



PLANNING DEPARTMENT  
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# Application for Land Use Action

Master File #: ZA-2018-003

Review type\*:  I  II  III  IV  V

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

## RESPONSIBLE PARTIES:

<b>APPLICANT</b> (owner or other eligible applicant—see reverse): <u>DIERINGER PROPERTIES, INC.</u>	
Mailing address: <u>10505 SE 44TH / MILWAUKIE, OR</u>	Zip: <u>97222</u>
Phone(s): <u>503-659-1402</u>	E-mail: <u>GENE@DIERINGERINC.COM</u>
<b>APPLICANT'S REPRESENTATIVE</b> (if different than above): <u>PAUL BREANDHORST</u>	
Mailing address: <u>22281 CW ROCKY TELL, W. LINN</u>	Zip: <u>97068</u>
Phone(s): <u>503-515-7930</u>	E-mail: <u>breandhorst@gmail.com</u>

## SITE INFORMATION:

Address: <u>4401-4409 &amp; 4411 S.E. LLEWELYN</u>	Map & Tax Lot(s): <u>1S2-3000 Tls 7400/7500</u>
Comprehensive Plan Designation: <u>MDR</u>	Zoning: <u>R-3</u> Size of property: <u>16,750 gr. s.f.</u>

## PROPOSAL (describe briefly):

A ZONING MAP AMENDMENT FROM R-3 TO R-2.5 AND A REPLAT OF ORIGINAL SUBDIVISION PLAT

## SIGNATURE:

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

Submitted by: [Signature] Date: 5/23/2018

## 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.

April 13, 2017

Gene Dieringer  
Dieringer Properties, Inc.  
10505 SE 44<sup>th</sup> Ave.  
Milwaukie, OR 97222

Gene,

As the Owner of the property at 10500 SE 44<sup>th</sup> Ave., I'm requesting that my property be included in your R2.5 rezoning request.

Thank you,



Greg Van Dyke  
10500 SE 44<sup>th</sup> Ave.  
Milwaukie, OR 97222  
503-449-7431

March 27,2016

Gene Dieringer  
Dieringer's Properties, Inc.  
10505 SE 44<sup>th</sup> Avenue  
Milwaukie, OR 97222

Gene,

As the owner of 4401 SE Harrison I'm requesting that my property be included in your R2.5 rezoning request.

Thank you,

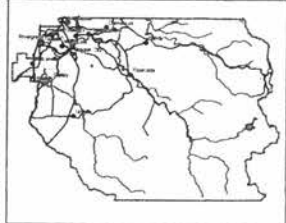
*Arnold Keller*

Arnold Keller, owner  
10124 SE 43<sup>rd</sup>  
Milwaukie, OR 97222  
503-502-5978



1 2 E 30 CC  
MILWAUKIE  
S.W.1/4 S.W.1/4 SEC.30 T.1S. R.2E. W.M.  
Clackamas County  
1" = 100'  
D. L. C.  
HECTOR CAMPBELL NO. 41  
GEORGE WILLS NO. 42

- Cancelled Taxlots
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- Parcel Boundary
  - Private Road RCW
  - Historical Boundary
  - Railroad Centerline
  - Tax Code Lines
  - Map Index
  - Water Lines
  - Land Use Zoning
  - Flats
  - Water
  - Corner
  - Section Corner
  - 1/4th Line
  - Gov Lot Line
  - OLC Line
  - Meander Line
  - PLSS Section Line
  - Historic Corridor 47
  - Historic Corridor 27



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

1 2 E 30 CC  
MILWAUKIE

SITE AREA



## I. Introduction

The Dieringer Brothers, Gene and Patrick, are the principles of Dieringer Properties, Inc., a property firm that has done numerous projects in Milwaukie and Clackamas County. They own the properties located at 4401-4409 and 4411 SE Llewelyn Street in Milwaukie. The legal description of the site is T1S, R2E, Sec. 30CC, Tax Lots 7400 and 7500. Historically, the site consists of Lots 25, 26, 27, 28, 29, 30 31, 32, and a small part of Lot 33 of Block 11 of the Minthorn Addition. Site size is approximately 16,750 gross square feet.

During the process of considering whether to apply for a change of zoning from R-3 to R-2.5, conversations with neighbors resulted in two neighbors requesting that they be included with the properties the Dieringers were planning to change. Those neighbors are Greg Van Dyke, owner of the property located at 10500 SE 44<sup>th</sup> Avenue, and Arnold Keller, owner of the residential property located at 4401 SE Harrison Street. Both properties are adjacent to each other, and to the south across Llewelyn Street and east of SE 44<sup>th</sup> Avenue. Both properties are virtually the same size, approximately 9,990 square feet. Both properties are developed with occupied single family dwellings.

### **A. Dieringer Properties – 4401-4409 and 4411 SE Llewelyn Street**

The site is generally flat and level, with a slight slope from west to east. There are only four (4) trees on the site, three of which are located on the westerly side along the frontage of SE 44<sup>th</sup> Avenue. The fourth tree is at the rear of the site, and may actually be on the neighboring property. There are two existing residential structures on the site, one on the easterly end and the other on the westerly end of the site. The easterly of the two dwellings will be removed and replaced by a new duplex structure. The westerly structure is currently a duplex structure and will remain on the site. A third structure has existed on the site, but has been recently removed. This will be replaced by a new duplex structure, for a total of three (3) duplex structures on the site.

