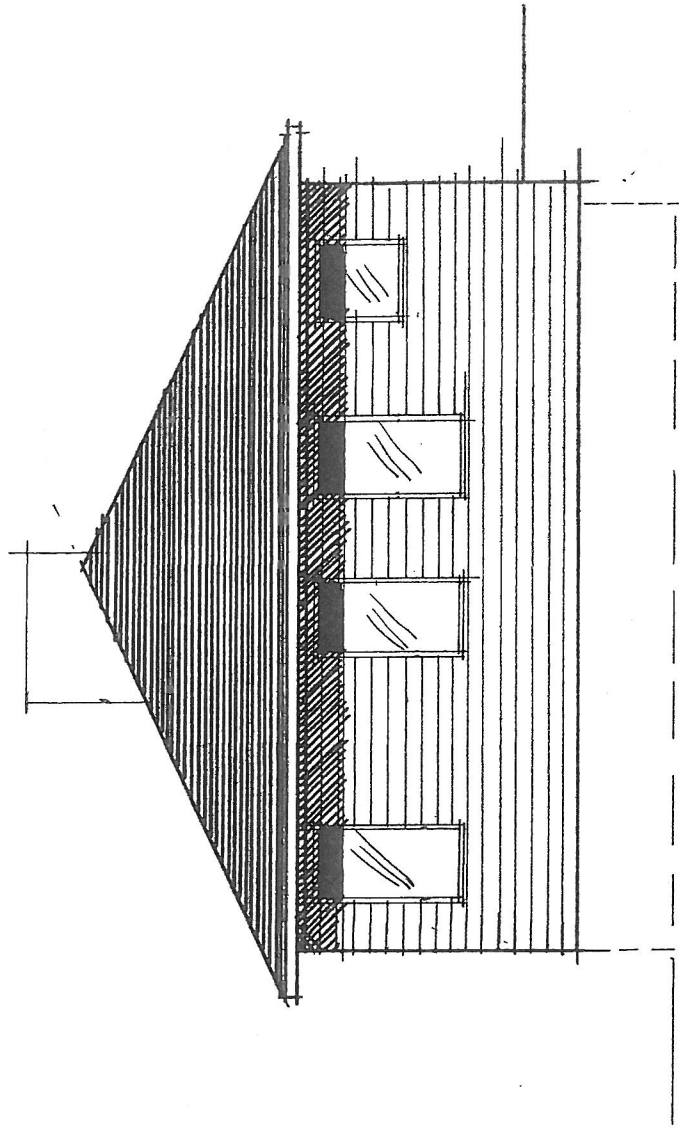
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Mr. P. J. [Signature]

EXHIBIT	SE RIVER LANE
NE 1/4 SEC 35, T1S, R1E, W.M.	



NORTH ELEVATION



East Elevation

MEMORANDUM

TO: Community Development Department
FROM: Jason Rice, Engineering Director
RE: 10545 SE Riverway Lane
VR-14-03
DATE: January 26, 2015

Variance request to reduce the side yard setback to zero in order to construct a 640 square foot addition.

1. MMC Chapter 19.700 – Public Facility Improvements

The following complies with the applicable criteria of MMC Chapter 19.700.

A. 19.702 Applicability

The proposed development consists of expansion of an existing single-family residential structure. Expansion of the gross floor area is greater than 200 square feet, but not more than 1499 square feet.

The right-of-way dedication standards of MMC Chapter 19.700 pursuant to the street design standards and guidelines of MMC Subsection 19.708.2 apply to the proposed development. Adequate public utilities as determined by the Engineering shall be provided by the proposed development pursuant to MMC Section 19.709.

B. 19.708.1.D.3 Street Right-of-Way Dedication

The proposed development is subject to the right-of-way dedication standards of MMC Chapter 19.700.

Right-of-way shall be dedicated in accordance with MMC Subsection 19.708.2 as part of the proposed development.

C. 19.708.2 Street Design Standards

The existing right-of-way width of SE Riverway Lane fronting the proposed development property is 15 feet. The Milwaukie Transportation System Plan classifies the fronting portion of SE Riverway Lane as a local road. The Engineering Director has determined the required right-of-way width for SE Riverway Lane fronting the proposed development is 30 feet. This width will eventually provide for two 10 foot travel lanes, curbs on both sides, and one 5 foot sidewalk setback 4 feet from the curb. This width does not allow for on-street parking or bicycle lanes. The applicant is not responsible for any additional right-of-way dedication.

Without having grade information, it appears as though the proposed development would in fact harm the City's ability to construct the necessary improvements. More precisely, constructing this addition up to the right-of-way could prevent the City's ability to construct the necessary pedestrian facilities in

the future. In this case, the City would likely need to construct a retaining wall within the right-of-way, before adding sidewalks, in order to prevent the proposed structure from falling into the right-of-way.

D. 19.709 Public Utility Requirements

The Engineering Director has determined that the existing public utilities are adequate to serve the proposed development.

The proposed development complies with MMC Section 19.709.

2. MMC 12.16 Access Management

A. 12.16.020 Applicability

Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16.

B. 12.16.040 Access Requirements and Standards

The site is located on a lot that serves a single-family residential home from a local street. This property fronts right-of-way on one side. One accessway is allowed per single-family residential lot that has a single frontage. In some cases, an additional accessway may be approved if the driveways are more than 150 feet apart from the other while still remaining 7.5 feet from the property line in which it is serving.

Since the property located at 10545 SE Riverway Lane only fronts SE Riverway Lane for 133 feet, one driveway shall be allowed to remain. When removing one of the driveways, clear vision standards described below will need to be adhered to.

3. MMC Chapter 12.24 Clear Vision at Intersections

A. 12.24.030 Requirements

The proposed development appears to be relocating the property's access to an existing secondary driveway (southern driveway) to the property.

B. 12.24.040 Computation

Assuming use of the southern driveway, the proposed structure would cause a clear vision issue because:

1. The structure is over 36 inches in height, and
2. The structure is located within a 20 foot radius of where the lot line and the edge of the driveway intersect.

Recommended Conditions of Approval

None. Engineering recommends denial of the variance and acceptance of the findings described above.

From: [Joint](#)
To: [Kolias, Vera](#)
Cc: rforni@pacificinns.com; [Klein Gary & Sherry](#); [Klein, Gary](#); [Milwaukie Planning](#)
Subject: Application for Land Use Action: File# VR-13-03 (Case for Forni, 10545 SE Riverway Lane)
Date: Wednesday, January 14, 2015 12:45:12 AM

Vera Kolias,

I live at 10795 SE Riverway Lane, Milwaukie, Oregon.

I am in favor of the approval of this addition as an improvement to the neighborhood. The city's easement area is west of Riverway Lane and the city's easement is fifteen feet wide. This easement seems very excessive in width to me. Thus this should be approved as requested by the Milwaukie citizen.

The way this is written up by the city makes this sound like this is making the front yard smaller... But in actual fact the property that they want to build in is not the front yard, but it is a side yard (to the east of the home... There is no door here). The front of the home (with door) is to the North and there is a driveway there that enters Riverway Lane North of the home.

If anything the easement that the city has should be reduced by 10 feet in width if the water line is within that area. The water line may be within the Riverway Lane easement area (15 feet wide) that MODA owns east of the city's easement area.

Again this should be approved as requested! Call me if you have any questions. Home phone # 503/654-1256.

Thank you & have a good day.

Gary Klein
Sent from my iPad