

**From:** [Richard Recker](#)  
**To:** [Vera Kolia](#)  
**Cc:** [Milwaukie Planning](#); [philk@ygh.com](mailto:philk@ygh.com)  
**Subject:** Public Comment: PD-2020-001  
**Date:** Monday, October 12, 2020 12:42:11

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**This Message originated outside your organization.**

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Ms. Kolia:

I am in receipt of a notice of public hearing regarding proposed development at 10415 SE Waverley Ct. in Milwaukie. I am a neighbor of the site proposed for development and a long-time Milwaukie resident - and supporter.

There is no doubt that the property owner [Wyse family] and proposed project designers [YGH Architecture] have gone to all measures to make sure their proposal meets all MINIMUM requirements for approval. I have not the means, time or emotional energy to explore whether there are any grounds to encourage Milwaukie to go/pause/stop this development.

That said, against the backdrop that is Milwaukie - your steadily emerging commitment to being a 'Sustainable City', and the year 2020 - a season in which environmental and social justice have been at the forefront of our minds, I pose a couple topics for reflection and policy consideration:

1. Economics - How does Milwaukie evaluate a development proposal relative to the economic impacts to the citizens - current and future? What metrics are used? What characteristics are weighted to make sure the inherent wealth and assets of this community remain steady or are enriched by any new development proposal?

For example, Does the Wyse family live in Milwaukie? So, their financial gains in a housing development and another half-century of rent - in which no local resident builds equity and financial momentum of their own - can 'trickle-down' to others in the community with their own spending, contracting, etc. Will they buy a cup of coffee at Starbucks or Wind Horse?

2. Equity - How does Milwaukie measure the relative merits of this proposal toward our current and rhetorical pledges toward equity in the immediate and long-term future?

The current apartments are occupied almost exclusively by people of privilege - white, middle class or higher, etc. in a development that has been here for decades. Change tends to happen at transactional times, like NOW. It seems far more difficult to apply new standards to an existing development that helps us embrace our City's interest in being a place of inclusion and equal opportunity, than in screening NEW projects that still have time to integrate these important principles into the 'architecture' of construction and operations.

3. Natural Environment - How does Milwaukie gauge new development proposals for their potential in restoring and enhancing our local natural environment - as well as our proportional responsibility to the global community facing life-altering climate change?

I received a personal note from the Wyse family, encouraging me to consider - and I suspect SUPPORT - their proposal for expansion here. It included highlighting a few perks that would benefit ALL residents in the larger Waverley complex. I, for one, would rather their proposal helped make the Willamette swimmable than be able to find a new curly slide at one of our campus chlorinated pools. And happily share it with other users in and visiting Milwaukie, rather than greedily holding our assets behind locked fences.

In summary, please DO NOT respond to these questions directly. Share them amongst yourselves and the Wyse family. Stare at yourselves in a mirror, long and hard while you ponder the question, "Am I personally doing all that I can do to make sure Milwaukie - my known neighbors and residents generations from now" will be grateful for those of us who made the choice to approve, refine or reject a proposal for new 'development'.

In the end, we cannot legislate, litigate, or buy our way to a sustainable city or planet. It has to be an ethic that guides our everyday personal choices - in profession, in community with others, and in reconciling our character.

I am hopeful for a Milwaukie in the future that will make decisions based on transformation to benefit all - not simply marginal gains or minimal erosion. Join me there someday.

Rich

Rich Recker

503.807.1653 Cell/Text

*"Oh, the places you will go!" - Seuss, Ph.D*

**From:** [Milwaukie Planning](#)  
**To:** [Vera Kolas](#)  
**Subject:** FW: PD-2020-001 - 10415 SE Waverly Ct. - Questions for Oct. 27, 2020 video meeting  
**Date:** Tuesday, October 13, 2020 16:49:26

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Hello Vera,

I wanted to send this as FYI. Also, I forwarded Rosie's email to Tempest for the Planning Commissioners.

J

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**From:** Rosie M. <snowlion00@hotmail.com>  
**Sent:** Tuesday, October 13, 2020 4:04 PM  
**To:** Milwaukie Planning <Planning@milwaukieoregon.gov>  
**Subject:** PD-2020-001 - 10415 SE Waverly Ct. - Questions for Oct. 27, 2020 video meeting

**This Message originated outside your organization.**

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As a resident of Building A of Shoreside East Condominiums, with the southern border of the above development directly in front of my (second floor) front door and probably only 50 feet away across Lava Drive, I have some concerns that I'd like to see the Planning Commission address as they consider this project.

Here are the questions I'd ask of the project managers:

1. Do they plan to use Lava Drive as the ingress/egress road during any of the stages of the development? (Considering the brush/trees that would have to be cleared; the preparation of the site for utilities and foundations; the need to haul away and bring in dirt, rocks, etc.; that's no doubt a need for heavy machinery, and lots of vehicles.)
2. If they are not going to use Lava Drive as the primary road, what's the plan, and will they use Lava Drive at all?

I do have other concerns, but I'll watch the meeting and see how it goes before I ask any other questions. But I thought the main question of how they plan to access the property during the project might be important.

Thank you.

Rosie McGee  
Resident  
Shoreline East Condominiums  
1400 SE Lava Drive, Building A

**From:** [Merrie Loboy](#)  
**To:** [Vera Kolia](#)  
**Subject:** Waverly Woods proposed multi-unit development  
**Date:** Tuesday, October 13, 2020 11:56:19

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**This Message originated outside your organization.**

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I live at Shoreside East Condominiums across Lava Drive from the proposed development. I hope that if approved, the developer would be required to improve the condition of the Lava Drive road west of Waverly Court. The current road bed has degraded over the years and has no curbing, drainage or sidewalks. Increased traffic on this road would add to its disintegration. Thank you for taking feedback on this proposal.

Merrie Loboy  
1400 SE Lava DR #18  
Milwaukie, Oregon 97222  
503-654-2368

**From:** [Steve Reaume](#)  
**To:** [Vera Kalias](#)  
**Subject:** Re: Waverly Woods development  
**Date:** Wednesday, October 14, 2020 14:05:51

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**This Message originated outside your organization.**

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Vera, I am a homeowner immediately adjacent to the Waverley Woods development. I am concerned about the density, Height and set backs to the development. If something of this nature is going to be approved, it needs to have as little impact to the neighbors as possible. Not exactly sure why the development is pushed so close to Cambridge Lane. This very huge development will have a viable impact on the value of my property. This is a single family home neighborhood. We need privacy from the project. No access to our part is acceptable. The developers need to reduce density on our side of the property. Increase the setbacks to Cambridge and our driveway that is adjacent to the property and plant a number of large trees to block out the development.

I would like to know when and where we can comment on this.

Steve Reaume  
10240 SE Cambridge Lane

Steve Reaume Principal Broker  
Cambridge Realty Advisors LLC  
503 703 3907 cell  
steve@cra-pdx.com  
[Licensed in Oregon, Washington & California](#)

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**From:** Gloria Stone <gstoneconsult@comcast.net>  
**Sent:** Wednesday, October 14, 2020 10:38 AM  
**To:** Justice <justiceplj@gmail.com>; Steve Reaume <steve@cra-pdx.com>; Megan <mey6661@yahoo.com>  
**Subject:** Fwd: Waverly Woods development

More info to bring u up to date

Sent from my iPhone

Begin forwarded message:

**From:** Gloria Stone <gstoneconsult@comcast.net>

October 13, 2020

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City Of Milwaukie

Planning Commission

To Whom it may concern:

Reference: PD-2020-001; TFR-2020-002; WG-2020-001; PLA-2020-001; ZC-2020-001

My husband and I are nearly 50 year owners of the home we built on Tax Lot 2000 in the Waverley Heights neighborhood. We are immediately adjacent on the entire northern perimeter to the proposed development designated as Waverly Woods. As a result, our lives and our property are significantly impacted by the extent of the proposed apartment complex. Additionally, the Waverley Heights neighborhood has intentionally maintained a forested, natural setting with lot sizes generally from an acre to five acres. We ask that the Milwaukie Planning Commission and the City Council give serious consideration to our concerns and the impact this development will exert on our property and, further, to possible mitigation that can be applied to reduce that impact.

A broader comment regarding zoning is also appropriate. We believe that a basic tenant of legitimate land use planning requires appropriate transition and 'buffer' when R10 and R2 adjoins. This is a very basic concept held by the planning community. The ridge development is only 39 feet from our property line and 45 feet from our actual home. This is hardly an appropriate set-back in view of the difference in zoning and density. We ask the developer to review the following concerns and requests and work with our community to come to reasonable solutions for our mutual benefit.

1 - Barrier between zones: As a result of a 1969-1970 lawsuit, access to and from the project property into and out of the Waverley Heights neighborhood and across Cambridge Lane is prohibited and is restricted by a continuous chainlink fence to be maintained by the owner of the project. There must be no access under, over or around this barrier. In fact, the fence has not been properly maintained and is deteriorating. We urge that the property owner install and maintain a higher fence or impenetrable wall and/or dense, fast growing vegetation. Screening between the two zones is imperative.