The site is bounded on the south side by SE Llewelyn Street, a local street with a 60-foot right of way that is only partially improved. On the westerly side, SE 44<sup>th</sup> Avenue bounds the site. SE Llewelyn Street also has a 60-foot right of way. Most of SE 44<sup>th</sup> Avenue between SE Llewelyn Street and SE King Road to the north is improved within the existing right of way, but the street lacks a sidewalk along the frontage of the subject site. To the north are platted lots developed for residential use, most of it is single family detached. To the south, across SE Llewelyn Street the pattern continues to be a lot-by-lot residential development, primarily single family detached units.

Because the subject site is already developed for residential use, public facilities and services are already in place. Both water and sanitary sewer provide local service via 8-inch distribution and collection lines, respectively. Storm drainage for the site is limited in that no formal

system exists for the subject site. Storm water is either absorbed on the site, or is passed out into the street. Police, fire, ambulance and other emergency services already serve the site because of the existing development. Private utilities (i.e., gas, cable, phone, etc.) are also available to the site.

Following this application a "Replat" of the existing lots and parcels on the site will be undertaken to remove the old original platted lot lines for the Minthorn Addition and create three (3) new parcels, one for each duplex structure. The first of these two land use actions will be a Type III process. After approval of this first Type III application, a subsequent application for a Replat of the existing subdivision will be submitted. No Development Review is required or necessary, but a Variance may be needed for driveway spacing, once the final site design is completed.

The Dieringers will establish three (3) distinct lots and construct two (2) new duplexes on two of the three lots. The third lot contains an existing dwelling that is currently a duplex, resulting in three (3) duplexes for this project, each on its own lot. Because there will be three separate lots, each with a duplex built on it, the proposed R-2.5 zoning will allow for the three lots, where a duplex is a permitted use, and no further land use actions are required.

**B. Van Dyke property – 10500 SE 44<sup>th</sup> Avenue**

This property is a single tax lot (12E31BB00900) that is nearly square in shape. The site is nearly flat and level, with some slight west-to-east slope. Site size is approximately 9,994 square feet, and measures nearly 100 feet on each side. There is a single family detached dwelling on the site built in 1942, but it remains in good physical condition. The site has frontage on both Llewelyn Street on the north side and on 44<sup>th</sup> Avenue to the west. All necessary and required public facilities and services are currently available and serving the site. Private utilities are also available.

**C. Keller property – 4401 SE Harrison Street**

This property is a single tax lot (12E31BB01000) that is nearly square in shape. The site is nearly flat and level, with some slight west-to-east slope. Site size is approximately 9,992 square feet, and measures nearly 100 feet on each side. There is a single family detached dwelling on the site built in 1966, and it remains in good physical condition. The site has frontage on both Harrison Street on the south side and on 44<sup>th</sup> Avenue to the west. All necessary and required public facilities and services are currently available and serving the site. Private utilities are also available.

The purpose of this application process is for a Zoning Map Amendment from the current R-3 to R-2.5 on the subject properties. The purpose of seeking the higher density on the site is to provide for a total of six (6) dwelling units on the Dieringer site, and not less than two (2) duplex units each on the Van Dyke and Keller properties.

In the case of the Van Dyke and Keller properties, to the east of both sites are two (2) properties developed with multiple units on each property.

These adjacent properties are identified as 4408 and 4462 SE Llewelyn Street (adjacent to Van Dyke's property), and 4419, 4463, and 4485 SE Harrison Street (adjacent to Keller's property). These adjacent properties are currently zoned R-2.5, and are developed to a higher density, providing a good basis of changing the zoning on the Van Dyke and Keller properties. It should be noted that the Van Dyke and Keller properties are bounded on the east by R-2.5 zoning, and on the west by SE 44<sup>th</sup> Avenue and, across 44<sup>th</sup> to the west, the King Road Shopping Center. As such, these two additional properties are somewhat separated from other R-3 zoning and could be considered an "island" of R-3 zoning between a small area of R-2.5 and a commercial area zoned CG. Both Van Dyke and Keller support the Dieringer's efforts to rezone their properties to R-2.5 from R-3, and believe that changing the zoning on their respective properties to R-2.5 is a reasonable request to make considering the existing development pattern of the immediate vicinity.

## II. Zoning Map Amendment – 19.902.6 of Milwaukie Community Development Code

The requested Zoning Map Amendment from the existing R-3 to the proposed R-2.5 is for the purpose of insuring that the allowed density of the properties that are a part of this application will allow a total of ten (10) units if all properties are developed with duplexes. Dieringer Properties, Inc. is planning for three (3) duplexes (6 units) in the form of three (3) separate duplex units on three separate lots, based on density at 5,000 square feet of lot area per duplex unit permitting one (1) duplex unit per lot. For the Van Dyke and Keller properties, the change to R-2.5 will allow a slightly greater density of two (2) duplex units each, based on density (minimum lot size) identified in 19.300. With each parcel being almost 10,000 square feet in area (9,994 sf and 9992 sf, respectively), the individual properties could be partitioned to create two (2) lots on each parcel. For such a proposed Zoning Map Amendment, the Approval Criteria in 19.902.6.B, 1-8 will apply and are addressed below.

