



## **AGENDA**

### **MILWAUKIE PLANNING COMMISSION Tuesday, August 9, 2016, 6:30 PM**

**MILWAUKIE CITY HALL  
10722 SE MAIN STREET**

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
- 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: Rear Yard Setback Variance  
Applicant/Owner: Paula Anderson  
Address: 10541 SE 55<sup>th</sup> Ave  
File: VR-2016-006  
Staff: Vera Koliás
- 6.0 Worksession Items**
  - 6.1
- 7.0 Planning Department Other Business/Updates**
  - 7.1
- 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:**
  - August 23, 2016 1. First Visioning Advisory Committee Meeting
  - September 13, 2016 1. S-2016-001 5126 SE King Rd., 14-lot subdivision

### Milwaukie Planning Commission Statement

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

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

#### **Public Hearing Procedure**

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

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

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

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

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

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

Denny Egner, Planning Director  
David Levitan, Senior Planner  
Brett Kelver, Associate Planner  
Vera Kolia, Associate Planner  
Alicia Martin, Administrative Specialist II  
Avery Pickard, Administrative Specialist II



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Dennis Egner, Planning Director

**From:** Vera Koliass, Associate Planner

**Date:** August 1, 2016, for the August 9, 2016, Public Hearing

**Subject:** **File:** VR-2016-006  
**Applicant:** Paula Anderson  
**Owner(s):** Paula Anderson  
**Address:** 10541 SE 55<sup>th</sup> Ave  
**Legal Description (Map & Taxlot):** 12E30DC05700  
**NDA:** Linwood

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## **ACTION REQUESTED**

Approve application VR-2016-006 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for the placement of a new manufactured home on the existing concrete pad with a rear yard setback of 10 ft rather than the minimum 30 ft required. Further, this approval would allow for the existing approximately 10-12-ft wide driveway to remain rather than require a 16-ft wide driveway.

**Figure 1. Zoning and site vicinity**



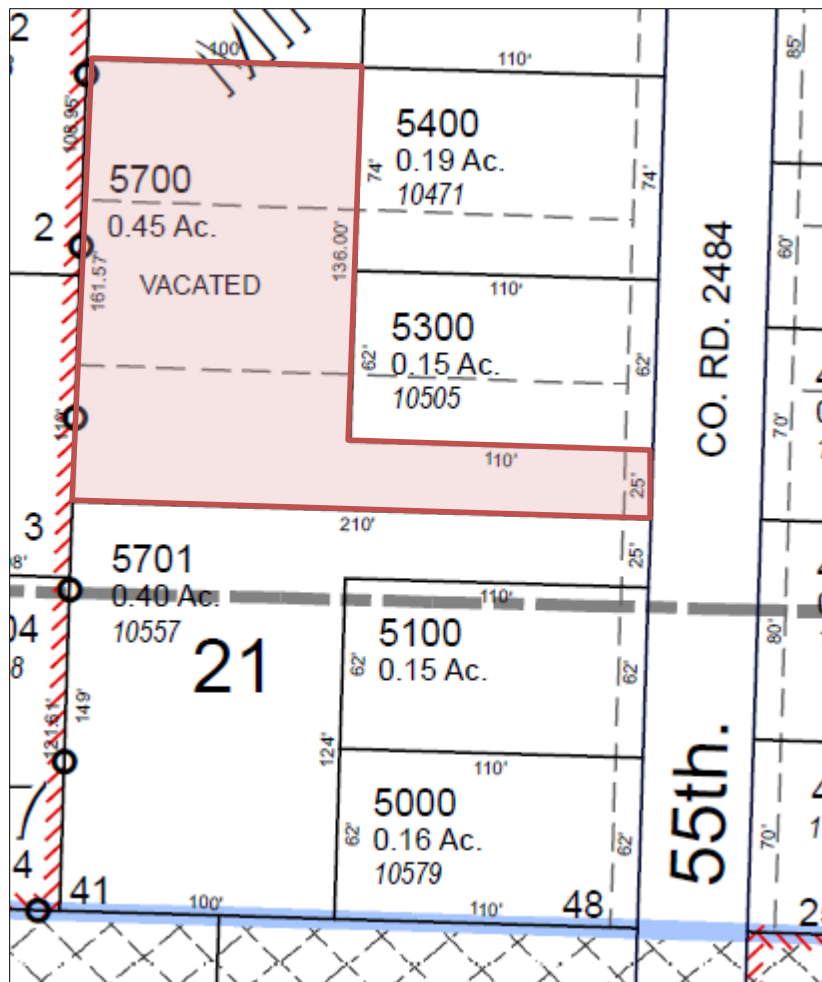
Source: 2015 RLIS data

## BACKGROUND INFORMATION

The subject property and the adjacent property (10541 and 10557 SE 55<sup>th</sup> Ave) were proposed to be annexed into the City in 1978 (land use file #A-78-04) and were recommended for approval. However, the application was withdrawn before a decision was issued. County staff has confirmed that the parent lot was subsequently partitioned by deed into 2 flag lots in 1978. A second annexation petition was submitted in 1986 (land use file #AN-86-09) which appears to have been initiated by the City to annex a number of properties in the vicinity; the subject property was annexed into the City in 1986.