2 - Greenspace and the Willamette Greenway: The applicant is asking for a Greenway variance from 3 story requirement inside the Greenway to requested 4 story. This variance should not be granted. Visual and environmental impact of a 4th story is significant as Milwaukie has discussed in past planning requests. Note further comments below.

3 - The property in question is a significant greenspace within Milwaukie both currently and historically. I am enclosing a copy of a bird and vegetation inventory. This inventory performed there and on adjacent Waverley Heights property is a significant natural resource for our city and is of importance in maintaining

the Urban Forest planning. We have worked continuously to maintain habitat and ask that the City and developer be specific about how they will work to maintain this resource. The existing tree canopy on this property includes older growth fir, maple, etc. Those trees take tens of years to reach maturity.

4 - Light and noise pollution: Pollution from this development will be significant given the size proposed. Our property is downhill (below grade) of this project and we will be greatly impacted. Current urban planning generally addresses these issues and the impact on communities and our general environment. Specifically, "dark sky standards and photometries" are elements of good planning. What steps is the developer taking to specifically address these issues?

5 - Solar access and views: For at least 6 months of the year the sun is low enough in the southern sky that a 4 story building will nearly totally obstruct our solar access. Again, we urge the city to maintain the 3 level building requirement. In addition, views from the river are significantly impaired and importantly, views from adjacent properties to the north will have views to the river blocked looking south.

6 - Water Drainage: Our property is downhill of the proposed project and of the topographical ridge and canyon existing on that property. Drainage from the site of Building B and downhill off the solid Columbia river basalt (corriaba) that constitutes the geology of the site is significant. This drainage has required that we install a catch basin and 6 inch drain pipe. Indeed, in winter months there is a constant stream of water from springs and/or storm water draining onto our property. With enhanced building, parking, etc on this property, there will be significant additional runoff. The current plans for drainage seem inadequate for the East and North sides of the property. There needs to be specific methodology developed as to how runoff water will be contained within the development.

We recognize the right of the owner to develop this property in accordance with local zoning laws and regulations. However, we expect the impact on neighboring properties by the large development as outlined above be mitigated. We would welcome the opportunity to meet with the owner or his representative and the City to discuss possible remedies to issues noted.

Sincerely,

Steve and Gloria Stone

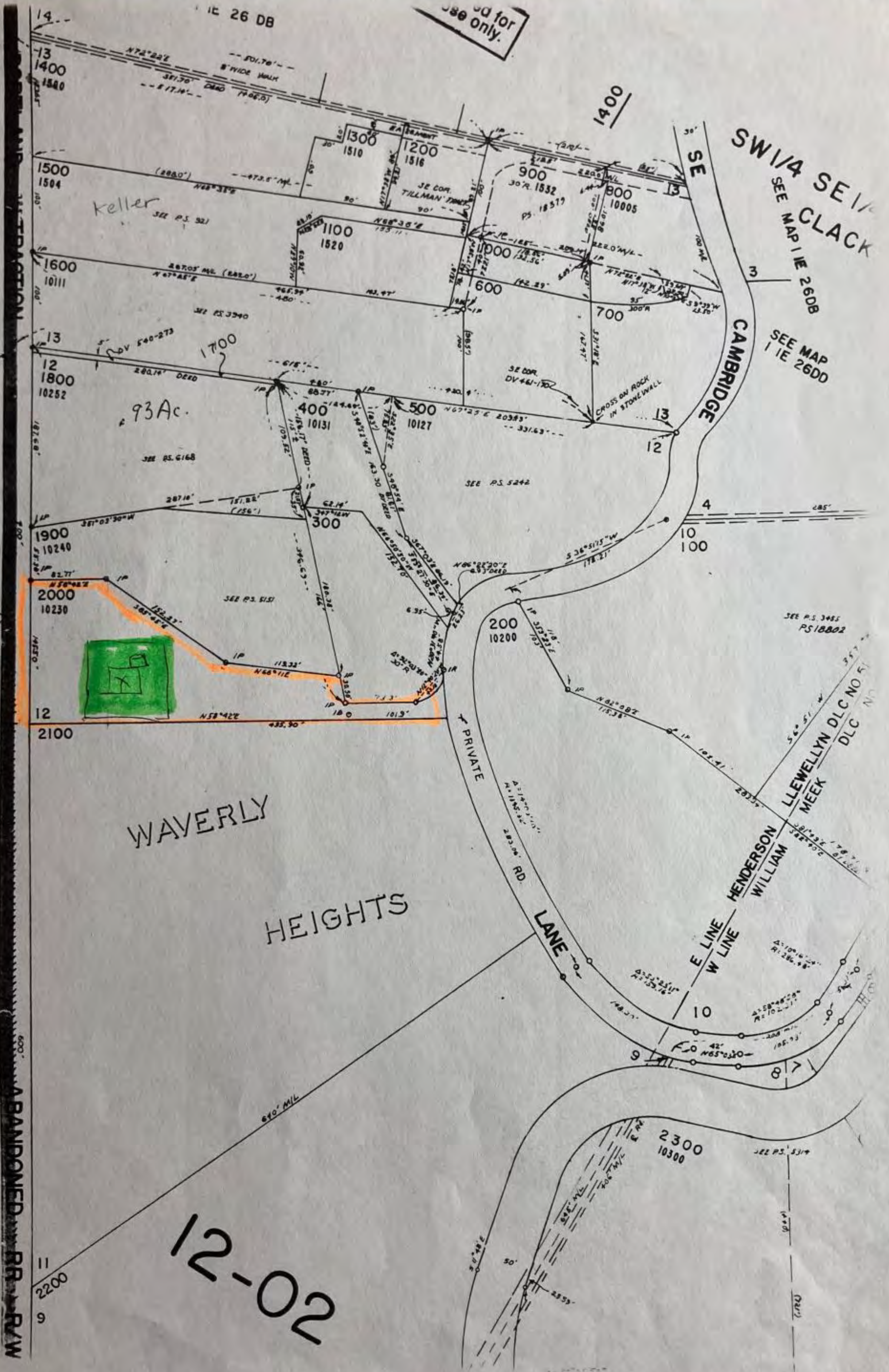
503-654-7409 home

503-730-8471 cell

Attachments: natural resource inventories, Lot maps, storm runoff photos



See map for use only.



stone lot orange  
stone home green

WAVERLY HEIGHTS

12-02

SW 1/4 SE 1/4  
SEE MAP IE 26DB  
CLACK

SEE MAP IE 26DD

SEE P.S. 3485  
PS 18802

LLEWELLYN DLC NO 51  
MEEK DLC

ABANDONED RR R/W

11  
2200  
9



## Bird Inventory

Turkey Vulture  
Cooper's Hawk  
Red-Tailed Hawk

Mourning Dove

Great Horned Owl  
Screech Owl  
Barred Owl

Anna's Hummingbird  
Rufous Hummingbird

Hairy Woodpecker  
Downy Woodpecker  
Flicker  
Red-Breasted Sapsucker  
Piliated Woodpecker

Western Wood Peewee

Stellar Jay  
Scrub Jay  
American Crow

Black-capped Chickadee  
Chestnut-sided Chickadee

Bushtit

Brown Creeper  
Red-Breasted Nuthatch  
White-Breasted Nuthatch

Bewick's Wren

Ruby-Crowned Kinglet  
Golden-Crowned Kinglet  
Swainson's Thrush  
Robin  
Varied Thrush

Cedar Waxwing

Wilson's Warbler  
Townsend's Warbler  
Yellow-Rumped Warbler  
Western Tanager

Spotted Towhee  
Song Sparrow  
Golden-Crowned Sparrow  
White-Throated Sparrow

Dark-eyed Junco

Black-Headed Grosbeak

Red-Winged Blackbird  
Brown-Headed Cowbird

House Finch  
Pine Siskin  
American Goldfinch  
Lesser Goldfinch  
Evening Grosbeak

wildlife inventory

TOWNSEND'S CHIPMUNK

DOUGLAS SQUIRREL

FOX SQUIRREL - EUROPEAN

COYOTE

RACCOON

OPOSSUM

miscellaneous woodland reptiles  
and mammals



# Uplands Wildlife Habitat Assessment

|          |                |         |       |
|----------|----------------|---------|-------|
| 18       | Waverly Forest | 65      |       |
| UNIT NO. | LOCATION       | SO. FT. | SCORE |
| COMMENTS |                |         |       |
|          |                |         |       |
|          |                |         |       |

| COMPONENT |                        | DEGREE                 |         |                      | SCORE | COMMENTS |
|-----------|------------------------|------------------------|---------|----------------------|-------|----------|
| FOOD      | Variety                | LOW<br>0.....5.....11  | MEDIUM  | HIGH                 | 8     |          |
|           | Quantity & Seasonality | NONE<br>0.....5.....11 | LIMITED | YEAR AROUND          | 7     |          |
|           | Proximity In Cover     | NONE<br>0.....5.....11 | NEARBY  | IMMEDIATELY ADJACENT | 11    |          |
| COVER     | Structural Diversity   | LOW<br>0.....5.....11  | MEDIUM  | HIGH                 | 8     |          |
|           | Variety                | LOW<br>0.....5.....11  | MEDIUM  | HIGH                 | 7     |          |
|           | Nesting                | LOW<br>0.....4.....8   | MEDIUM  | HIGH                 | 6     |          |
|           | Escape                 | LOW<br>0.....4.....8   | MEDIUM  | HIGH                 | 7     |          |
|           | Seasonality            | NONE<br>0.....4.....8  | LIMITED | YEAR AROUND          | 6     |          |