1. *The proposed amendment is compatible with the surrounding area based on the following factors:*
  - a. *Site location and character of the area;*
  - b. *Predominant land use pattern and density of the area;*
  - c. *Expected changes in the development pattern for the area.*

Comment: The location of the proposed zone change may be somewhat unique in that there is a commercial center a very short distance across SE 44<sup>th</sup> Avenue, as well as a small area that is already zoned R-2.5. The Dieringer site is one that the Dieringers have been considering for redevelopment for some time, and the creation of three (3) individual lots where a duplex will be developed on each individual lot.

The local neighborhood is predominantly single family detached on individual lots, but there are other development forms in evidence, including duplexes, single family attached, and multifamily apartments, as well as established commercial development around the intersection of King Road and Harrison Street. Local density at the present time is somewhat variable, depending on any area being reviewed for its characteristics. The addition of R-2.5 zoning and the use of duplexes is a "next step" in a progressive redevelopment pattern of the area. Also, TriMet maintains a major transit line on King Road (line no. 33) which provides excellent accessibility to the greater neighborhood area.

In the end, a slight increase in planned density through the use of R-2 and R-2.5 zoning under the existing Medium Density Residential designation on the Comprehensive Plan may take place. The use of duplexes may become a more evident method of redevelopment, but one which maintains the basic character of the local neighborhood. At this time, it appears that one driver for slightly higher density is the existence of the King Road Shopping Center and the TriMet service to the area. These factors are certainly one of the forces behind the local interest in rezoning for slightly higher densities. Because there is relatively little



vacant and available land for new development in the local neighborhood, the use of redevelopment appears to be the method by which “new” development will occur, and redevelopment has already started adjacent and east of the Van Dyke and Keller properties.

2. *The need is demonstrated for uses allowed by the proposed amendment.*

Comment: The proximity to the King Road Shopping Center and the TriMet line number 33 on King Road are two factors in supporting an increase in density through increased use of R-2.5 zoning. A somewhat higher density may provide additional support for the commercial activities of the King Road Shopping Center, as well as use of the TriMet line number 33.

With the Dieringer site at 16,750 gross square feet, and the Van Dyke and Keller properties at just under 10,000 gross square feet, the smaller size of these sites has resulted in the early interest in a subtle change of overall density to increase density without a significant change in the style of housing. Duplexes may still retain the look of single family dwellings, and the general appearance of the redevelopment may continue the neat residential appearance of the local neighborhood.

The R-2.5 zone allows for the use of duplexes, which will be the dominant housing type resulting from the zone change. Duplexes provide an opportunity for additional residential units without taking on the true look of multifamily housing. Side-by-side duplexes may appear as single family dwellings at first blush, but will provide for more housing opportunities, and type and style of housing thus providing greater choice in the market place for those seeking housing in Milwaukie. The increased density resulting from a rezoning to R-2.5, and the greater choice in housing for those seeking housing will provide an opportunity to expand housing in Milwaukie.

3. *The availability is shown of suitable alternative areas with the same or similar zoning designation.*

Comment: Because there is a limited amount of vacant and available sites within the immediate neighborhood, the proposed redevelopment that takes advantage of the location of the King Road Shopping Center, TriMet line number 33, and suitable streets will demonstrate that there are not many potential alternative sites in the immediate neighborhood with those same attributes. The King Road Shopping Center, just west across SE 44<sup>th</sup> Avenue, can be a strong attractor for those seeking a convenient location for housing. While other nearby sites may also be good redevelopment sites, it cannot be determined if other local property owners are amenable to any rezoning and redevelopment to provide greater density and more housing choices. However, it may be that the proposed rezoning to R-2.5 and subsequent redevelopment will indicate a new trend in local redevelopment to take advantage of local factors such as transit and commercial development.

4. *The subject property and adjacent properties presently have adequate public transportation facilities, public facilities, and services to support the uses(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.*

Comment: All properties proposed for rezoning from R-3 to R-2.5 are currently developed, indicating that local services and facilities are in place and available for use. Any improvements in street frontage of each property will only improve local transportation facilities throughout the local neighborhood. There have been no indications from city staff that necessary and required facilities and services are not available or are of insufficient size and capacity to serve the proposed redevelopment.

5. *The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system.*

Comment: SE Llewelyn Street, SE Harrison Street and SE 44<sup>th</sup> Avenue are the three local streets that front the properties, and all are currently in satisfactory condition. Any required frontage improvements will only make these streets better. Because the potential redevelopment of the Dieringer, Van Dyke and Keller properties will generate minimal increase in daily traffic volume, or less than 100 additional vehicle trips per day total. This should not cause the level of service on these local streets to change. The same will apply to King Road. Therefore, the proposed zone change on the Dieringer, Van Dyke and Keller properties should not cause any change to the functional classification, capacity, or level of service for SE Llewelyn Street, SE Harrison Street, SE 44<sup>th</sup> Avenue, or SE King Road.

6. *The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land use Map.*

Comment: Consistency with various applicable and appropriate Goals and Policies of the Milwaukie Comprehensive Plan are addressed and discussed in Section III. of this application narrative.

7. *The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.*

Comment: Consistency with various applicable and appropriate portions of the Metro Functional Plan are addressed and discussed in Section V. of this application narrative, as well as the Metro Housing Rule in Section IV.

8. *The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.*

Comment: Consistency with the Statewide Planning Goals are addressed and discussed in Section VI. of this application narrative. The Transportation Planning Rule has not been addressed because this proposed rezoning does not involve a Comprehensive Plan amendment,

no traffic study was required by the city for this project, and the anticipated increase in site generated traffic will be less than 100 vehicle trips per day. This application is for a rezoning from R-3 to R-2.5, with the Medium Density residential designation of the Milwaukie Comprehensive Plan remaining untouched, thus insuring consistency with all local and statewide goals, policies, statues, rules, and the like.

