

**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503-786-7630  
 planning@milwaukieoregon.gov

# Application for Land Use Action

Master File #: VR-2021-014, PLA-2021-002

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances:<br><input type="checkbox"/> Comprehensive Plan Text Amendment<br><input type="checkbox"/> Comprehensive Plan Map Amendment<br><input type="checkbox"/> Zoning Text Amendment<br><input type="checkbox"/> Zoning Map Amendment<br><input type="checkbox"/> Code Interpretation<br><input type="checkbox"/> Community Service Use<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Development Review<br><input type="checkbox"/> Director Determination<br><input type="checkbox"/> Downtown Design Review<br><input type="checkbox"/> Extension to Expiring Approval<br><input type="checkbox"/> Historic Resource:<br><input type="checkbox"/> Alteration<br><input type="checkbox"/> Demolition<br><input type="checkbox"/> Status Designation<br><input type="checkbox"/> Status Deletion | <input checked="" type="checkbox"/> Land Division:<br><input type="checkbox"/> Final Plat<br><input type="checkbox"/> Lot Consolidation<br><input type="checkbox"/> Partition<br><input checked="" type="checkbox"/> Property Line Adjustment<br><input type="checkbox"/> Replat<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Miscellaneous:<br><input type="checkbox"/> Barbed Wire Fencing<br><input type="checkbox"/> Mixed Use Overlay Review<br><input type="checkbox"/> Modification to Existing Approval<br><input type="checkbox"/> Natural Resource Review**<br><input type="checkbox"/> Nonconforming Use Alteration<br><input type="checkbox"/> Parking:<br><input type="checkbox"/> Quantity Determination<br><input type="checkbox"/> Quantity Modification<br><input type="checkbox"/> Shared Parking<br><input type="checkbox"/> Structured Parking<br><input type="checkbox"/> Planned Development | <input type="checkbox"/> Residential Dwelling:<br><input type="checkbox"/> Accessory Dwelling Unit<br><input type="checkbox"/> Duplex<br><input type="checkbox"/> Manufactured Dwelling Park<br><input type="checkbox"/> Temporary Dwelling Unit<br><input type="checkbox"/> Sign Review<br><input type="checkbox"/> Transportation Facilities Review<br><input checked="" type="checkbox"/> Variance:<br><input type="checkbox"/> Use Exception<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Willamette Greenway Review<br><input type="checkbox"/> Other: _____<br><input type="checkbox"/> <b>Use separate application forms for:</b><br>Annexation and/or Boundary Change<br>• Compensation for Reduction in Property Value (Measure 37)<br>Daily Display Sign<br>• Appeal<br>• Appeal |
|---|---|--|

**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): **DAVID BENJAMIN HENZEL**

Mailing address: **PO BOX 220027, MILWAUKIE** State/Zip: **OR 97269**

Phone(s): **(503) 546-1583** Email: **dbh@henzelpc.com**

*Please note: The information submitted in this application may be subject to public records law.*

**APPLICANT'S REPRESENTATIVE** (if different than above): **same**

Mailing address: \_\_\_\_\_ State/Zip: \_\_\_\_\_

Phone(s): \_\_\_\_\_ Email: \_\_\_\_\_

**SITE INFORMATION:**

Address: **2215 SE Harrison Street** Map & Tax Lot(s): **1S 1E 25CC - Lot 0900**

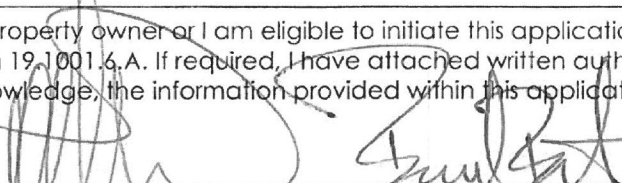
Comprehensive Plan Designation: **TC** Zoning: **R-1-B** Size of property: **0.20 Acre**

**PROPOSAL (describe briefly):**

Please see attached.