Existing      Enhancement Potential

| ADDITIONAL VALUE         |          |                             |                        |             |   |  |
|--------------------------|----------|-----------------------------|------------------------|-------------|---|--|
| DISTURBANCE              | PHYSICAL | PERMANENT<br>0.....7.....4  | TEMPORARY              | UNDISTURBED | 1 |  |
|                          | HUMAN    | HIGH<br>0.....7.....4       | MEDIUM                 | LOW         | 2 |  |
| INTERSPERSION            |          | LOW<br>0.....4.....9        | MEDIUM                 | HIGH        | 2 |  |
| UNIQUE FEATURES<br>0 - 4 |          | WILDLIFE<br>FLORA<br>SCENIC | RARITY OF HABITAT TYPE |             |   |  |
|                          |          | EDUCATIONAL POTENTIAL       |                        |             |   |  |

Developed with the Assistance of

Mike Houck - Audubon Society  
Ralph Rogers - U.S. Army Corps of Engineers  
Dennis Peters - U.S. Fish & Wildlife Service  
Diana Wang - U.S. Fish & Wildlife Service  
Gene Herb - Oregon Dept. of Fish & Game  
Jack Bremer - Wetlands Conservancy



**CITY OF MILWAUKIE**  
• 10722 S.E. MAIN STREET •  
MILWAUKIE, OREGON 97222

















October 20, 2020

To: Milwaukie Planning Commission

From: Patricia Justice

Re: Waverley Greens Apartments

File Numbers PD-2020-001; TFR-2020-002; WG-2020-001; PLA-2020-001; ZC-2020-001

I have lived in Waverly Heights at 10252 SE Cambridge Lane for 41 years. I have received and read a copy of Gloria and Steve Stone's letter with attachments, and I wish to add my support to each of their concerns.

What follows are my comments:

1. Historic Milwaukie NDA Meeting

From the Application for Land Use Action:

"Neighborhood District Associations (NDAs) and their associated Land Use Committees (LUCs) are important parts of Milwaukie's land use process."

From the Land Use Application

"The project did present the development plan to the Historic Milwaukie Neighborhood District Association and received a positive response. No additional advice or recommendations were made on the behalf of the Historic Milwaukie NDA for the project." (page 7)

Comment: The meeting of the Historic Milwaukie NDA took place July 13, 2020, three months prior to the Notice of Public Hearing, mailed October 7, 2020, which was when I first became aware of it. According to the Chair, Ray Bryan, there were no residents of Waverly Heights present, and it is our understanding that the few neighbors in attendance were residents of Waverley Greens. The visual impact of proposed 4-story apartment buildings adjacent to our neighborhood of single family homes cannot be overstated. As such, we should have a voice in this process in all available forums, and that voice was not heard at the NDA meeting.

**I ask that the owners and/or the owner's rep meet with the residents of Waverly Heights to hear our concerns and recommendations and to work toward mutually beneficial solutions.**

2. Willamette Greenway Zone

"Milwaukie Municipal Code 19.401.3 Limitations on Use

Prohibited Uses:

A. Commercial, industrial and residential structures and residential accessory structures exceeding 35 ft in height west of McLoughlin Blvd."

Comment: The project is within the Willamette Greenway Zone with a 35 foot height limit. This proposal requests an eye-popping 85% increase in height, from 35 to 65 feet in order to allow a fourth story on buildings A.1 and A.2 According to the proposal, "These two buildings are the farthest away and downhill from the public street, so the height and length increases will not have a significant visual impact to the surrounding community." (page 1) In addition the application states that "The proposed development

is consistent with the predominant land use pattern and density of the area as it is surrounded by existing multifamily apartment complexes." (page 5)

Waverly Heights is ignored when discussing visual impacts and land use patterns. This is puzzling. The property line for one residence is a mere 39 feet from building A.2. The visual impact of a 4-story building to our community will be significant and is not consistent with the density and land use pattern of Waverly Heights.

**Please reject the request for a variance in height restriction in the Willamette Greenway, lowering buildings A1 and A2 from four stories to three stories.**

### 3. Landscaping

"19.505.3.D Multifamily Design Guidelines and Standards

Landscaping of multifamily developments should be used to...buffer the development from adjacent properties.

- c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting."

Comment: The proposal states that landscaping and screening will be provided per development standards. (page 8) There is no additional narrative addressing this critical topic. Reducing the height of specifically building A.2 will help. Another remedy to the transition of the area with apartments to the area of single family homes is through screening by planting mature trees and shrubs, in a height and density that will eliminate the visual impact of the apartments to the residents of Waverly Heights. This should be required.

I will not review the history of the chain link fence, since the Stones addressed it in their letter, other than to say that I agree with their statements.

**The owners should be directed to work with the home owners to develop mutually agreeable screening, investigating all possible remedies, which may include a new fence.**

### 4. Privacy Considerations

"19.505.3.D Multifamily Design Guidelines and Standards

Privacy Considerations: Multifamily development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.

- a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties."

**I would like to see the residences in Waverly Heights closest to buildings B.2 and A.2 platted out on the same map as the platting of the apartment buildings. We need more visibility and proof that this will not happen.**

### 5. Containment of Storm Water



I reviewed Page 45 (pdf) of applicant's proposal and traced the green storm drain lines. I am no expert, but they do not appear adequate to support the large volume of water running off that property and flowing onto land in Waverly Heights and ultimately down to the Club's property. With a warming planet, extreme precipitation events are possible, resulting in an even larger volume of water that will need to be contained.

**This needs to be addressed to the level of satisfying the affected homeowners in Waverly Heights.**

6. Barrier to Waverley Country Club Property

I am addressing this issue on my behalf only. At present it is difficult if not impossible to move on foot around the subject property. The proposal refers to this area as "unpassable." (page 6) Development of the property including walkable paths has the potential to increase the possibility of trespassing either by accident or deliberately onto the private property of the club. Since my property borders the club's property, I am always concerned about persons unknown to me gaining access to my property from the driving range.

One solution of course is to build a fence. But years ago the owners of Waverley Greens sent a letter dated September 19, 1988 to the Milwaukie Planning Commission addressing this very issue. From the letter:

"A living fence of some prickly shrub such as pyracantha will be planted along the entire boundary between Block 11 and the Waverley Country Club driving range. This fence will be both impenetrable and, with its orange berries, white blossoms in the spring and evergreen foliage, will be visually attractive from the driving range tees. The fence will keep anyone from wandering from the apartment property onto the driving range."

I agree and recommend a living fence of a prickly shrub, preferable a native one, to run along the boundary of the subject property and the Waverley Country Club. This will have the added benefit of providing cover for small birds in keeping with the goal of maintaining the property as a significant natural resource.

7. Tree Canopy and Views

I note in Phil Krueger's memo to Vera Koliias, Associate Planner, dated April 23, 2020 that the project was on track to save 200 trees. In the current proposal the number of trees on track to be saved has decreased to 135. As more and more trees are removed from the list of saved trees, a dense tree canopy as promised in the proposal becomes less certain. How will this impact the views to and from the river with the proposed buildings?

In summary, I am puzzled and disappointed that the proposal did not acknowledge any visual impact of the apartments on our community of single family homes. It is my hope that my comments will be given serious consideration and that solutions can be reached that are agreeable to all parties and will result in harmonious living between the two properties.

4

Thank you.

**From:** [Ann Flowerree](#)  
**To:** [Milwaukie Planning](#)  
**Subject:** Waverly Greens Development Proposal  
**Date:** Sunday, October 25, 2020 15:42:36

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This Message originated outside your organization.

Dear Sirs,

As the owner of a house and property very directly affected by the proposed development, I am adamantly opposed! The security and peacefulness of the neighborhood will be seriously and permanently compromised. Please stop this project.

Sincerely,

Ann Flowerree  
1322 S.E. Lava Drive  
Milwaukie 97222

Sent from my iPad



**From:** [Cassie Fotheringham](#)  
**To:** [Milwaukie Planning](#)  
**Subject:** Waverly Woods development  
**Date:** Tuesday, October 27, 2020 13:46:46

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**This Message originated outside your organization.**

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I am the owner of a buildable lot at 10135 SE Cambridge Lane. My property is adjacent to the proposed development of Waverly Woods. I strongly feel that a wide, wooded buffer is required between the densely populated development of Waverly Woods Apartments and the single-family neighbourhood of Waverly Heights. As proposed, the buffer between the large apartment buildings (A2 and B2) and our neighbourhood is woefully inadequate. There is plenty of land available to move the whole development closer to Waverly Court. Additionally, I do not want the city of Milwaukie to allow a building height variance for the development.

I will be attending the Zoom public hearing tonight, Tuesday 10/27/2020. I sincerely hope that these issues will be addressed.