### III. Elements of the Milwaukie Comprehensive Plan

As part of the Pre-Application Conference held on June 29, 2017, city staff identified several elements of the Milwaukie Comprehensive Plan that must be addressed as part of the process of demonstrating compliance with all elements of the procedure. Those elements identified by city staff include:

- Chapter 2 (Plan Review and Amendment Process) = Objective 1 (Amending the Plan);
- Chapter 4 (Land Use) = Residential Land Use and Housing Element, Objective 2 (Residential Land Use: Density and Location);
- Chapter 4 (Land Use) = Residential Land Use and Housing Element, Objective 4 (Neighborhood Conservation);
- Chapter 4 (Land Use) = Residential Land Use and Housing Element, Objective 5 (Housing Choice).

#### **Chapter 2, Objective 1 – Amending the Plan**

##### *Policy 1*

Comment: This policy calls for the “*monitoring the Plan by maintaining a factual data base . . . .*”. This policy is incumbent on the City of Milwaukie for maintaining an adequate data base “*which will enable citizens to judge the effectiveness and desirability of Plan policies.*” Because this policy is the responsibility of the city, the applicant can only use the available data base in the efforts to create a suitable application. This Policy does not have a direct impact on the proposed Zoning Map Amendment.

##### *Policy 2*

Comment: According to this policy, the city’s “*Comprehensive Plan Review Committee (CPRC) will coordinate and conduct a major Plan review every five years . . . .*”. This policy is also incumbent on the city to create a CPRC and that the CPRC should conduct reviews at specified intervals. Since the current application is not be within the scope of any review by the CPRC at the present time, this policy is not directly applicable to the current application.

##### *Policy 3*

Comment: This policy allows individuals, among others, to request and initiate an application for a Plan amendment at any time. The applicant, Dieringer Properties, Inc., has initiated an application for a Zoning Map Amendment on the subject site, not a Comprehensive Plan Map Amendment, since the proposed zone change from R-3 to R-2.5 remains within the framework of the Medium Density Residential Plan designation. Also included in this application, by specific request, are properties owned by Van Dyke and Keller, both seeking the same change of zoning from R-3 to R-2.5. All three requests are consolidated into a single coordinated application for a change of zoning from R-3 to R-2.5.

Therefore, this Policy does not have a direct impact on the proposed Zoning Map Amendment.

**Policy 4**

Comment: This policy requires the submittal of copies of the proposed Zoning Map Amendment at appropriate times. The applicant has submitted the required number of copies of the application, to be reviewed and distributed by city staff to the appropriate bodies for public review, in compliance with this policy.

**Policy 5**

Comment: This policy requires that *“all proposed Comp Plan text and map amendments will be considered at advertised public hearings before the Planning Commission and City Council.”* As is the standard process in Milwaukie, the proposed Zoning Map Amendment will be heard in the required public hearing before the appropriate public body, thus fulfilling this policy. Keeping in mind that the consolidated and coordinated application is for only a zone change and not for a Comprehensive Plan map amendment, this Policy technically does not apply to the application.

**Policy 6**

Comment: This policy requires that *“all Comprehensive Plan text and map amendments will be processed per the procedures in the Zoning Ordinance.”* In accordance with city procedures set forth in the city’s Code. It is incumbent on city staff to insure that the proper procedures and processes are followed as required, once the applicant has submitted the required application. However, this Policy refers to *“Comprehensive Plan text and map amendments”*, which is not a part of the current application for a Zoning Map Amendment. Therefore, this Policy does not have a direct impact on the proposed Zoning Map Amendment.

**Policy 7**

Comment: This policy sets out the requirement that the application submitted for the Comprehensive Plan map amendment will be evaluated based on the approval criteria contained in the Code. Once again, this Policy refers to an amendment of the Comprehensive Plan Map, as opposed to a Zoning Map Amendment which is the substance of the current application. As with any similar application, city staff will review and evaluate the application submitted by the applicant for the proposed Zoning Map Amendment from R-3 to R-2.5 within the framework of the existing Medium Density Residential designation on the subject site. All review and evaluation by city staff and the decision making bodies will be based on the approval criteria that are applicable to the subject application, as contained in 19.902.6.B. In the end, this policy is incumbent on city staff and the decision making bodies to evaluate according to the approval criteria, which have been addressed by the applicant as part of the application process.



**Chapter 4, Objective 2 – Residential Land Use: Density and Location**  
**Policy 1**

Comment: As noted in this policy, the various Plan designations and Zoning apply in different ways. As proposed in this application, the proposed Zoning Map Amendment will change from R-3 to R-2.5, while the existing Comprehensive Plan designation of Medium Density Residential will remain unchanged. It is noted in this policy that “areas greater than 3/8 of an acre and less than one acre will be reduced by ten percent (10%) for the purposes of right-of-way dedication. Areas less than or equal to 3/8 of an acre (16,335 sf) are assumed to be platted and receive zero reduction for right-of-way.” The applicant understands this policy and assures the city that the proposed development of six (6) dwelling units on the Dieringer site in a duplex configuration will comply with this policy.