**Figure 3. Image from County tax map showing 2 parcels (5700 and 5701)**



The subject property is a flag lot, as is the adjacent property at 10557 SE 55<sup>th</sup> Ave, and is approximately 18,911 sq ft, which is larger than most of the surrounding properties and well over the minimum lot area of 7,000 sq ft in the Residential R-7 zone.

The proposal is to re-use the existing concrete pad foundation and utility connections from the previously approved manufactured home as well as to maintain the existing approximately 12-foot wide shared driveway to access both properties, rather than the minimum 16 feet required. This would result in the following setbacks (see Figures 6-7):

- Front yard: 62 feet
- Rear yard: 10 feet (flag lot minimum = 30 feet)
- Side yard: 44 feet/51.57 feet.



Flag lot design and development standards were established in the Milwaukie zoning code in 2003 (MMC 19.504.8); the minimum rear yard setback on a flag lot is 30 feet. The home that was built on the property in 1996 was removed sometime between July 2001 and May 2002, according to images from Google Earth (see Figures 4 and 5). It has been gone for more than 1 year and, therefore, the development has lost its legal nonconforming status. A Type III variance is required to allow development on a flag lot with a 10-foot rear yard setback.

**Figure 4. July 2001 aerial photo of subject property**



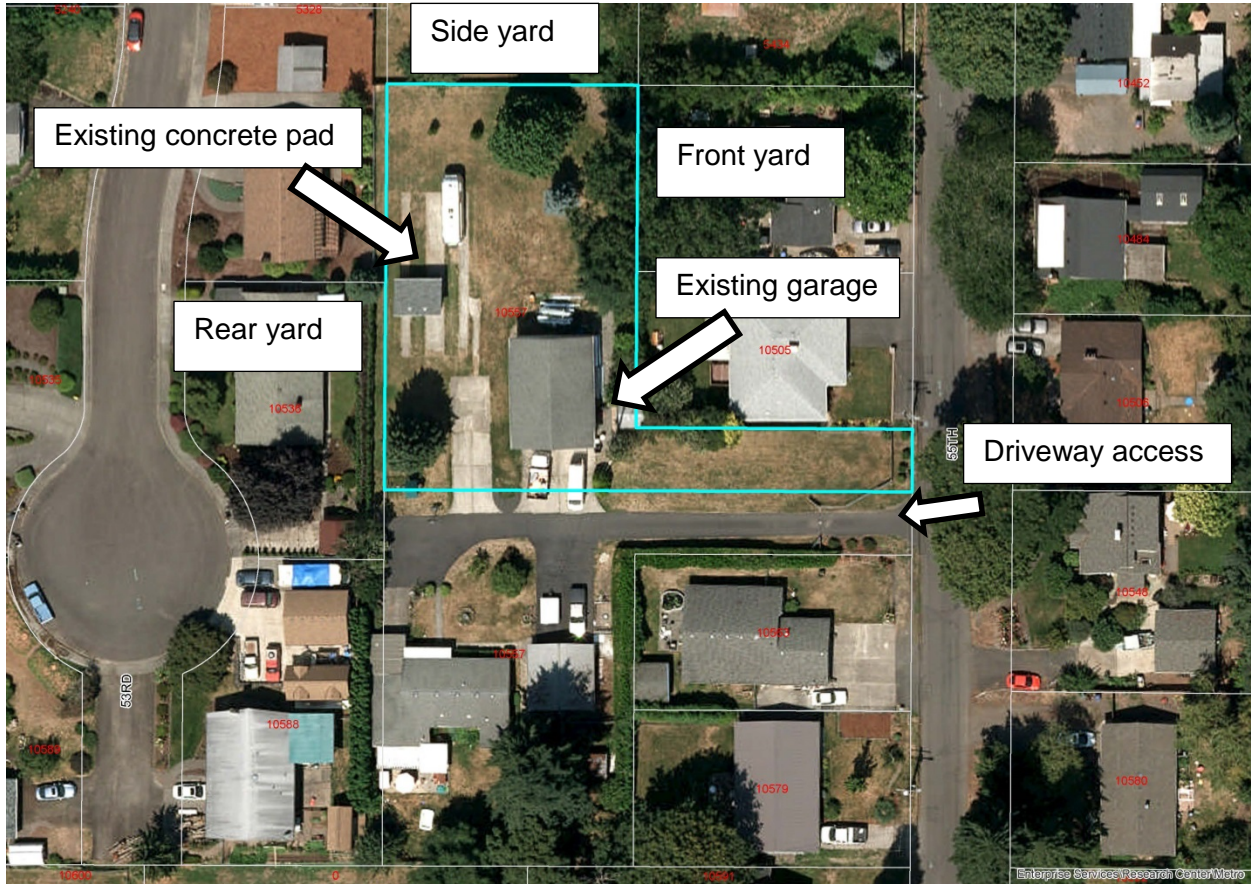
Source: Google Earth

**Figure 5. May 2002 aerial photo of subject property**



Source: Google Earth

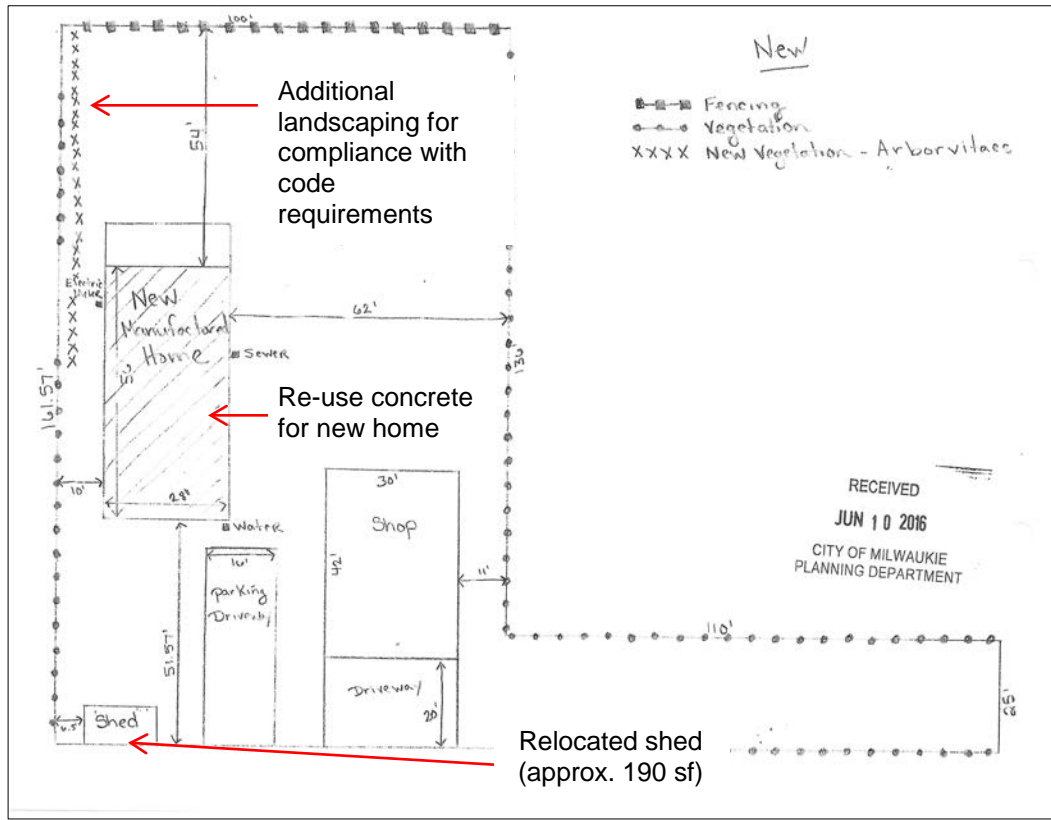
Figure 6. Existing conditions



Source: 2015 RLIS data



**Figure 7. Proposal**



Source: Applicant's materials