**From:** [Cathie Crawford](#)  
**To:** [Vera Kolas](#)  
**Subject:** Waverly Woods Development  
**Date:** Monday, October 26, 2020 19:35:35

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This Message originated outside your organization.

Hi, Vera...

We live on Cambridge Lane and are neighbors of Steve and Gloria Stone and Patricia Justice. We are writing to let you know that we concur with the concerns they have expressed in their communications to the Milwaukie Planning Commission concerning the Waverly Woods Development.

We appreciate all that you and others are doing to work toward a mutually beneficial outcome and remain hopeful that it will result in minimal to no impact on our historic Waverly community.

Very sincerely,  
Cathie and Robert Crawford  
10115 SE Cambridge Lane  
503-890-5876

**From:** [Nelie Locher](#)  
**To:** [Vera Kolas](#)  
**Subject:** PD-2020-001  
**Date:** Monday, October 26, 2020 11:03:50

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**This Message originated outside your organization.**

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Dear Ms. Kolas,

My brother Felix Locher and I have recently inherited the house of my father which is located at 10131 S.E. Cambridge Lane in the Waverley Heights neighborhood. We just heard that there is to be a meeting of the Milwaukie planning commission tomorrow October 27th to discuss the proposed development designated as "Waverly Woods"

I would like to add my support to the proposal from many of my neighbors that the developers be required to maintain and support the existing trees, wildlife and bird habitat that thrive along the northern perimeter right now.

I would also ask that the request of the applicant for a Greenway variance from the 3 story requirement to a 4th story not be granted.

Respectfully submitted,  
Cornelia Locher



**From:** [Dayton Rodegerdts](#)  
**To:** [Vera Kolas](#)  
**Cc:** [Darcy Miller](#)  
**Subject:** Waverly Greens Apartments  
**Date:** Tuesday, October 27, 2020 12:19:38

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**This Message originated outside your organization.**

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Dear Mr. Kolas,

My wife and I are writing to you regarding the proposed Waverly Green Apartments and the proposal to increase the height restriction. We believe it is important to **preserve the height restriction** in the Willamette Greenway. We are asking for denial of the 4th story within the Willamette Greenway; a buffer zone to include screening that will eliminate the visual impact of the apartments to our homes; and management of significant storm water currently directed onto Waverly Heights.

We moved to Waverly Heights just over a year ago and we have been amazed at the amount of wildlife that still exists this close to the city. Our yard is filled with dozens of bird species. We understand the urban development happens, but please preserve the restrictions put in place to protect the environment in our neighborhood.

Thank you,

Dayton Rodegerdts  
Darcy Miller

**From:** [feloc@aol.com](mailto:feloc@aol.com)  
**To:** [Vera Kolia](#)  
**Subject:** PD2020-001  
**Date:** Monday, October 26, 2020 20:08:40

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**This Message originated outside your organization.**

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Dear Mrs Kolia,

Please do not give the developers the variance on the local building codes.

They were written into the original plan on purpose.

A four story building on that spot would destroy the feel of this lovely neighborhood.

My father, Kaspar Locher, fought against this idea for many years. My sister, Nelie, and I feel the same way.

Thanks,

Felix Locher

10131 S.E Cambridge Ln.

Milwaukie,OR

97222



October 26, 2020

City of Milwaukie Planning Commission  
10722 SE Main St.  
Milwaukie, OR 97222

**RE: PD-2020-001**

The proposal is for a Planned Development consisting of a multi-family development with four (4) residential buildings, a community center with swimming pool, and a community room built over three (3) phases totaling 100 dwelling units. A Planned Development approval creates a Planned Development zone on the site.

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians.

Both HLA and FHCO are supportive of PD-2020-001, the proposal for a Planned Development consisting of a multi-family development with four (4) residential buildings, a community center with swimming pool, and a community room built over three (3) phases totaling 100 dwelling units. Furthermore, the Goal 10 findings are well written, and a good example of a conscientious planning staff. Good luck with the continuation of this project!

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Louise Dix".

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Louise Dix  
AFFH Specialist  
Fair Housing Council of Oregon

Cc: Gordon Howard, DLCD

**1221 SW Yamhill Street, Portland, Oregon 97205**

**From:** [Gale Schmidt](#)  
**To:** [Milwaukie Planning](#)  
**Subject:** Proposed development at 10415 SE Waverly Ct  
**Date:** Sunday, October 25, 2020 8:52:58

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**This Message originated outside your organization.**

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The documents for the new development show a 4-story living + 1 story parking development. Although the narrative suggests that 4 stories will not conflict with the current aesthetics, I disagree.

I am opposed to 4 stories of apartments. This is inconsistent with the current adjacent structures and is inconsistent with City of Milwaukie aesthetics. We are not a community of high rise structures. We are a community of home-like structures.

I would also like to know how the addition of the apartments affects the capacity of Milwaukie's water, sewer and electrical capacity.

*Gale Schmidt*  
1651 SE Lava Dr. #5  
Milwaukie, OR 97222  
Cell: 503 351-9369



**From:** [Peggy Reaume](#)  
**To:** [Vera Kolia](#)  
**Subject:** Waverley Woods  
**Date:** Saturday, October 24, 2020 14:52:58

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This Message originated outside your organization.

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Vera,

A few more comments about Waverley Woods proposed project.

On page 5 of narratives section: The developer noted "the proposed amendment is compatible with surrounding area based on site location and character of the area...minimizes appearance from the street". That is my concern as well. Minimizing the appearance of the apartments, particularly B2 and A2 from my private drive and home. I live in a single family neighborhood of which the majority of homes are valued over a million dollars. I would like the developers and landscape architects to come up with a plan to visually protect our neighborhood as well as replacing fence with solid material to dilute potential construction and high density noise.

While the proposed community looks like a very nice place to live, it is not my neighborhood and would appreciate clear and consistent separation of the two. It is critical to the value our homes.

respectfully,

Peggy Reaume

There are concerns about drainage, canopy cover and ivy as well.



Real Estate Broker, MA  
Windermere Foundation Board Member

Certified Negotiation Expert  
Home Staging Expert  
Relocation Specialist  
Licensed in the State of Oregon

## Windermere Realty Trust

1610 SE Bybee Blvd.

Portland, OR 97202

Direct: 503-497-5265

Cell: 503-781-7484

[www.peggyreaume.com](http://www.peggyreaume.com)

**Shoreside East Response to Waverley Woods development**  
**City of Milwaukie Public Hearing notice mailed October 7, 2020**

Board of Directors, Shoreside East Condominiums Homeowners Association  
1400 SE Lava Drive; Milwaukie OR 97222

We are a community of 47 residents in a 39-unit development located across Lava Drive from the southern border of the Waverley property, known as Shoreside East Condominiums.

Firstly, we commend the Wyse family for their thoughtful plans to build a sustainable and long term quality development. At the same time, we have a number of questions and concerns.

**1. Low cost housing**

What consideration has been given to providing **low cost housing** as part of this new development?

**2. Parcel 03 (This is marked “Lot divided for future development”)**

- a. When is development of Parcel 03 planned?
- b. Will the trees slated for removal in Parcel 03 happen as part of the present or future development project?

**3. Tree removal: Historical fruit trees**

- a. It is our understanding that the development property was part of the Llewellyn original land grant claim. We suggest taking a closer look at the trees scheduled for removal with their historic value in mind. Given Llewellyn's contributions to fruit tree propagation (including the creation of the Bing Cherry tree!) we suggest that some of the trees, particularly fruit trees be reevaluated to see if there might be some that have historic value and therefore should be preserved.

**4. Tree removal: Removal of dead, dying, and diseased trees**

- a. In the development of a project called “Woods”, it seems like there are simply too many trees slated for removal. We request that the city seek options to minimize removal of trees, including leaving some dead and diseased trees away from people and property. Where trees must be removed, we suggest leaving some portion as downed wood. By falling the tree and leaving it as downed wood, the developer can eliminate a safety hazard but provide habitat for some wildlife.

The area comprising Parcels 01, 02, and 03 is one of the largest blocks of forest not fragmented by roads and other development. The forested area is larger than the wooded area of Elk Rock Island. This small patch of forest is used by a wide range of wildlife, including numerous species of mammals and countless species of birds. Amphibians and reptiles also likely use the area but are less obvious than the mammalian and avian species. Some species are transients, moving through as they migrate to other areas, whereas other species are residents. Coyotes are commonly seen and heard from our complex, and birds are constantly flitting between tree branches. The dense forest provides food, shelter, and cover for the animals that use it.

We appreciate the proposal to remove non-native and invasive species from the forested area. However, removal of over 65% of the trees within the forested area will have a dramatic effect on habitat for the species that use the area. The *City of Milwaukie 2019 Urban Forest Management Plan* emphasizes the need to increase the overall tree canopy coverage within the city. The city can help to meet this goal by requiring fewer trees be removed and requiring a robust planting and maintenance plan.

Dead and diseased trees can pose a safety hazard if failure of the tree has the potential to strike a target (i.e., people or property), but dead, diseased, and dying trees also provide valuable habitat for some species by providing sources of food or shelter (e.g., cavities for cavity-nesting birds). Based on the site plans provided, it appears there may be areas where dead trees (i.e., snags) or dying trees could be maintained as wildlife habitat.