The Van Dyke and Keller properties are each 0.23 acre in size, making each parcel less than 3/8 of an acre. These platted lots have not been previously partitioned, nor “gerrymandered” in any way. With duplexes requiring 5,000 square feet of area in the R-2.5 zone, each parcel could support two (2) duplexes. Because both SE Llewelyn Street and SE 44<sup>th</sup> Avenue are fully improved and no additional right of way is necessary, there will be no deductions taken for additional right of way dedication.

**Policy 2**

Comment: This policy does not apply because the existing Plan map designation and the proposed Plan map designation are not Low Density Residential, but instead is Medium Density Residential.

**Policy 3**

Comment: This policy does not apply because the existing Plan map designation and the proposed Plan map designation are not Moderate Density residential, but instead is Medium Density Residential.

**Policy 4**

Comment: The current development of the local neighborhood is mostly single family residential in single family detached dwellings, but there are other types of residential units in the area, including duplexes, single family attached dwellings, and multifamily apartment complexes. It is estimated (roughly) that the majority of housing type in this immediate neighborhood area is single family detached residential (4a.).

It is estimated that site generated traffic from the subject sites will be slightly increased over the present volume, but it is estimated that the increase in the amount of traffic will be less than 100 ADT. Because each potential unit represents approximately ten (10) average daily trips, the total of all units will be 80 trips or less, assuming that the remaining existing unit on the Dieringer parcels is already accounted for in terms of site generated traffic. This increase, absorbed over a 24 hour period, will result in a relatively small increase in local traffic. Because the Dieringer parcels had five (5) units on it in the past, resulting in approximately 50 site generated trips, any increase in site generated traffic (estimated at 80

trips) will be insignificant and have virtually no adverse impact on the local neighborhood (4b).

It is fortunate that the King Road Shopping Center is located directly adjacent to the subject site, across SE 44<sup>th</sup> Avenue to the west. This commercial area has many of the day-to-day necessities that local residents need. In addition, TriMet has a route along SE King Road (line no. 33), within 1 block of the subject properties (4c.). These factors contribute to making the proposed change of zone to R-2.5 reasonable in terms of location, surrounding area, and compatibility with local neighborhood development.

Within the local neighborhood, there are some examples of deteriorating dwellings or structures. While the number of units that may be in this condition are relatively few, the opportunity for redevelopment within the local neighborhood is there and, in this case, the applicants are taking advantage of that opportunity (4d.).

Based on the sub-policies contained under Policy 4, the subject site complies with all standards for Medium Density areas.

#### *Policy 5*

Comment: For High Density Residential areas, sub-policy a. suggests that “*the predominant housing type will be multifamily units.*” Because the application for land use consideration on the subject site does not involve a Comprehensive Plan Amendment, and the existing designation of Medium Density Residential will remain, this Policy will not apply to the proposed consolidated and coordinated application.

As discussed previously, the subject site is in very close proximity to one of the major retail commercial areas of the city. Being just across the street (i.e., 44<sup>th</sup> Avenue) from the King Road Shopping Center facilitates the commercial-residential connection, and promotes use of the commercial center by local residents. Also, because King Road is a major thoroughfare with this area of the city and may act as a major transportation route, and because TriMet maintains a route on King Road (line no. 33), this street provides a major level of access and travel for the subject site and the local neighborhood (5b.).

Once again, King Road acts as a major route within and through the City of Milwaukie, providing access and through travel for visitors and local residents. Other through routes in the area (i.e., Stanley Avenue, Linwood Avenue, etc.) connect with King Road to provide a network of travel facilities to serve this site (5c.).

#### *Policy 6*

Comment: This Policy does not apply because the site and the local neighborhood is not a mixed use area.

*Policy 7*

Comment: This policy does not apply because the subject site is not within a designated Town Center area.

**Chapter 4, Objective 4 - Neighborhood Conservation**

*Policy 1*

Comment: When the subject properties are rezoned to R-2.5 from R-3, some reconstruction may occur on the subject properties, and some redevelopment will also occur. Of the two dwelling structures currently located on the Dieringer properties, one will be removed and the second will be rebuilt to a duplex configuration. However, at the present time, neither Van Dyke nor Keller have future redevelopment plans for their properties.

*Policy 2*

Comment: While the subject properties will continue to be a Medium Density site under the provisions of the application for a Zoning Map Amendment, rehab of an older existing dwelling will be accomplished on the Dieringer properties. On the other hand, one existing single family structure will be removed because it cannot be converted to a duplex within the context envisioned by the applicants. The existing dwelling to be demolished is in need of significant work, both structural and cosmetic, and is best off removed.

Once again, the Van Dyke and Keller properties are fully developed and in use at the present time as residential sites, and the owners have no specific plans for redevelopment of the two properties.

*Policy 3*

Comment: The proposed redevelopment of the subject properties will continue to maintain appropriate and applicable setbacks, height, yard areas, etc. With the construction of two new duplex structures on the Dieringer properties, the existing residential scale will be maintained and promoted. The Dieringer site, once completed, will contain three (3) duplex structures (two of which will be new construction). Under the provisions of the Milwaukie Code, the proposed amendment to R-2.5 on the Zoning Map, will allow the duplexes on the subject site to be considered "multifamily units".

The Van Dyke and Keller properties will also be available for redevelopment, if the owners so wish. Maximum redevelopment using a duplex format would result in two duplexes (4 units) on each property.

*Policy 4*

Comment: This policy does not apply to the proposed project because the subject site is not within a Low Density designated area, whether currently or in the future.

*Policy 5*

Comment: This policy does not apply to the proposed project because the subject site is not within a Low Density designated area, whether currently or in the future.