**Figure 8. Proposed home**



Source: Applicant's materials

**A. Site and Vicinity**

The subject property is a residential lot zoned Residential R-7 in the Linwood neighborhood and directly abuts the Residential R-5 zone to the west. The property is approximately 18,911 sq ft in area and is developed with a detached garage, shed, and concrete pad foundation.

The surrounding properties are developed with single-family detached dwellings.

**B. Zoning Designation**

Residential zone R-7

**C. Comprehensive Plan Designation**

Low Density Residential LD

**D. Proposal**

The applicant is seeking land use approvals for a variance to the minimum rear yard setback on a flag lot in order to use an existing concrete pad foundation for a new home and a variance to the required minimum driveway width for a shared driveway. See Attachment 3 for details.

The required minimum rear yard setback for a flag lot is 30 ft.

The proposal includes the following:

1. Variance to the rear yard setback from 30 ft to 10 ft to permit the placement of a new home on the foundation of a former home and a variance to the minimum driveway width from 16 ft to approximately 10 ft (existing driveway to remain).

The proposal requires approval of the following applications:

1. Type III Variance Review: Per MMC 911.3, a variance to the required rear yard setback to permit the placement of a new home on the foundation of a former home with a 10 ft rear yard setback and a variance to the minimum driveway width from 16 ft to approximately 10 ft (existing driveway to remain) exceeds the allowable variance of 25%, or 7.5 ft, permitted through Type II review.