We also suggest that the developer provide an as-built plan showing trees maintained and planted to verify that commitments have been met. We make this request, because one tree (#295) designated to be maintained was recently removed.

We believe the changes we have requested align with Milwaukie's vision for a healthy community and healthy ecosystem. In addition, the changes help to meet the city's goal for protecting and conserving wildlife habitat as presented in the *City of Milwaukie Comprehensive Plan*.

#### **5. Wildlife habitat preservation review**

- a. Since wildlife habitat preservation is not addressed in the current application and may be examined as part of the Willamette Greenway Review,
  - i. Do you know if in fact wildlife habitat preservation will be reviewed as part of the Willamette Greenway Review?
  - ii. If so,
    1. When do you expect that the Willamette Greenway Review will be completed?
    2. Will the results of the Review be made available to the public?
    3. Will your response to any concerns of the review be made public, especially in regard to wildlife habitat preservation?
- b. If wildlife habitat preservation will not be included as part of the Greenway Review, how otherwise will this be assessed?

#### **6. Construction activity on Lava Drive west of Waverly Court**

- a. While we understand that the main access to the site will be via Waverly Court, will there be any need to use **Lava Drive west of Waverly Court** for any portion of the proposed work?
- b. If so, we have concerns about the viability and suitability of the road to accommodate large and heavy vehicles over time, plus the safety of residents



who walk along the road, which currently does not have sidewalks. If access via Lava Drive west of Waverly Court is required, we request that accommodations be made to ensure the safety of pedestrians and bicyclists, as well as address the condition of the pavement, which is already in poor condition.

- c. If Lava Drive is needed for occasional use by large and/or heavy vehicles, we request that consideration be given to restricting the hours/days that such uses are permitted, to mitigate noise, dust, and other disturbances to the nearby residents.

## 7. Traffic

- a. Intersection of Lava Drive & 17th Ave:  
Bike signal needed. Even now, bicycle safety in this intersection is questionable. Shoreside East owners have commented on their near misses from auto-bike collisions. We should not wait for a serious accident or fatality to proactively change it.
  - i. Our suggestion is to at least consider a better system to warn drivers of oncoming bicycles
- b. Intersection of 17th/Harrison & McLoughlin:  
The Kittelson traffic report identifies problems with queue lengths after build out at the intersection of 17th and Harrison. (see Table 9). This is very concerning to our community, because cars waiting at the intersection backup to Lava Drive. During peak hours, cars can be turning left onto Lava Drive while traffic is stopped or slowing to enter the queue, cars are trying to turn out of Lava Drive, and bicyclists on the multi-use path are trying to cross Lava Drive. The problem can only be made worse by increasing the number of vehicles using the intersections at Lava Drive & 17th and 17th & McLoughlin.

## 8. Zoning code variance request

As part of the approval process for the zoning code variance request from the height restriction of 45 feet, we suggest that the City consider requesting a **quid pro quo**. If the City is inclined to approve this request, part of it could be to request, for instance, a public walking path/s between western Lava Drive and Cambridge Lane.

## 9. Timetable for construction of the Waverley Woods project

- a. When will the different phases begin and be completed?
- b. When is construction allowed during the week? What days/hours?

We are grateful for the opportunity to be able to present our comments and questions, all offered in the spirit of respectful dialog and community-building.

Shoreside East Board of Directors

Jill Briney, Chair Phil Shane, Treasurer Maria Nash, Secretary  
Residents: Skip Haak, Mike Briney and Rosie McGee

**From:** [Milwaukie Planning](#)  
**To:** [Wendie Nowacki](#)  
**Cc:** [Vera Kolas](#)  
**Subject:** RE: Waverly Greens project/10415 SE Waverly Ct  
**Date:** Tuesday, October 20, 2020 21:46:41

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Wendie,

I wanted to let you know that we did receive your comments on the Waverly Greens project. I have forwarded your note on to Vera Kolas, who is the planner taking the lead on the City's review of this project. She'll add your comments to the record and will be in touch with you if any follow up is needed. Thank you!

BRETT KELVER, AICP  
Associate Planner  
he/him/his

-----Original Message-----

From: Wendie Nowacki <nova2109@yahoo.com>  
Sent: Tuesday, October 20, 2020 2:30 PM  
To: Milwaukie Planning <Planning@milwaukieoregon.gov>  
Subject: Waverly Greens project/10415 SE Waverly Ct

This Message originated outside your organization.

I have concerns about the proposed project.  
The project is directly across the street from where I live.  
4 buildings with 100 units, a community center, and a swimming pool will create a great deal of noise and traffic. Already there are issues with traffic from SE Waverly Ct. Drivers often do not check for east or westbound traffic on Lava Dr. And it is increasingly difficult to turn either north or south on SE 17th from Lava Dr. Currently there is only a stop sign at the corner of Lava Dr. 100 more potential drivers and additional drivers associated with those 100 units will create a great deal of traffic. The situation is already risky.  
There is also an abundance of wildlife living in the woods there that will be forced from their habitat.  
I understand the desirability of this location but the scope of the project seems too broad for such a small area.  
Waverly Greens has been a good neighbor but I wish they would consider a more manageable size of development that would be less disruptive to the existing and long established neighborhood.  
Any feedback or explanations you can provide is appreciated.

Wendie Nowacki  
1400 SE Lava Dr #8  
Milwaukie OR 97222

**From:** [Willow Bunting](#)  
**To:** [Vera Kolia](#)  
**Subject:** Waverly Greens Apt plan  
**Date:** Tuesday, October 27, 2020 13:21:43

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**This Message originated outside your organization.**

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In regards to the planning meeting tonight.  
My husband and I will not be able to attend due to travel.  
We agree with other Waverly Heights residents that it is important to preserve the height restriction and are asking that the request for a 4th story be denied.  
We also request a buffer zone between our homes and the WG apartments.  
Thank you,  
Glenn and Willow Bunting  
Eton Lane

Sent from my iPhone

October 27, 2020

City Of Milwaukie Planning Commission

Reference: PD-2020-001; TFR-2020-002; WG-2020-001; PLA-2020-001; ZC-2020-001

Greetings,

I am writing regarding the proposed Waverly Woods Apartments development at 10415 SE Waverly Court and the request for a variance to the 3-story height restriction.

I have lived in Waverly Heights for 12 years and can attest to the richness of wildlife in this area. The property in question is in particular a significant greenspace within Milwaukie. I have grave concerns that the proposed development will permanently and adversely affect this wildlife diversity and natural habitat.

I am therefore asking the Planning Commission to preserve the restrictions that exist to protect the environment in our neighborhood.

Specifically, **it is of utmost importance to preserve the height restriction** in the Willamette Greenway. The visual and environmental impact of the proposed 4th story is significant, as has been demonstrated and discussed in past planning requests. **Thus I strongly support denial of the 4th story variance within the Willamette Greenway.**

I also strongly support establishment of a **buffer zone**, to include screening that will eliminate the visual impact of the apartments to adjacent homes. Measures also need to be taken to manage the significant storm water drainage currently directed onto Waverly Heights.

For these reasons I support the request to relocate the designated A1 and A2 complex to the south/east right up against Waverly Court. This would allow for additional space without the need to abut up the R10 zone, where no buffer was proposed.

Finally, my understanding is that a bird inventory has been submitted both for the property in question and for the adjacent Waverly Heights properties. This inventory demonstrates the significance of this natural habitat for the City of Milwaukie, a resource that the residents of Waverly Heights have worked continuously for decades to protect and maintain.

As a resident of Waverly Heights I ask that the City and developer be **specific and transparent** about what measures they will take preserve this resource and maintain the Urban Forest. For example, the existing tree canopy on this property includes older growth fir, maple, and other trees which typically take decades to reach maturity. How will these trees be preserved?

Thank you for considering these requests.

Respectfully submitted,

Winthrop H. Hall, M.D.

9712 SE Cambridge Lane  
Milwaukie, OR 97222



October 27, 2020

**Michael C. Robinson**  
Admitted in Oregon  
T: 503-796-3756  
C: 503-407-2578  
mrobinson@schwabe.com

**VIA E-MAIL**

Mr. Robert Massey, Chair  
City of Milwaukie Planning Commission  
6101 SE Johnson Creek Blvd  
Milwaukie, OR 97206

RE: Waverly Woods Planned Development, File No. PD-2020-001  
Letter on behalf of Waverley Country Club

Dear Chair Massey and Planning Commission Members:

This office represents Waverley Country Club (“Waverley”). This letter addresses the deficiencies in, and Waverley’s opposition to, the above-referenced proposed Planned Development. Waverley also respectfully requests a continuance of the initial evidentiary public hearing to a subsequent public hearing pursuant to ORS 197.763(6)(a). Because of this request, the Planning Commission is required to defer its deliberation until completion of the continued hearing.