**Chapter 4, Objective 5 – Housing Choice**

*Policy 1*

Comment: This project is really an infill project, seeking to redevelop existing properties for higher density duplexes rather than single family detached dwellings. For the Dieringer properties, by keeping one existing unit and rehabbing it, the overall economy of the site's redevelopment will benefit both the applicant and any future residents. Thus, the ability of residents seeking to live in these duplex units to find suitable housing as a matter of choice will be achieved. Design of the new and rehabbed duplex units will be done following the standards and guidelines contained in the Milwaukie Zoning Code. To a great extent, this same will apply to the Van Dyke and Keller properties. As such, this policy will be satisfied.

*Policy 2*

Comment: This project is neither a subdivision nor a PUD. While some development techniques may be used that reduce housing costs while creating an attractive environment, this policy is really directed at either a subdivision or a PUD development. Therefore, this Policy does not apply directly to the proposed zoning map amendment.

*Policy 3*

Comment: This policy does not apply because there will be no manufactured housing as part of this project. All structures will be frame structures at the allowed density of the R-2.5 zoning district.

*Policy 4*

Comment: This policy does not apply because the project is not a manufactured home park.

*Policy 5*

Comment: At the present time, adequate public facilities and services serve the subject properties and the existing level of development. With the potential increase of one (1) more dwelling on the Dieringer site through this application (from the previous 5 units to a proposed 6 units), public facilities and services will continue to serve the site. With 8 inch sanitary and water lines available to serve the site, adequate sanitary sewer and water service will continue to exist and serve the new duplex units. There is no other commentary in the "Public Works Issues" portion of the "Pre-Application Conference Report" that indicates there is not sufficient capacity and volume of public facilities and services to serve the proposed redevelopment of the subject site.

For the Van Dyke and Keller properties, there may be an increase of four (4) units under a duplex configuration. Existing facilities and services should be suitable and have the needed capacity to provide full service to the Van Dyke and Keller properties.

## IV. Metropolitan Housing Rule – OAR 660, Div. 7

- 660-007-0000 Statement of Purpose

Finding: As explained in this section, the purpose of the “Metro Housing Rule” is “*to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs.*” The proposed Zoning Map Amendment from R-3 to R-2.5 will result in the “addition” of only one (1) unit of multi-family housing duplex on the Dieringer site, and one additional unit each on the Van Dyke and Keller properties. Overall, this will create an increase of five (5) total units on the Dieringer, Van Dyke and Keller properties.

- 660-007-0018 Specific Plan Designations Required

Finding: This section of the Rule requires that local jurisdictions establish land use designation for all buildable lands, whether residential, industrial, commercial, institutional, or other. The City of Milwaukie has completed its job of designation buildable lands throughout the city, in compliance with the requirement of this section. All three sites, Dieringer, Vandyke and Keller, are fully buildable lands and can be redeveloped.

- 660-007-0020 The Rezoning Process

Finding: For any sites to be “rezoned” from any residential designation to any other designation, a process with the objectives as specified in subsections (1) and (2). This process has been established by the City of Milwaukie in conformance with these subsections, therefore, satisfying the requirement of this section.

- 660-007-0022 Restrictions on Housing Tenure

Finding: This section does not apply because no tenure for rental or owner occupied housing has been established by the City of Milwaukie.

- 660-007-0030 New Construction Mix

Finding: This section requires that City of Milwaukie (among other jurisdictions) “. . . .*must designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing . . . .*” The subject site, being designated Medium Density Residential which is a single family designation and zoned R-2.5, will be required to have a density of between 11.6 and 14.5 units per acre. This designation insures that the site, when re-developed for housing, must be developed with either attached single family housing or multiple family housing. While it is a site where single family detached housing could be currently developed, a multi-family designation will insure that the potential capacity of the subject site will now based on multi-family housing, contributing to the increase and improvement of the housing stock for the city. The proposed zoning of R-2.5 is a Medium Density Residential zone where the required density will be between 11.6 and 17.5 units per acre.



- 660-007-0035 Minimum Density Allocation for New Construction  
Finding: Under the provisions of this subsection, the City of Milwaukie is required to “ . . . .provide an overall density of eight or more dwelling units per net buildable acre.” At the present time, the city has an overall density of approximately 8.37 units per net buildable acre, which is somewhat above the required threshold. The “addition” of 5 total units, even with some offset for other sites where designations may have changed to decrease the number of units allowed on certain properties, or which have been developed at less than optimum densities, will continue to maintain the City of Milwaukie’s level above eight units per net buildable acre. This will continue to satisfy (2) of this subsection.

- 660-007-0045 Computation of Buildable Lands’  
Finding: The buildable lands in the City of Milwaukie have been calculated under the requirements of this subsection of the Rule. The subject properties were included in the initial calculations of buildable land, based on the Medium Density Residential community plan designation. With the site being 0.38 gross acre or 16,750 square feet (based on information from the latest site survey), the actual buildable land within this site will be less than 0.38 acre because a 10% dedication is required for additional right of way. Under this situation, the site will be 15,075 net square feet.

Under the Rule, because the properties are available for residential re-development, and the ownership of those properties wishes for the future use of the site will be for duplex development, thus increasing density on existing buildable lands. As such, it is appropriate that the subject site should be claimed as available for residential use.