**SIGNATURE:**

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

Submitted by:  Date: **06/18/2021**

**IMPORTANT INFORMATION ON REVERSE SIDE**

\*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

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

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

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

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

**REVIEW TYPES:**

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

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

**\*\*Note:** Natural Resource Review applications **may require a refundable deposit**. Deposits require completion of a Deposit Authorization Form, found at [www.milwaukieoregon.gov/building/deposit-authorization-form](http://www.milwaukieoregon.gov/building/deposit-authorization-form).

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	AMOUNT <small>(after discount, if any)</small>	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	VR-2021-014	\$ 2,000.00			RECEIVED  AUG 09 2021  CITY OF MILWAUKIE PLANNING DEPARTMENT
Concurrent application files	PLA-2021-002	\$ 487.50	25%	Multi-Applications	
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
TOTAL AMOUNT RECEIVED: \$		2,487.50	RECEIPT #:	RCD BY:	
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): <i>Historic Milwaukie</i>					
Notes:					

## APPLICATION FOR LAND USE ACTION

### Subject Properties:

#### Applicant Property:

2215 SE Harrison Street, Milwaukie, OR 97222  
Map Number: 11E25CC  
Taxlot Number: 11E25CC00900  
Parcel Number: 00009788  
Acres: 0.20  
Zone: R-1-B  
Comp. Plan: TC - Town Center

#### Adjoining Property:

10565 SE 23rd Ave, Milwaukie, 97222  
Map Number: 11E25CC  
Taxlot Number: 11E25CC01001  
Parcel Number: 00009797  
Acres: 0.67  
Zone: R-1-B  
Comp. Plan: TC - Town Center

### Proposed Lot Line Adjustment:

David Benjamin Henzel (the Applicant) is the owner of the real property located at 2215 SE Harrison Street, Milwaukie, OR 97222. Applicant proposes a lot line adjustment by which a small surplus portion of the adjoining property located at 10565 SE 23rd Ave, Milwaukie, 97222, owned by Historic Offices, LLC, will be transferred to Applicant. The surplus property consists of 330 square feet along the common property line and consists of property which is not usable by Historic Offices, LLC and which will provide the Applicant with additional property to provide a sufficient setback to avoid encroachments and space to provide further landscape buffer.

### Approval Criteria (Milwaukie Municipal Code 17.12.030):

The Applicant is required to comply with the following:

1. Title 17 and Title 19 of the Milwaukie Municipal Code.

Applicant believes the proposed lot line adjustment comply with all applicable codes.

Milwaukie Municipal Code 17.28.040 provides:

“This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.”



Applicant does not believe MCC 17.28.040 is applicable because the proposed lot line adjustment is not creating a unit of land for purposes of development. The existing lots are developed and no additional development is planned or permissible. Rather the lot line adjustment is for the purposes of resolving concerns regarding the encroachment of the improvements on Applicant's property, to provide additional landscape screening, and to allow productive use of a presently unproductive surplus portion of the real property owned by Historic Offices, LLC. Even if this section of the code is applicable, a variance should be granted under the discretionary provisions of MMC 17.28.040.C.

Milwaukie Municipal Code 17.28.040.C provides:

“Changes in direction alongside and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

Variance Criteria. Milwaukie Municipal Code 19.911.4.B.1 provides the discretionary relief criteria for a variance as follows:

a. 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.

Here, the adjoining property owner, Historic Offices, LLC has agreed to the lot line adjustment to address concerns regarding a possible encroachment and to allow additional landscape screening in an otherwise unproductive portion of the adjoining property. A straight lot line would have been preferable to the applicant, but the adjoining property owners was not agreeable to such a straight lot line because it could not accommodate the full preservation of existing vegetation and an existing stacked rock wall. Given the limited scope of the affected area, and the small likelihood that subsequent development will be conducted, the base code requires should be set aside to permit the preservation of these resources.

b. 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:

- (1) The proposed variance avoids or minimizes impacts to surrounding properties.
- (2) The proposed variance has desirable public benefits.
- (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The Applicant believes that the proposed variance meets all of the forgoing criteria:

1. The reason that Applicant seeks a lot line adjustment which contains lateral changes to the side property line is to minimize impact to the adjoining property owner. Use of a lot line as proposed by Applicant preserves existing mature vegetation and an existing stacked rock wall and ensures these elements are retained under the control and preservation of the adjoining property owner.