**KEY ISSUES**

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

**A. Does the proposed variance have any negative impacts?**

Staff has not identified any negative impacts with the proposal. The property had a permitted home in the proposed location, which already has a concrete pad foundation, utilities, driveway, and a path to the front door. To avoid the cost of new construction of a foundation, driveway, and relocated utilities, the applicant seeks to replicate a prior approved development. The applicant has confirmed that the foundation is in good

condition (see Attachment 3) and proposes to add vegetative screening to complete the sight-impervious screening along the perimeter of the property.

No additional expansion of the dwelling beyond the existing foundation is proposed; in fact the proposed home will be 10 ft shorter in length than the home previously located on the property. No surrounding properties will be further impacted by the proposal, particularly as no expansion of construction is involved in the proposal, but for installation of the new home and utility connections. The proposed front and side yard setbacks exceed the minimum required. Further, the proposed home is a one-story manufactured home and the proposal includes additional landscaping to satisfy all code requirements for sight-impervious plantings and fencing. The applicant is improving a property such that it will generally fit the character of the existing neighborhood. The existing approximately 10-ft wide driveway is sufficient for access to 2 single-family homes.

## CONCLUSIONS

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

1. Approve the variance review for the construction of a new home on the existing concrete pad foundation to allow a 10-ft rear yard setback and to allow the existing approximately 10-ft wide driveway.
2. Adopt the attached Findings and Conditions of Approval.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Section 19.301 Low Density Residential Zones
- MMC Section 19.911 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 four decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing to August 23, 2016.

The final decision on these applications, which includes any appeals to the City Council, must be made by October 22, 2016 in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed project was given to the following agencies and persons: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Linwood 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 July 20, 2016, and a sign was posted on the property on July 20, 2016. The following is a summary of the comments received by the City:

**Jesse Tremblay, Land Use Chair, Linwood NDA:** The proposed project has limited impact on surrounding properties due to using an existing mobile home pad.

Staff will continue to collect comments and will provide any comments received with the Commission at the hearing.

## ATTACHMENTS

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

	Early PC Mailing	PC Packet	Public Copies	E-Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Narrative and Supporting Documentation dated April 13, 2016.				
a. Narrative – Existing and Proposed Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative –Type III Variance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Site Plan (received June 10, 2016)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
d. Preapplication Conference Report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Proposed building plans (received April 13, 2016)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. 1996 building permit approval	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
g. Structural review of foundation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. 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-155> .



**Recommended Findings of Approval  
File #VR-2016-006, 10541 SE 55<sup>th</sup> Ave 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, Paula Anderson, has applied for relief from the minimum rear yard setback to allow the placement of a new manufactured home on an existing concrete foundation and to allow the existing shared driveway to remain as is. This site is a flag lot and is in the Residential R-7 Zone. The land use application file number is VR-2016-006.
2. The proposal requires variances to the required 20 ft front and rear yard setbacks for a primary structure in the R-7 zone.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.301 Low Density Residential Zones
  - MMC Section 19.504.8 Flag Lot Design and Development Standards
  - MMC Section 19.911 Variances
  - 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. Per MMC 19.1001.6, the two applications are being reviewed concurrently according to the highest numbered review type required. A public hearing was held on August 9, 2016, as required by law.
5. MMC 19.301 Low Density Residential Zones
  - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The existing foundation, installed and permitted with a new manufactured home and garage in 1996, is located to the rear of the flag portion of the flag lot and is proximate to the existing garage. The previous home was installed on this foundation with a 10-ft rear yard setback rather than the current minimum requirement of 30 ft rear yard setback established by a 2003 zoning code amendment.

The applicant has proposed to re-use the existing foundation, utility connections, and driveway to install a new 1-story manufactured home.

**Table 1. Compliance with relevant R-7 standards**

<b>R-7 Zone</b>	<b>Standards</b>	<b>Existing</b>	<b>Proposed</b>
<b>Lot Coverage</b>	40% max.	Approx. 7.5%	Approx. 15.5%
<b>Front Yard Setback – flag lot</b>	30 ft	n/a	62 ft

R-7 Zone	Standards	Existing	Proposed
<b>Rear Yard Setback – flag lot</b>	30 ft	n/a	10 ft <sup>1</sup>
<b>Side Yard Setback – flag lot</b>	10 ft	n/a	44 ft/51.57 ft

The Planning Commission finds that the proposal complies with the applicable standards of the R-7 zone.