As such, the “re-development” of less than one (1) gross acre within the city’s buildable lands inventory as multi-family residential rather than single family residential will have a negligible impact on the city’s ability to remain in conformance with the Rule. The “allocation” of units to the subject properties would be multi-family housing, not single family detached housing. Thus, the “balance” between single family detached housing and multi-family housing may shift very, very slightly toward multi-family housing and slightly away from single family housing. But the shift would also be so insignificant that a negligible impact on the “balance” of planned housing capacity would result.

- 660-007-0050 Regional Coordination  
Finding: The regional coordination that is part of this Rule is incumbent on both Metro and the City of Milwaukie to implement. The applicant, as a property owner, has no role in this desired regional coordination. Therefore, this subsection does not apply to this application.

- 660-007-0060 Applicability  
Finding: The applicability referenced in this subsection is to the City of Milwaukie with regard to the Metropolitan Housing Rule. Because the

applicants are only property owners, applicability of the Rule must be insured by the City of Milwaukie.

## V. Metro Functional Plan Requirements

### **Title 1: Housing Capacity**

#### 3.07.110 Purpose and Intent

Comment: The Regional Framework Plan calls for “a compact urban form and a ‘fair share’ approach to meeting regional housing needs.” The Zoning Map Amendment to the City of Milwaukie’s Zoning Map Plan from R-3 to R-2.5 is not a change to the Regional Framework Plan. The city’s Comprehensive Plan designation will remain Medium Density Residential that definitely will not impact the ‘fair share’ approach and Milwaukie’s role and obligation in meeting the housing needs of the region. The proposed Zoning Map Amendment to R-2.5 for the Dieringer, Van Dyke and Keller properties will continue to contribute to maintaining a strong neighborhood character through the providing of uses that help identify and define that character, and stability of land uses throughout the neighborhood.

#### 3.07.120 Housing Capacity

Comment: Because the subject site is NOT within any corridor or special study area, there should be no special issues that must be addressed. The subject site is designated for residential development, and because the proposed action involves only housing, the change from R-3 to R-2.5 will reinforce the housing capacity within the city. Therefore, the proposed Zoning Map Amendment will continue to strengthen housing capacity rather than eroding it. As such, the proposed project will not adversely impact housing capacity for either the city or Metro.

Based on the current land use designation of R-3, the housing density of the subject site would range between 4 and 6 units per acre, based on a size of the site at 0.38 acre. At the proposed R-2.5 zoning, density should range between 4 units, the minimum density for the subject site, and the maximum density of 7 units, the “gained” housing on the site as a result of a change from R-3 to R-2.5 would be approximately 3 units. At a maximum, the site could support 7 units of housing.

It should be noted that the majority of points and issues raised in Title 1, subsection 3.07.120 relate to “reductions” in minimum dwelling unit density. Nowhere is it mentioned, or standards set, for an increase in density. Because the proposed project involves an “increase” in minimum zoned density for the specific properties, much of Title 1 is not applicable to this proposed set of amendments. Therefore, this application will not address subsections (a), (b), (c), (d), (e), or (f) simply because all of these subsections address “reducing densities or capacities”, which this project will not do. Rather, it will increase allowable density on the subject site to the betterment of the city’s overall housing density.

In the end, it appears reasonable to determine that the potential "gain" of a small number of units would be a negligible amount when compared to the overall citywide total capacity. Therefore, the impact of the proposed change from R-3 to R-2.5 on the Dieringer, Van Dyke and Keller properties will be small and relatively negligible, but still an increase in the overall housing capacity.

**Title 2: Regional Parking Policy**

Comment: Because this Title has been repealed, it is not applicable or appropriate to this application.

**Title 3: Water Quality and Flood Management**

Comment: This Title will not apply because the site does not contain or is not within an stream corridor, or any other body of water. The same applies to flood management because the site is not within a designated flood plain. In addition the city has specific requirements for managing storm water on the subject properties, which should serve to satisfy any water quality and/or flood management issues.

**Title 7: Housing Choice**

Comment: This Title applies to local governments and is voluntary in terms of establishing affordable housing production goals. It has not been determined if the housing proposed for this site will be affordable housing, but with only 6 units proposed on the Dieringer properties, affordable housing should be a choice rather than a mandate.

Because neither Van Dyke or Keller have any firm future plans for redevelopment, it is not known just how many units will result. However, each of the Van Dyke and Keller properties may be capable of supporting two (2) duplexes (i.e., 4 units each) under the R-2.5 zoning, a potential increase in the number of overall housing units in the City of Milwaukee may result in greater housing choice for existing and new residents of Milwaukee.

**Title 12: Protection of Residential Neighborhoods**

Comment: Because the properties are already developed for residential use, and will be re-developed for additional housing, the great majority of possible impacts on the local neighborhood have already been established. With the re-development of the subject properties, positive impacts should occur from improvements to the site and the adjacent streets (SE Llewelyn and SE 44<sup>th</sup>). In addition, the existence of a major commercial area just west of the site should help to reduce the need to travel significant distances for basic needs found in this commercial area. Therefore, it is reasonable to assume that any future impacts resulting from the proposed re-development of the site may be positive impacts.

For an existing residential neighborhood, the re-development of residential sites to provide additional housing and increased density can

be an agent of strengthening the ties to the neighborhood and the character of the neighborhood itself. A neighborhood must exist of various parts, from residential, to commercial to institutional. One intent of a neighborhood can be one that provides a variety of services and uses that complement each other and lend strength to the neighborhood as a whole. Based on the current existence of residential development in this location, and its future expansion to include additional dwelling units, the local neighborhood can be protected and preserved.