**1. Introduction**

Applicant Walker Ventures, LLC, via its representative, YGH Architecture (collectively, “Applicant”), submitted for this Commission’s review an application for a Planned Development called Waverly Woods, a 100-unit apartment community, part of which would abut Waverley’s property. Applicant submitted said application on or around July 28, 2020 and it was received by the city on August 4, 2020. A Staff Report was issued on October 20, 2020, recommending approval of the development and its associated land use applications. An applicant bears the burden of proof in demonstrating that the approval criteria for each proposed use are met. Applicant here has not done so, and Waverley opposes the development for that reason, and for each of the additional reasons set forth below.

**2. Application Omits Discussion of Many Required Review and Approval Criteria**

As an initial point, Applicant’s Planned Development application omits in whole or in part many of the review and approval criteria, and as such, the application is procedurally and substantively deficient and fails to meet the “substantial evidence” standard applied to such applications.

For example, and as discussed in more detail below, the application goes into almost no detail regarding its conformance to applicable policies and goals set forth in the Milwaukie Comprehensive Plan, which is required for consideration of a conditional use in the WG zone as well as for

obtaining approval of a Planned Development. MMC 19.401.6.J; MMC 19.311.2.A. As it stands, Applicant vaguely mentions how its project will meet “key aspects of the Milwaukie Comprehensive Plan,” and only specifically discusses four Comprehensive Plan goals.<sup>1</sup> Application, p. 12. The Staff Report and Recommended Findings discusses several other Comprehensive Plan goals as they relate to the application; however, even with the Staff Report and Recommended Findings, many relevant Goals are not addressed, and as such, the application is deficient.

As another example, the application omits any specific discussion of the requirements for obtaining the conditional use permit it needs to develop land located in the Willamette Greenway Overlay zone. Conditional use approval is subject to the conditions of MMC 19.905, as the Staff Report points out. 10-27-20 Packet, Section 5.1, p. 7. While the Staff Report and Recommended Findings did address a conditional use generally, *see* 10-27-20 Packet, Section 5.1, pp. 7-10 & 29-32 (part 8), certain approval criteria—numbers 4 through 7—were omitted from discussion, and instead, only “key criteria” were discussed. MMC 19.905.4.A (conditional use shall only be approved if the listed criteria are met). Applicant has thus not met its burden of proving that the approval criteria for such a conditional use are met.

As another example, the application does not include a sufficient description of the planned phasing. It simply states that “[t]he project will be phased so that Building A.1 (32 units) will be built along the Ridge in phase 1 and Building A.2 (32 units) and the associated community building will occur in phase 2. The two Gardens Buildings B.1 (18 units) and B.2 (18 units) and the community center with pool would be developed in Phase 3.” Application, p. 6. This “plan” includes no information as to the timing for completion of the phases or the development as a whole. *See* MMC 19.311.17.A.

As yet another example, the application includes a section relating to the multifamily housing design guidelines and standards of MMC 19.505.3.D, but does not state whether Applicant has chosen to use the objective process or the discretionary process. *See* MMC 19.505.3.C (“an applicant may choose which process to use”). The application also does not explain clearly whether the proposed development meets the guidelines of either process, and appears to use both processes depending on the criteria, and in some cases provides no substantive explanation at all. *See* MMC 19.505.3.C (“[r]egardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met”). For example, Applicant appears to use the objective standard for the private open space and pedestrian circulation requirements, but the discretionary standard for the sustainability requirement; and merely states that some requirements “will be met in design.” Application, pp. 12-13. To confuse matters further, the Recommended Findings appears to discuss only the discretionary standards. 10-27-20 Packet, Section 5.1, pp. 32-36.

As a final example, Applicant skipped entirely the process of obtaining approval of a preliminary development plan before submitting a final development plan and program. 10-27-20 Packet, Section 5.1, p. 5. Obtaining preliminary approval is required for phased Planned Developments such as this one. *See* MMC 19.311.5.B (“A preliminary development plan and program **must** be

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<sup>1</sup> And, as discussed below, it appears the goals discussed are not goals from the Comprehensive Plan in effect at the time the application was submitted.

submitted by the applicant with the information on the forms and checklists as required and shall include a phasing plan if applicable. If the proposed project is to be constructed in phases, the project as a whole must be portrayed in the application materials and *shall* require preliminary approval.”).

Waverley notes that the Staff Report and Recommended Findings has attempted to cure the above and other deficiencies for Applicant by addressing many of the missing requirements, and Waverley understands that the application has been deemed “complete.” However, based on the state of the application as submitted, Waverley is concerned that Applicant may be equally deficient in its implementation of the plans set forth therein, which, if approved, will not have the benefit of the current review process. Waverley thus requests that the Planning Commission take note of these deficiencies and consider the implications of approving the subject application.

### **3. Outstanding Planned Land Use and Design & Exceptional Advantage Standards of PD Zone Approval Criteria Not Met, So Height Exception Should Not Be Allowed**

The proposed Planned Development is located in an area zoned both R-2, medium- and high-density residential, and Willamette Greenway (“WG”). The zoning code for R-2 prohibits structures over three stories high, but allows for one story of additional height if an additional 10% of site area beyond the minimum is retained in vegetation.<sup>2</sup> MMC 19.302.5.E. Buildings taller than a maximum height of 35 feet are prohibited in the WG zone. MMC 19.401.3.A. To avoid those restrictions on height, Applicant has requested PD zoning, which allows for adjustments to the standards and requirements of the R-2 and WG zones. *See* MMC 19.311.3.

As an initial matter, Applicant attempts to avoid the prohibition on buildings over 35 feet<sup>3</sup> in the WG zone by requesting that it be allowed to determine the height “based upon the Milwaukie City Code instead of the Willamette Greenway Zone.” 10-27-20 Packet, Section 5.1, p. 67. Specifically, Applicant wishes “to increase the allowable height . . . to be 65 ft. as measured from Base Point #2 or allow the development to measure height upon Base Point #1 due to the extreme slope of the site skewing the numbers.” 10-27-20 Packet, Section 5.1, p. 67. According to the application, if the height of the building is measured using Base Point #2 (as described in MMC 19.202.2.B.1), such height would be 62 feet, or 18 feet above the maximum allowed by Milwaukie City code; but if measured using Base Point #1 (as described in MMC 19.202.2.B.1), the building height would be 43 feet, eight inches, or one foot, seven inches below the maximum allowed by Milwaukie City code. *Id.* The point from which the height of the proposed buildings should be measured is thus not clear, making Applicant’s analysis confusing at best. As such, the Planning Commission should ensure that height is accurately determined consistent with the code.

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<sup>2</sup> Waverley does not dispute that Applicant has shown it meets the R-2 zone exception requirement to add an additional story.

<sup>3</sup> Applicant states, without basis, that because the City of Milwaukie base point is 10 feet above lowest grade, the total allowable height in the WG zone is actually 45 feet. 10-27-20 Packet, Section 5.1, p. 67. This conflicts with the standard set forth in MMC 19.401.3.A, and as such, Waverley disagrees, and requests clarification from the Commission on this point as well.

Notwithstanding the above, the proposed development includes an additional fourth floor to accommodate a requested increased density of 20%, thereby increasing the height of the building above the 35-foot maximum of the WG zone. 10-27-20 Packet, Section 5.1, p. 66. Such density increase of 20% is allowed for planned developments only where “the planned development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning.” MMC 19.311.3.C. Applicant has not met its burden of proof in showing that the development meets those conditions. *See* MMC 19.311.9.B.

Indeed, as to the requirement to show that it meets the “outstanding planned land use and design” and “exceptional advantages in living conditions and amenities” standards of MMC 19.311.3.C, Applicant explains only that:

The project requests the allowable 20% density increase to assist with the development of the community amenities provided. Review “Development Description” and “Development Requests for Approval” at the start of this document for additional details.

10-27-20 Packet, Section 5.1, p. 68. In the referred-to sections, Applicant states that the additional height by way of an added fourth floor “will not have a significant visual impact to the surrounding community” and that it “increases the efficiency of the development’s footprint and will use less materials, save more trees and provide more natural space for public walkways and gardens while maintaining the unit counts and staying consistent with the existing building context.” *Id.*, pp. 64-65. It also discusses a variety of tenant amenities, including a community center, kitchen, workout space, meeting rooms, outdoor pool and patio, wine cellar, library, and a new, relocated community garden area, among others. *Id.*, p. 64.

The Staff Report found that the exceptional features proposed by the Planned Development include:

- In lieu of developing a fifth residential building, the project proposes to add an additional story to the two ridge buildings and increase their length to 203 ft. As a result, the overall lot coverage is decreased and the amount of pervious surface is increased, which are both clear advantages to a more compact development type.
- The development takes advantage of the naturally sloping topography by tucking most of the required parking under the building to minimize surface parking which further increases the vegetated area.
- The proposed development retains 54% of the vegetated area and the existing tree canopy west of the development extends above the building heights which minimizes the visual impact of the additional building height from the Willamette River.
- The proposal includes relocating and enlarging the existing community garden which is an extremely popular amenity and creating walkable paths through the forested area with strategic views of the Willamette River in an area which was once impassable.