2. The preservation of the mature vegetation and the stacked rock wall allow the adjoining property owner to preserve these elements of the historic property for the benefit of the public, a cause to which the adjoining property owner is passionate and committed.

3. The proposed lot line is designed specifically to preserve an existing stacked rock wall and existing mature vegetation on the adjoining property on which it is presently located. The owner of Historic Offices, LLC, Dennis Osterlund, is passionate and enthusiastic about historic preservation and has a strong desire to preserve the existing vegetation and the existing stacked rock wall.

c. Impacts from the proposed variance will be mitigated to the extent practicable.

The Applicant believe that the impacts of the proposed variance are minimal. The costs associated with the survey and this application were higher than anticipated, and there appears to be additional work on planning staff associated with this variance, but once these matters are resolved, there will be no ongoing work or impacts and the variance will permit the preservation of the mature vegetation and the stacked rock wall.

2. The proposed lot line adjustment will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.

The proposed lot line adjustment does not alter the zoning of either parcel of real property, does not change the comprehensive plan designation of either parcel, and does not result in either parcel failing to meet applicable land use and zoning standards. Both affected lots will remain legal in size and use. No additional development would result from this proposed lot line adjustment.

Approval of the proposed lot line adjustment will resolve concerns regarding the encroachment of the improvements on Applicant's property, provide additional landscape screening, and allow productive use of a presently unproductive surplus portion of the real property owned by Historic Offices, LLC.

3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located.

The real property located at 10565 SE 23rd Ave, Milwaukie, 97222 will transfer approximately 330 square feet to the property located at 2215 SE Harrison Street, Milwaukie OR 97222. The reduction in property will not make the 10565 SE 23rd Ave, Milwaukie, 97222 parcel less than required minimum lot size, which is 5,000 square feet, or reduce the lot width below MMC requirements, which are fifty feet. (MMC Table 19.302.4)









**CENTERLINE CONCEPTS**  
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

**Exhibit "A"**  
**Exchange Area**  
**Legal Description**

A Tract of land being a portion of Block 1, "STREIB'S FIRST ADDITION", located in the northwest one-quarter of Section 36, Township 1 South, Range 1 East, of the Willamette Meridian, City of Milwaukie, County of Clackamas, State of Oregon, being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod with a red plastic cap marked "Centerline Concepts" on the south line of that Tract of land described in Deed recorded as Document No. 2017-059990, Clackamas County Deed Records, being South 89°52'45" West, 7.19 feet from the southeast corner thereof; thence along the north line of that Tract of land described in Deed recorded as Document No. 2020-031359, Clackamas County Deed Records, South 89°52'45" West, 63.39 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence leaving said north line, North 00°07'15" West, 5.25 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 82°25'24" East, 14.94 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 84°50'15" East, 7.46 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 64°52'41" East, 10.49 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 88°44'26" East, 14.76 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 30.00 foot radius curve to the right, through a central angle of 22°37'04", an arc length of 11.84 feet (chord of which bears South 79°57'02" East, 11.77 feet) to a to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 9.50 foot radius curve to the right, through a central angle of 46°05'03", an arc length of 7.64 feet (chord of which bears South 45°35'58" East, 7.44 feet) to the **POINT OF BEGINNING**.

Contains 330 square feet, more or less.

11 JUN 21  
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JULY 13, 2004  
TOBY G. BOLDEN  
60377LS

RENEWS: 31 DEC 21



**CENTERLINE CONCEPTS**  
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

**Exhibit "B"**  
**Tract 1**  
**Legal Description**

A Tract of land being a portion that tract of land conveyed by deed recorded as Document No. 2017-059990, said tract also being a portion of Block 1, "STREIB'S FIRST ADDITION", located in the northwest one-quarter of Section 36, Township 1 South, Range 1 East, of the Willamette Meridian, City of Milwaukie, County of Clackamas, State of Oregon, more particularly described as follows:

**[Verbatim Original Description from Document No. 2017-059990]**  
BEGINNING AT A POINT ON THE WESTERLY BOUNDARY OF SAID BLOCK 1 THAT IS A DISTANCE OF 30.00 FEET OUTH OF THE NORTH LINE OF SAID BLOCK, WHEN MEASURED AT RIGHT ANGLES THERETO; THENCE CONTINUING SOUTH 9°09' EAST, ALONG THE WESTERLY BOUNDARY OF SAID BLOCK, 180.00 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO LAWRENCE A. DENNIS BY DEED RECORDED IN BOOK 621, PAGE 167 OF DEED RECORDS; THENCE SOUTH 89°20' EAST, ALONG SAID TRACT, 102.71 FEET TO THE NORTHEAST CORNER THEREOF; THENCE NORTHERLY ALON GTHE EASTERLY LINE OF SAID BLOCK, 180.00 FEET MORE OR LESS, TO A POINT THAT IS 30.00 FEET SOUTH OF THE NORTH LINE OF SAID BLOCK, WHEN MEASRUED AT RIGHT ANGLES THERETO; THENCE WEST, PARALLEL WITH AND 30.00 FEET SOUTH FROM THE NORTH LINE OF SAID BLOCK, 210.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

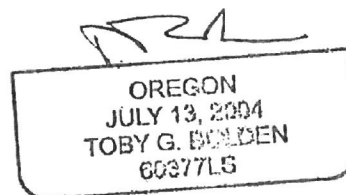
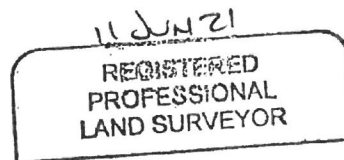
NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 01, 2008.

**EXCEPTING THEREFROM THE FOLLOWING:**

A Tract of land being a portion of Block 1, "STREIB'S FIRST ADDITION", located in the northwest one-quarter of Section 36, Township 1 South, Range 1 East, of the Willamette Meridian, City of Milwaukie, County of Clackamas, State of Oregon, being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod with a red plastic cap marked "Centerline Concepts" on the south line of that Tract of land described in Deed recorded as Document No. 2017-059990, Clackamas County Deed Records, being South 89°52'45" West, 7.19 feet from the southeast corner thereof; thence along the north line of that Tract of land described in Deed recorded as Document No. 2020-031359, Clackamas County Deed Records, South 89°52'45" West, 63.39 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence leaving said north line, North 00°07'15" West, 5.25 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 82°25'24" East, 14.94 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 84°50'15" East, 7.46 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 64°52'41" East, 10.49 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 88°44'26" East, 14.76 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 30.00 foot radius curve to the right, through a central angle of 22°37'04", an arc length of 11.84 feet (chord of which bears South 79°57'02" East, 11.77 feet) to a to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 9.50 foot radius curve to the right, through a central angle of 46°05'03", an arc length of 7.64 feet (chord of which bears South 45°35'58" East, 7.44 feet) to the **POINT OF BEGINNING**.

Contains 330 square feet, more or less.



RENEWS: 731 DEC 21





**CENTERLINE CONCEPTS**  
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

**Exhibit "C"**  
**Tract 2**  
**Legal Description**

A Tract of land being all of that tract of land conveyed by deed recorded as Document No. 2020-031359, together with a portion of that tract of land conveyed by deed recorded as Document No. 2017-059990, also being a portion of Block 1, "STREIB'S FIRST ADDITION", and other land, located in the northwest one-quarter of Section 36, Township 1 South, Range 1 East, of the Willamette Meridian, City of Milwaukie, County of Clackamas, State of Oregon, being more particularly described as follows:

***[Verbatim Original Description from Document No. 2020-031359]***

*A tract of land located partition in Block 1, STREIB'S FIRST ADDITION TO MILWAUKIE, as the same is recorded on Book 8, Page 20, Record of Townplats for Clackamas County, Oregon, and partly in the Lot Whitcomb Donation Land Claim No. 38 in Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, Clackamas County, Oregon, being more particularly described as follows: Beginning at a point in the Southwesterly boundary of said Block 1 that is South 9°09' East 208.70 feet distant from the most Westerly corner of said block; from said beginning point, thence, continuing along the Southwesterly boundary of said Block 1, 128.58 feet to the most Southerly corner thereof; thence continuing South 9°09' East, 85.27 feet to the most Westerly corner of that tract of land described in that certain conveyance from Philip and Karolina Streib to the Town of Milwaukie and recorded on July 9, 1930, in Book 208, Page 38, Record of Deeds for Clackamas County, Oregon, which point is also North 09°09' West 14.00 feet distance from the Southeast corner of Block 3, LEWELLING PARK, as the same is recorded in Book 7, Page 14, said Record of Townplats; thence Northeasterly, along a curve to the left having a radius of 183.6 feet, a distance of 96.00 feet to a point that bears South 1°51' East 6.00 feet distant from the Southeast corner of said Block 1, STREIB'S FIRST ADDITION (said last mentioned curve to the left also being the Northwesterly boundary of the aforesaid Town of Milwaukie Tract); thence North 1°51' West 6.00 feet to the Southeast corner of said Block 1, STREIB'S FIRST ADDITION; thence following the Southeasterly boundary of said Block 1, Northeasterly along a 102.30 foot radius curve to the right, through a central angle of 30°01', a distance of 102.70 feet for an end of curve; thence, tangent North 28°10' East 19.94 feet to a ½ inch iron pipe;*

thence North 89°20 West 102.71 feet to the place of beginning of the tract herein described.

**TOGETHER WITH THE FOLLOWING:**

A Tract of land being a portion of Block 1, "STREIB'S FIRST ADDITION", located in the northwest one-quarter of Section 36, Township 1 South, Range 1 East, of the Willamette Meridian, City of Milwaukie, County of Clackamas, State of Oregon, being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod with a red plastic cap marked "Centerline Concepts" on the south line of that Tract of land described in Deed recorded as Document No. 2017-059990, Clackamas County Deed Records, being South 89°52'45" West, 7.19 feet from the southeast corner thereof; thence along the north line of that Tract of land described in Deed recorded as Document No. 2020-031359, Clackamas County Deed Records, South 89°52'45" West, 63.39 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence leaving said north line, North 00°07'15" West, 5.25 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 82°25'24" East, 14.94 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence South 84°50'15" East, 7.46 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 64°52'41" East, 10.49 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence North 88°44'26" East, 14.76 feet to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 30.00 foot radius curve to the right, through a central angle of 22°37'04", an arc length of 11.84 feet (chord of which bears South 79°57'02" East, 11.77 feet) to a to a 5/8" iron rod with a red plastic cap marked "Centerline Concepts"; thence along the arc of a 9.50 foot radius curve to the right, through a central angle of 46°05'03", an arc length of 7.64 feet (chord of which bears South 45°35'58" East, 7.44 feet) to the **POINT OF BEGINNING**.

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# PREAPPLICATION CONFERENCE WAIVER

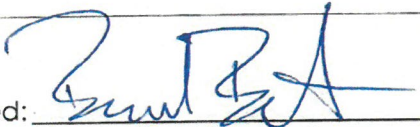
I/We, David Benjamin Henzel (print), as applicant(s)/property owner(s) of 2215 SE Harrison Street, Milwaukie 97222 (address of property), request to waive the requirement for a preapplication conference for the submission of a **Type II** III / IV / V (circle one) land use application per MMC Subsection 19.1002.2 Applicability.

**Please provide an explanation for the waiver request:**

MMC Section 19.1002 Preapplication Conference is provided on the reverse

I feel that the lot line adjustment is fairly straightforward and non-controversial. The lot line adjustment simply resolves a concern regarding the encroachment of improvements on my property to the neighbor's property, without permitting any new or additional development. The lot line adjustment is designed to preserve mature vegetation and a stacked rock wall.

A preapplication conference likely would not benefit the applicant given the straightforward nature of this land use application and the fact that the applicant has addressed approval criteria in the application already.

Signed:   
 Applicant/Property Owner

Approved: \_\_\_\_\_  
 Planning Director