#### 6. MMC Chapter 19.504.8 Flag Lot Design and Development Standards

- a. MMC 19.504.8.A states that flag lots in all zones are subject to the development standards of MMC 19.504.8. The subject property is a flag lot that was created in the County in 1978 prior to being annexed into the City in 1986.
- b. MMC 19.504.8.B contains development standards for flag lots.
  - 1) MMC 19.504.8.B.1 states that the areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement. The subject property has 16,338 sf in area outside of the accessway and complies with the minimum lot area requirement for the R7 zone.
  - 2) MMC 19.504.8.B.2 establishes yard setbacks of for flag lot development and requires a minimum 30-ft front and rear yard and 10-ft side yards. This application is requesting a variance from the minimum rear yard setback to allow a 10-ft setback rather than the minimum 30 ft required.
- c. MMC 19.504.8.C prohibits variances of lot area, lot width, and lot depth standards. There are no such variances requested.
- d. MMC 19.504.8.D establishes standards for flag lot frontage, accessway, and driveway design.
  - 1) MMC 19.504.8.D.1 requires that flag lots shall have frontage and access on a public street and that the minimum width of the accessway and street frontage is 25 ft. The subject property has an accessway and frontage of 25 ft.
  - 2) MMC 19.504.8.D.2 requires that abutting flag lots shall have a combined frontage and accessway of 35 ft. The subject parcel and the adjacent parcel (#10557) each have an accessway and frontage measuring 25 ft. The combined accessway width is 50 ft.
  - 3) MMC 19.504.8.D.3 contains standards for driveway design and emergency vehicle access. The existing driveway is located on the adjacent parcel. As conditioned, access to both lots shall be provided via an access easement as was required in 1996 for final approval of the original manufactured home on the subject property.

<sup>1</sup> The applicant has requested a variance to this development standard to allow the placement of a new manufactured home on an existing foundation.

1. MMC 19.504.8.D.3.a requires that driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards. This application requests a variance to allow the existing driveway to remain as is.
  2. MMC 19.504.8.D.3.b requires that driveways serving 2 flag lots shall have a minimum paved width of 16 ft. This application requests a variance to allow the existing approximately 10-ft wide driveway to remain as is.
  3. MMC 19.504.8.D.3.c requires that driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection. The proposed driveway is centered within the accessway of the adjacent parcel.
  4. MMC 19.504.8.D.3.d requires that a paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required. Clackamas Fire District #1 (CFD) reviewed the application and had no comments regarding the proposed project.
  5. MMC 19.504.8.D.3.e requires that driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft. This application requests a variance to allow the existing approximately 10-ft shared driveway to remain as is.
  6. MMC 19.504.8.D.3.f requires that the flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. The proposed project is on an existing flag lot with an existing driveway serving 2 flag lots.
  7. MMC 19.504.8.D.3.g requires that design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal. The proposal is for the placement of a new manufactured home on an existing flag lot. This standard does not apply.
  8. MMC 19.504.8.D.3.h requires that parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements. The existing driveway is not suitably sized to allow the combined needs of parking and emergency access requirements.
- 4) MMC 19.504.8.E contains standards for protection of adjoining properties for flag lot development. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.
1. MMC 19.504.8.E.1 requires that planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is

provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

As conditioned, planting and screening required pursuant to this subsection will be required prior to final inspection and occupancy of the proposed structure.

2. MMC 19.504.8.E.2 requires that impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described in MMC 19.504.8.E.2.a – c. Perimeter fencing and vegetation already existing on the subject property. The applicant proposes to add new sight impervious vegetation along the rear property line.
3. MMC 19.504.8.F requires that all trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2-in caliper and evergreen trees shall be a minimum of 5 ft tall.

No trees are proposed for removal as part of this project.

4. MMC 19.504.8.G requires that a landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The applicant's submittal materials include a landscaping plan.

## 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 the required rear yard setback to allow the use of an existing foundation located 10 ft from the rear property line for a new manufactured home. This request exceeds the allowable variance of 25% or 7.5 ft permitted through Type II review.

The applicant has also requested a variance to the minimum paved width of a shared driveway for adjacent flag lots to allow the existing approximately 10-ft wide driveway to remain rather than the required 16 ft.

The Planning Commission finds that the application is subject to Type III Variance review for a 10-ft rear yard setback rather than the minimum 30 ft required.

- 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.*

A manufactured home was placed and a shop was constructed on the subject property in 1996; the home was removed, but the shop, driveways, and utility connections remain. The proposal is to re-use the existing foundation and utility connections to place a new 1-story manufactured home on the property as well as to allow the existing 10-foot wide shared driveway to remain as is. Re-using the foundation replicates the original site development and the relationship of the house to the garage and eliminates the very costly need to remove the existing concrete and utility lines and relocate them. No construction impacts are anticipated, save for the installation of the home.

Allowance of the existing shared driveway eliminates the need to install additional pavement and remove a large amount of concrete for the existing driveways.