- This development seeks to maximize density and minimize its footprint to create “an urban development within an urban forest.” Fulfilling the need for more housing while providing more natural recreation spaces to improve occupant health and exposure to and appreciation for the natural environment. Through the project’s sustainable design, the project will also reduce its operational footprint. Through the approval of the additional height allowance and width of the buildings the project is able to take advantage of the natural topography on the site to tuck parking under the buildings. Tucking the parking under the building saves the development from surface parking allowing the project to maintain the forested areas, add additional community spaces, community gardens and other amenities.
- The proposed development includes 100 units of much-needed housing with a range of different sized units and affordability.

10-27-20 Packet, Section 5.1, pp. 10-11.

Waverley does not agree that the Applicant provided substantial evidence of the required “exceptional advantages” or “outstanding planned land use and design.” For one, the exceptional advantages in amenities and living conditions must not already be found in similar developments constructed under regular zoning. Here, many of the identified advantages already exist in the surrounding areas. For instance, the community garden is simply being relocated, and the surrounding developments already have dedicated community spaces. Moreover, there is *no* evidence in the application showing what the living conditions and amenities found in similar developments constructed under regular zoning include such that a comparison can be made between them and Applicant’s proposed development. Additionally, Applicant failed to provide substantial evidence of compliance with the other approval criteria set forth in MMC 19.311.9 that are required to obtain PD zoning, which precludes Applicant from obtaining the requested additional height. As such, Applicant has not met its burden of proof on this issue.

#### **4. Comprehensive Plan Not Sufficiently Addressed**

A planned development use may only be authorized by the City Council if such development conforms to the City’s Comprehensive Plan. MMC 19.311.2.A. A conditional use in the WG zone also requires such conformance. MMC 19.401.6.J. As an initial matter, both Applicant and the Staff Report and Recommended Findings improperly cite to and rely upon a version of the Comprehensive Plan not yet in effect at the time of submission of the application. *See, e.g.*, 10-27-20 Packet, Section 5.1, p. 70 (citing specifically to and including as “image 5” a figure from the May 2020 Public Review Draft of the Comprehensive Plan, and discussing goals and sub-goals as defined in same); *id.*, pp. 31, 45, 47 (discussing goals and sub-goals as defined in the 2020 Comprehensive Plan, which are not present in the previous version). The application is dated July 28, 2020, and was received August 4, 2020. However, the 2020 Comprehensive Plan was not adopted until August 18, 2020. *See* <https://www.milwaukieoregon.gov/planning/comprehensive-plan-update>.

Pursuant to ORS 227.178(3)(a), if “the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application



was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, ***approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.***” (Emphasis added). As such, Applicant and the Planning Commission must analyze conformance not to the 2020 Comprehensive Plan, effective August 18, 2020 (or to the public review *draft* dated May 2020), but to the Comprehensive Plan in effect at the time the application was submitted in early August. The application is thus deficient and Applicant cannot prove by substantial evidence that its application conforms to the Comprehensive Plan that was in effect at the time of submission.

Even if the 2020 Comprehensive Plan were the governing plan (it is not), the application would still be deficient because Applicant failed to address the majority of the listed Goals, and for those it did address, the reasoning was insufficient to meet the subjective criteria laid out in the Plan.

Applicant specifically addressed, from the May 2020 Public Review Draft Comprehensive Plan, Goals 1 (characterized by Applicant as “Fostering community, culture and belonging”), 3.4 (characterized by Applicant as “Healthy Urban Forest”), 3.5 (characterized by Applicant as “Sustainable Design and Development”), and 4 (characterized by Applicant as “Willamette Greenway”). 10-27-20 Packet, Section 5.1, p. 70.

Goal 1, as stated in the May 2020 Public Review Draft Comprehensive Plan, is to “[e]ngage in inclusive, collaborative, transparent, accountable, and equitable decision-making through a broad range of strategies that inform and involve a full spectrum of community members, in particular those traditionally left out of the planning process.” This goal and its incorporated sub-goals (Goals 1.1-1.4) and policies include subjective terms, which Applicant did not attempt to define. Applicant merely stated, “Waverley Greens provides its existing residence with educational classes to enhance the community. This new development allows the community to grow this amenity through the development of two additional community centers providing recreation and community gathering in the form of a pool, wine cellar, event kitchen, exercise room, and multiple meeting spaces to hold additional educational classes and community events.” 10-27-20 Packet, Section 5.1, p. 70. Applicant’s explanation misses the point of Goal 1. Applicant thus fails to provide substantial evidence of conformance to this Goal.

Goal 3.4, as stated in the May 2020 Public Review Draft Comprehensive Plan, is to “[d]evelop a healthy urban forest in Milwaukie.” This goal and its incorporated policies include subjective terms, which Applicant did not attempt to define. Applicant merely stated, “Through the reduction of the development footprint, the project is able to increase the tree canopy, vegetated areas, natural habitat and recreational opportunities.” 10-27-20 Packet, Section 5.1, p. 70. Applicant thus fails to provide substantial evidence of conformance to this Goal.

Goal 3.5, as stated in the May 2020 Public Review Draft Comprehensive Plan, is to “[e]ncourage and incentivize sustainable design and development practices.” This goal and its incorporated policies include subjective terms, which Applicant did not attempt to define. Applicant merely stated, “The Waverley Woods development is committed to designing sustainably with considerations for energy efficiency and embodied carbon. The project has already held an Energy Trust of Oregon Master Planning session to discuss sustainability strategies along with engaging a



solar designer for a preliminary solar study. The project is committed to including solar on the new development.” 10-27-20 Packet, Section 5.1, p. 70. Applicant thus fails to provide substantial evidence of conformance to this Goal.

Goal 4, as stated in the May 2020 Public Review Draft Comprehensive Plan, is to “[p]rotect, conserve, enhance, and maintain the lands and water that comprise the City’s portion of the Willamette River Greenway in a manner that recognizes the unique natural, scenic, historical, economic, and recreational qualities that exist along the Willamette River.” This goal and its incorporated sub-goals (Goals 4.1-4.7) and policies include subjective terms, which Applicant did not attempt to define. Applicant merely stated, “The Greenway Review’s intended purpose focuses on areas in close proximity and visible from the river, with a less stringent review process for areas further from the river. In areas where the boundary for the WG overlay zone is further inland than the state regulated 150 feet from the ordinary high-water line minimum or the 100-yard flood plain requirement, the city allows for a compatibility review to determine the appropriateness and compatibility of a new proposed use addressing use, siting, size, scale, height and site improvements. . . . [T]his site fits within that definition for this alternative review process. . . . [T]he proposed development will limit the view impacts from the river, while increasing the public view access from the site.” 10-27-20 Packet, Section 5.1, p. 70. Applicant thus fails to provide substantial evidence of conformance to this Goal.

Applicant ignored Goal 2, most of Goal 3, and Goals 5-13. All of those Goals, had they been in effect at the time of the application’s submittal, would be relevant to the proposed Planned Development, and as such, should have been included in Applicant’s discussion.

## **5. Tree Removal Plans Unacceptable and Not In Line with Comprehensive Plan**

While the proposed Planned Development site does not fall within the vegetation buffer area of the WG zone, and thus is not subject to the requirements relating to retention of trees, the Planned Development requires removal of over sixty percent of the trees found at the site. *See* 10-27-20 Packet, Section 5.1, pp. 267-287 (Arborist report showing 403 trees total with only 135 noted for retention). This is not in line with the Comprehensive Plan or the purpose of the WG Zone: “to protect, conserve, enhance, and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River.” MMC 19.401.1. Moreover, many of the trees planned for removal are directly adjacent to Waverley’s golf course, and removal of them would significantly impact the overall feel of the environment, our members’ views of and around the golf course, as well as their privacy and even safety.

The arborist report states that “79 non-nuisance trees in good to fair health and/or structural condition are proposed for removal due to construction impacts. . . . One hundred thirty six (136) trees that are dead, dying, or in poor to very poor health and/or structural condition are also proposed [for] removal. Four trees (trees 84, 103, 311, and 397) are proposed for removal to open up views to the west of the site.” 10-27-20 Packet, Section 5.1, p. 260. ***Only 135 trees are planned for retention. Id.***

While Waverley appreciates that trees will be replanted to satisfy the Milwaukie City Urban Forest Management Plan, it will take years for those new trees to grow to the heights of the existing trees, and this extensive removal could significantly disrupt the wildlife found in the area. That the proposed development is retaining 54% of the vegetated area is misleading and omits the large number of trees, including healthy native species, that are being removed.

**6. Applicant Failed to Include Civil Engineer Report on Utilities**

Both the application and the Staff Report discuss the impact on public utilities and the applicability of MMC 19.700; yet neither includes discussion of the Stormwater Master Plan as required by MMC 19.709.1.B. Nor does the application include a civil engineer's report on stormwater. Waverley is concerned about the impact the proposed planned development will have on stormwater, and specifically the potential of increased run-off onto Waverley's property, and opposes the application on this ground as well.

**7. Submission of Application for Land Division Concurrently with Other Applications Prohibited**

ORS 227.175(2) states that the "governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations." ORS 227.178(1) allows that, "[e]xcept as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete." In short, Oregon law allows that only applications for permits and zone changes may be submitted concurrently.