There are no identified negative impacts related to the variance proposal. The Planning Commission finds that this criterion is 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.*

By utilizing the existing foundation, site work is minimized which avoids the typical impact of the construction of a new home on surrounding properties. Additional landscaping is proposed to ensure that all perimeter screening code requirements are met. The proposed home is 1-story and the other setbacks are large (front yard = 62 ft; side yards = 44ft/51.57 ft) and exceed the minimum requirements.

The Planning Commission finds that this criterion is 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 does not apply.

- (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 proposal takes advantage of existing utilities and a foundation and reduces the need for additional site work.

The Planning Commission finds that this criterion is met.

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

As noted in Finding 7.b (1), the Commission finds there are no negative impacts; applicant has proposed additional landscaping to complete the rear yard screening requirement.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that these criteria are met.

8. As per MMC 19.906.2.C, the proposed development is exempt from the requirement to submit a development review application and the other requirements of MMC 19.906 Development Review. However, the proposal must still comply with all applicable development standards and will be reviewed during the building permit review process.
9. As per MMC 19.1001.7.E, this variance request shall expire and become void unless the proposed development completes the following steps:
  - A. Obtain and pay for all necessary development permits and start development of the site within 2 years of land use approval (by August 9, 2018).
  - B. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by August 9, 2020).
10. The application was referred to the following departments and agencies on June 29, 2016: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Linwood Neighborhood District Association. Notice of the application was also sent to surrounding property owners within 300 ft of the site on July 20, 2016, and a sign was posted on the property on July 20, 2016. The following is a summary of the comments received by the City.
  - Jesse Tremblay, Land Use Chair, Linwood NDA: Expressed that the proposed project has limited impact on surrounding properties due to using an existing mobile home pad.

**Recommended Conditions of Approval**  
**File #VR-2016-006, 10541 SE 55<sup>th</sup> Ave Variance**

1. Parking along the driveway in the access pole portion of the lot is not permitted.
2. Planting and screening as shown on the approved plans received on June 10, 2016 shall be installed prior to final inspection and occupancy of the proposed structure.
3. At the time of submission of any building permit application, the following shall be resolved:
  - a. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped "received" by the City on June 10, 2016.
  - b. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
4. An easement allowing TL5700 to access the driveway on TL5701, creating the shared driveway, shall be in place prior to final inspection and occupancy of the proposed structure.

**Additional Requirements**

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

1. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).



# PACIFIC NORTHWEST ENGINEERING, INC.

July 7, 2016

Shawn Brumbaugh  
P.O. Box #1  
Beavercreek, OR 97004

Attn.: R. J. Larios

Re.: Foundation Certification  
Single Family Residence  
10557 SE 55<sup>th</sup> Ave.  
Milwaukie, OR 97222


Dear R. J.,

We have reviewed the existing site for the installation of a manufactured home at the above named address. The installation of concrete existing runners (previously used) is above average and meets or exceeds all the requirements for the "foundations".

The existing concrete runners are acceptable in their existing condition to sustain the required designed loads

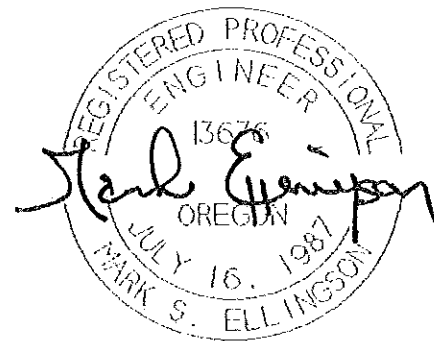
If you have any questions, please feel free in calling me.

Thank You,

  
Mark Ellingson, P.E.  
President

C:\WORK\MOBIL\PM6921.DOC

Job #16-391



EXP. 12-31-17

4242 Silver Falls Dr. N., Silverton, OR. 97381  
ph # (503) 873-3184 fax # (503) 873-3907  
P.E. # 13,676



**From:** [Jesse Tremblay](#)  
**To:** [Kolias, Vera](#)  
**Subject:** 10541 10557 SE 55th Ave Linwood NDA Land Use Review  
**Date:** Wednesday, July 13, 2016 11:05:20 AM

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Hello Vera,

I have reviewed the application from Paula Anderson for a variance to the minimum rear yard setback for a flag lot and from the 16' minimum shared driveway width. I viewed the property from the street and spoke with the applicant on the phone. I have reviewed the application packet in full. As this is the first one of these I have received, I'd appreciate any feedback you may have regarding the process and my expected role in it. Thanks!

Comments:

The proposed project has limited impact on surrounding properties due to using an existing mobile home pad and adding an additional dwelling unit to the property should not adversely affect the population density in this R-7 zoned area.

Best Regards,  
Jesse Tremblay

**Recommended Findings of Approval  
File #VR-2016-006, 10541 SE 55<sup>th</sup> Ave 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, Paula Anderson, has applied for relief from the minimum rear yard setback to allow the placement of a new manufactured home on an existing concrete foundation and to allow the existing shared driveway to remain as is. This site is a flag lot and is in the Residential R-7 Zone. The land use application file number is VR-2016-006.
2. The proposal requires variances to the required 20 ft front and rear yard setbacks for a primary structure in the R-7 zone.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Section 19.301 Low Density Residential Zones
  - MMC Section 19.504.8 Flag Lot Design and Development Standards
  - MMC Section 19.911 Variances
  - 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. Per MMC 19.1001.6, the two applications are being reviewed concurrently according to the highest numbered review type required. A public hearing was held on August 9, 2016, as required by law.
5. MMC 19.301 Low Density Residential Zones
  - a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

The existing foundation, installed and permitted with a new manufactured home and garage in 1996, is located to the rear of the flag portion of the flag lot and is proximate to the existing garage. The previous home was installed on this foundation with a 10-ft rear yard setback rather than the current minimum requirement of 30 ft established by a 2003 zoning code amendment.

The applicant has proposed to re-use the existing foundation, utility connections, and driveway to construct a new 1-story manufactured home.

**Table 1. Compliance with relevant R-7 standards**

<b>R-7 Zone</b>	<b>Standards</b>	<b>Existing</b>	<b>Proposed</b>
<b>Lot Coverage</b>	40% max.	Approx. 7.5%	Approx. 15.5%
<b>Front Yard Setback – flag lot</b>	30 ft	n/a	62 ft

R-7 Zone	Standards	Existing	Proposed
Rear Yard Setback – flag lot	30 ft	n/a	10 ft <sup>1</sup>
Side Yard Setback – flag lot	10 ft	n/a	44 ft/51.57 ft

The Planning Commission finds that the proposal complies with the applicable standards of the R-7 zone.

6. MMC Chapter 19.504.8 Flag Lot Design and Development Standards

- a. MMC 19.504.8.A states that flag lots in all zones are subject to the development standards of MMC 19.504.8. The subject property is a flag lot that was created in the County in 1978 prior to being annexed into the City in 1986.
- b. MMC 19.504.8.B contains development standards for flag lots.
  - 1) MMC 19.504.8.B.1 states that the areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement. The subject property has 16,338 sf in area outside of the accessway and complies with the minimum lot area requirement for the R7 zone.
  - 2) MMC 19.504.8.B.2 establishes yard setbacks of for flag lot development and requires a minimum 30-ft front and rear yard and 10-ft side yards. This application is requesting a variance from the minimum rear yard setback to allow a 10-ft setback rather than the minimum 30 ft required.
- c. MMC 19.504.8.C prohibits variances of lot area, lot width, and lot depth standards. There are no such variances requested.
- d. MMC 19.504.8.D establishes standards for flag lot frontage, accessway, and driveway design.
  - 1) MMC 19.504.8.D.1 requires that flag lots shall have frontage and access on a public street and that the minimum width of the accessway and street frontage is 25 ft. The subject property has an accessway and frontage of 25 ft.
  - 2) MMC 19.504.8.D.2 requires that abutting flag lots shall have a combined frontage and accessway of 35 ft. The subject parcel and the adjacent parcel (#10557) each have an accessway and frontage measuring 25 ft. The combined accessway width is 50 ft.
  - 3) MMC 19.504.8.D.3 contains standards for driveway design and emergency vehicle access. The existing driveway is located on the adjacent parcel. As conditioned, access to both lots shall be provided via an access easement as was required in 1996 for final approval of the original manufactured home on the subject property.

<sup>1</sup> The applicant has requested a variance to this development standard to allow the placement of a new manufactured home on an existing foundation.

1. MMC 19.504.8.D.3.a requires that driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards. This application requests a variance to allow the existing driveway to remain as is.
  2. MMC 19.504.8.D.3.b requires that driveways serving 2 flag lots shall have a minimum paved width of 16 ft. This application requests a variance to allow the existing approximately 10-ft wide driveway to remain as is.
  3. MMC 19.504.8.D.3.c requires that driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection. The proposed driveway is centered within the accessway of the adjacent parcel.
  4. MMC 19.504.8.D.3.d requires that a paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required. Clackamas Fire District #1 (CFD) reviewed the application and had no comments regarding the proposed project.
  5. MMC 19.504.8.D.3.e requires that driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft. This application requests a variance to allow the existing approximately 10-ft driveway to remain as is.
  6. MMC 19.504.8.D.3.f requires that the flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. The proposed project is on an existing flag lot with an existing driveway serving 2 flag lots.
  7. MMC 19.504.8.D.3.g requires that design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal. The proposal is for the placement of a new manufactured home on an existing flag lot. This standard does not apply.
  8. MMC 19.504.8.D.3.h requires that parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements. The existing driveway is not suitably sized to allow the combined needs of parking and emergency access requirements.
- 4) MMC 19.504.8.E contains standards for protection of adjoining properties for flag lot development. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.
1. MMC 19.504.8.E.1 requires that planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is

provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

As conditioned, planting and screening required pursuant to this subsection will be required prior to final inspection and occupancy of the proposed structure.