What this means is that limited land use decisions<sup>4</sup>, including the design review for multi-family housing and property line adjustment requested here, may not be submitted concurrently with the permit application and zone change applications. This is because the standards for the requested WG conditional use permit and PD zoning (which have not yet been approved) were not in effect on the date the applications were submitted. The standards applied by Applicant and in the Staff Report and Recommended Findings for review of multi-family housing and property line adjustments are based on the assumption that PD zoning is approved and a WG conditional use permit has been issued. But ORS 227.175(2) does not allow this. As such, Applicant must wait until it has obtained

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<sup>4</sup> A limited land use decision is "a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns: (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (Application for approval of subdivision or partition) (1) [and] (B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review." ORS 197.015(12). A property line adjustment and multi-family dwelling design review, such as those requested by Applicant here, fall squarely within this definition.

Mr. Robert Massey, Chair  
October 27, 2020  
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approval on the WG conditional use permit and PD zoning before submitting these additional applications.

Moreover, this application involves a land division (property line adjustment) as well as a phased development. As such, only a preliminary plat for the initial phase may be submitted and considered with the final development plan. MMC 19.311.8.B. "The final plat for the initial phase must be submitted within 1 year subsequent to approval of the preliminary plat. For subsequent phases, preliminary and final plat approval is required for each separate phase, in accordance with Subsection 19.311.17."

As it stands, the application is not in compliance with Oregon state statutes or the Milwaukie zoning code, and should be denied on this ground.

## **8. Conclusion**

For the reasons set forth above, Applicant has not met its burden of providing substantial evidence that its application should be approved; as such, Waverley respectfully requests that the Commission recommend denial of the above-referenced application.

Very truly yours,



Michael C. Robinson

MCR/jmhi

cc: Ms. Vera Kalias (*via email*)  
Ms. Erin Forbes (*via email*)  
Mr. James Dulcich (*via email*)  
Waverley Country Club (*via email*)

PDX\093231\105404\EMF\29282900.3

**From:** [Milwaukie Planning](#)  
**To:** [Vera Kolia](#)  
**Subject:** FW: Waverley Wood's expansion  
**Date:** Tuesday, October 27, 2020 18:39:27

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**From:** ckmd@comcast.net <ckmd@comcast.net>  
**Sent:** Tuesday, October 27, 2020 6:31 PM  
**To:** Milwaukie Planning <Planning@milwaukieoregon.gov>  
**Subject:** Waverley Wood's expansion

**This Message originated outside your organization.**

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I live on riverfront at a lower elevation to planned site and am concerned about ground instability that could be worsened by construction. The promontory area here is subject to erosion. Has there been geologic/ground impact studies done?

There is no buffer zone, if there's increased land pressure our homes could be jeopardized.

Cecelia Kaiser

**From:** [Karleanne Rogers](#)  
**To:** [Vera Kalias](#)  
**Subject:** Waverly Green apartments  
**Date:** Tuesday, October 27, 2020 19:24:10

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**This Message originated outside your organization.**

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Dear Mr. Kalias-

I have tried to join the meeting this evening and am experiencing technical difficulties. I had planned to comment publicly.

My husband and I both oppose the proposal for additional height/stories for this project. If I could, I would oppose the entire project as I feel it will disrupt the environment and the wildlife. We need this greenbelt area preserved and protected.

PLEASE DENY the proposal and enforce the height restrictions.

Thank you,

**Karleanne Rogers**  
[karleannerogers@gmail.com](mailto:karleannerogers@gmail.com)  
503.310.3447

October 27, 2020

Addressed to the Milwaukie Planning Commission, City of Milwaukie, Oregon

My submission of Public Comment for the virtual Public Hearing 10/27/2020 presenting Waverley Greens Apartments Development Application for its PD-2020-001 Properties

Thank you for the opportunity to provide these serious concerns from the safety of my home during this time of COVID-19.

I would like to present and bring into focus unmanageable repercussions potentially affecting all residents but especially those of insufficient means, disability and/or at high risk for contracting COVID-19.

Timing this project to begin in Spring 2021 during the ongoing, long-term, life threatening COVID-19 crisis is the piece of Waverley Greens plan I find extremely objectionable. It is insensitive and indifferent to the hardships and intensive stress already diminishing many of us. The proposal as is, requires consequential sacrifices from those living in the affected residential communities. It is heartless. With a sound and goodwill rationale supporting it, I believe it is justified to stipulate this venture be delayed at minimum until Spring 2022. We first need an effective remedy or vaccine to protect us from the virus.

The present is living in fear of contracting COVID-19, possible life-long organ damage, the death of a loved one or our own. Dire financial loss breaking the unfortunate. Restrictions excluding the comfort we find in the company of family and friends. Limiting where we can go and what we can do has minimized our lives. And disparaging events of political and racial hatred, violence and strife keep tension high.

**In these times, a safe, stable, quiet and comforting home is essential and central for feelings of security and psychological well-being.**

During the current and foreseeable COVID conditions, a toxic environment generated by a major construction project will deprive many residents of their only calming and comforting refuge through the continuing pandemic.

The continual excessive and intrusive noise, congestion and air polluting contaminants such projects generate will not only affect Waverley residents, but also those residing in surrounding private homes. We all desperately need relief from the overwhelming stress and tragedies of 2020, not more stress.

With good judgment, Governor Brown has given us a "Stay Home, Stay Healthy" order.

Something is incongruent here. In the midst of a deadly pandemic, finding another place to live is not a safe, available option for those in my situation. What will we do? What will I do?



There would be the significant impact of continual stress from toxic levels of noise, construction site and air pollution from exhaust, particulates and toxic chemicals. Rumbling traffic congestion from hefty construction vehicles and looming cranes, noisy generators, and disturbing excavation work for underground parking will significantly preclude our enjoyment of quiet, therapeutic walks all day during work hours. Also, we would likely need to keep our windows closed, shutting us off from the longed for respite of the warmer seasons.

I suffered through two experiences when major construction and revisions occurred where I unfortunately was a resident. The construction noise was so detrimental, unbearable I often had to quickly gather my things, leave my apartment and search for a quiet place where I could spend the entire day studying, and restaurants to out-of-budget feed myself. In the second of these apartments the noise went beyond safe decibel levels and caused permanent hearing damage. I've truly experienced how harmful, toxic noise levels generated by construction projects preclude productivity and enjoyment of our homes, and cause consequential stress problems.

Now I am speaking especially for adults like myself, classified as high risk. Approving Phase 1 for this spring will hit hard on those health-compromised, the stay-at-home handicapped and older adults. With the current COVID situation, we'd have nowhere safe to go to escape the immitigable stress.

If our health and well-being is affected, what living alternatives could we find? When searching for my current apartment, I found waitlists for affordable senior housing--now unsafe places with high risk for contracting COVID--were 2 to 5 years long.

How would Waverley Greens address these possible impacts affecting our health or forcing a risky, formidable and expensive move? Will they make solid commitments to residents on how such impacts will be prevented, mitigated, or resolved without additional cost and hardship to us?

On September 28, Governor Brown extended the residential eviction moratorium (first initiated March 22) through December 31 of 2020 to protect renters with serious economic hardships from losing their home and remain safely sheltered. She sees keeping households stable during the pandemic and after our devastating wildfires essential to our life, safety and health. I hope you support this as well.

Last week 92,700 Americans filed new unemployment claims. This past Friday, October 23, recorded the highest number of COVID cases per day in the U.S. since the start of the pandemic. Across the Nation hospitalizations are maxing and intensive care units are again nearing capacity. In a recent televised interview, Dr. Fauci of the CDC stated current conditions brought about by the pandemic are expected to continue through 2021.

There is no evidence of any need for quick action, and there are no time constraints behind this plan. The project is intended to be completed gradually over several years and as the market

allows. One additional year upfront procuring protection from this virus and finding life saving treatments would also give residents impacted time to hopefully find another suitable and affordable place to live.

Handicapped, I require certain features that allow me to take care of myself. It took a year of intensive searching to find the unit I now rent at Waverley. It was the only workable and available unit I found, although the unexpected extended stay due to COVID is unaffordable and a cause of great concern for my future.

There are many other handicapped and older residents living here that would experience the same calamity if the noise and disturbances compromised their health and wellbeing. For certain, hard times hit hardest on those unable to physically or financially negotiate necessary changes.

To sum it up: COVID-19, devastating loss of income, economic uncertainty, encroaching record-breaking deadly wildfires, successive street violence and volatile contentious politics, our housing crisis. There is already too much to handle as is.

Waverley Greens has been a quiet, relaxing and safe place to live. It is good I live here during the pandemic. However after all the despairing events and losses, necessary restrictions and life changing circumstances throughout a tense and sorrowful 2020, it's going to be a very long and difficult winter.

Is 2021 a reasonable and acceptable time to impact residents with additional significant stressors and intrusions from a major, non-urgent, purposed-for-profit construction project?

Prolonged stress is corrosively debilitating, and a major cause of disease in the U.S. Please deeply consider these likely hardships inherent in the timing of Phase I, and the welfare of those who will be impacted by your decision. We would have maybe a rare few, if any at all, choices to protect ourselves and keep ourselves well.

Thank you,  
Sandra Less