2. MMC 19.504.8.E.2 requires that impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described in MMC 19.504.8.E.2.a – c. Perimeter fencing and vegetation already existing on the subject property. The applicant proposes to add new sight impervious vegetation along the rear property line.
3. MMC 19.504.8.F requires that all trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2-in caliper and evergreen trees shall be a minimum of 5 ft tall.

No trees are proposed for removal as part of this project.

4. MMC 19.504.8.G requires that a landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The applicant's submittal materials include a landscaping plan.

## 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 the required rear yard setback to allow the use of an existing foundation located 10 ft from the rear property line for a new manufactured home. This request exceeds the allowable variance of 25% or 7.5 ft permitted through Type II review.

The applicant has also requested a variance to the minimum paved width of a shared driveway for adjacent flag lots to allow the existing approximately 10-ft wide driveway to remain rather than the required 16 ft.

The Planning Commission finds that the application is subject to Type III Variance review for a 10-ft rear yard setback rather than the minimum 30 ft required.

- 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.*

A manufactured home was placed and a shop was constructed on the subject property in 1996; the home was removed, but the shop, driveways, and utility connections remain. The proposal is to re-use the existing foundation and utility connections to place a new 1-story manufactured home on the property as well as to allow the existing 10-foot wide shared driveway to remain as is. Re-using the foundation replicates the original site development and the relationship of the house to the garage and eliminates the very costly need to remove the existing concrete and utility lines and relocate them. No construction impacts are anticipated, save for the installation of the home.

Allowance of the existing shared driveway eliminates the need to install additional pavement and remove a large amount of concrete for the existing driveways.

There are no identified negative impacts related to the variance proposal. The Planning Commission finds that this criterion is 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.*

By utilizing the existing foundation, site work is minimized which avoids the typical impact of the construction of a new home on surrounding properties. Additional landscaping is proposed to ensure that all perimeter buffer code requirements are met. The proposed home is 1-story and the other setbacks are large (front yard = 62 ft; side yards = 44ft/51.57 ft) and exceed the minimum requirements.

The Planning Commission finds that this criterion is 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 does not apply.

- (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 proposal takes advantage of existing utilities and a foundation and reduces the need for additional site work.

The Planning Commission finds that this criterion is met.

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

As noted in Finding 7.b (1), the Commission finds there are no negative impacts; applicant has proposed additional landscaping to complete the rear yard screening requirement.

The Planning Commission finds that this criterion is met.

The Planning Commission finds that these criteria are met.

8. As per MMC 19.906.2.C, the proposed development is exempt from the requirement to submit a development review application and the other requirements of MMC 19.906 Development Review. However, the proposal must still comply with all applicable development standards and will be reviewed during the building permit review process.
9. As per MMC 19.1001.7.E, this variance request shall expire and become void unless the proposed development completes the following steps:
  - A. Obtain and pay for all necessary development permits and start development of the site within 2 years of land use approval (by August 9, 2018).
  - B. Pass final inspection and/or obtain a certificate of occupancy within 4 years of land use approval (by August 9, 2020).
10. The application was referred to the following departments and agencies on June 29, 2016: Milwaukie Building Division; Milwaukie Engineering Department; Clackamas Fire District #1; and the Linwood Neighborhood District Association. Notice of the application was also sent to surrounding property owners within 300 ft of the site on July 20, 2016, and a sign was posted on the property on July 20, 2016. The following is a summary of the comments received by the City.
  - Jesse Tremblay, Land Use Chair, Linwood NDA: Expressed that the proposed project has limited impact on surrounding properties due to using an existing mobile home pad.



**Recommended Conditions of Approval**  
**File #VR-2016-006, 10541 SE 55<sup>th</sup> Ave Variance**

1. Parking along the driveway in the access pole portion of the lot is not permitted.
2. Planting and screening as shown on the approved plans received on June 10, 2016 shall be installed prior to final inspection and occupancy of the proposed structure.
3. At the time of submission of any building permit application, the following shall be resolved:
  - a. Final plans submitted for building permit review shall be in substantial conformance with plans approved by this action, which are the plans stamped "received" by the City on June 10, 2016.
  - b. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
4. An easement allowing TL5700 to access the driveway on TL5701, creating the shared driveway, shall be in place prior to final inspection and occupancy of the proposed structure.

**Additional Requirements**

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

1. Development activity on the site shall be limited to 7 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 5 p.m. Saturday and Sunday, per MMC Subsection 8.08.070(l).