## **VI. Statewide Planning Goals**

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As required for any and all amendments to an adopted and acknowledged local comprehensive plan, it must be shown that the proposed change of the local comprehensive does not render the local plan to become out of conformance with the Statewide Planning Goals. This is done through an addressing of each of the Statewide Planning Goals, showing that compliance with the Goals remains in effect, even with the new designation of the local plan. However, because the subject application involves only an amendment to the City of Milwaukie Zoning Map, and not an amendment to the City of Milwaukie Comprehensive Plan Map, an addressing of these Statewide Planning Goals may not apply to the subject application. But because the Approval Criteria for a Zoning Map Amendment as contained in 19.902.B.8 requires an addressing of the Statewide Planning Goals, the following is an addressing of the appropriate and applicable Statewide Planning Goals with the proposed change of the local plan in effect, demonstrating that full compliance remains in effect.

### **Goal 1 – Citizen Involvement**

Comment: Any change of a city's Comprehensive Plan must include a citizen involvement element where local citizens and interested parties have the opportunity for input to the process. While the consolidated and coordinated application is a change of existing zoning and not a change of the Comprehensive Plan, this process is guaranteed through the public notification process, and the public hearings held before the decision making bodies. This process applies to a proposed Zoning Map Amendment as well. By Code requirements, the proposed application for a Zoning Map Amendment will receive the required citizen involvement, thereby satisfying this Goal.

### **Goal 2 – Land Use Planning**

Comment: The process of planning a city is ingrained in this Goal. At this point, the amendment to the Milwaukie Zoning Map is part of the land use planning process in the city, according to the city's acknowledged Comprehensive Plan. Nothing is proposed by the applicants that will conflict with the aim of this Goal, thus satisfying this Goal.

### **Goal 3 – Agricultural Lands**

Comment: This Goal does not apply because the subject properties are neither agricultural land, nor are they outside the local Urban Growth Boundary (UGB). The designation of the land within the UGB is "urban", rather than "rural" or "resource" which is used for lands outside the UGB. Being within the UGB and designated "urban", this Goal is satisfied in the sense that it does not apply because the properties are not, in any way, agricultural land.

### **Goal 4 – Forest Lands**

Comment: This Goal does not apply because the subject properties are neither forest land, nor is it outside the local Urban Growth Boundary

(UGB). The designation of the land within the UGB is “urban”, rather than “rural” or “resource” which is used for lands outside the UGB. Being within the UGB and designated “urban”, this Goal is satisfied in the sense that it does not apply because the properties are not, in any way, forest land.

**Goal 5 – Natural Resources, Scenic and Historic Resources, and Open Spaces**

Comment: The subject properties are not a designated natural resource area, nor are they located on the fringe of any offsite natural resource area. Similarly, the site is not part of a designated scenic or historic resource, or an identified open space area. Therefore, this Goal does not apply.

**Goal 6 – Air, Water and Land Resources Quality**

Comment: The proposed Zoning Map Amendment from the current R-3 to R-2.5 may increase any resources of the land that may be involved, simply because of the proposed redevelopment of the site at a greater density than is, or has been on the subject properties. The existing Comprehensive Plan designation of Medium Density Residential will remain unchanged.

Air quality will ultimately be improved based on the future development on the properties. New structures will be more efficient in terms of air pollution based on more updated, current, more environmentally sensitive building materials and construction methods and practices.

Water resources will actually be improved based on the new, current, modern construction methods and standards will provide protection for onsite water resources. Storm water management practices and standards will insure that onsite storm water is likely to be cleaner and less polluting than current storm water that comes off the properties. Also, because the new dwelling structures that are proposed to be built will be energy efficient and plumbing fixtures (and utilities) will be more energy efficient as manufactured. In other words, the proposed zone change from R-3 to R-2.5 will ultimately be a benefit to the subject properties, the local neighborhood, and the city.

**Goal 7 – Areas Subject to Natural Hazards**

Comment: The subject properties are not within a 100-year flood plain, but it may be within an area that could be subject to earthquakes, as is the entire Portland metro area. No other known or identified natural hazards exist in this immediate local neighborhood.

**Goal 8 – Recreational Needs**

Comment: No park land or open space, or any other recreational resource will be impacted by the proposed change of zoning, because the use of the subject properties will remain residential. The future increase in density that will occur as a result of the proposed zone change will not have a significant impact on local residential needs because the increase in density amounts to not more than a very few units, and, consequently,

relatively few residents. As such, recreational needs of the community should not be changed by the very small scope of the proposed Amendment.

### **Goal 9 – Economic Development**

Comment: Future redevelopment of the subject properties, based on the proposed increase in density, will lead to some local economic development. Construction of two new duplex structures, and the rebuilding of the third existing structure on the Dieringer properties, will provide short term employment for a wide variety of construction personnel, in addition to the building materials that must be purchased for the project. The same may be said for the Van Dyke and Keller properties when they might be redeveloped. Further, the value to the city in terms of increased tax revenues will accrue to the city, regardless of the amount. New residents may spend more in local retail commercial establishments as they “settle in” to the neighborhood and their new home. Certainly, the proposed Zoning Map Amendment from R-3 to R-2.5 will not have any adverse impact to the local economy.

### **Goal 10 – Housing**

Comment: The proposed Zoning Map Amendment will allow for an increase in local housing inventory and opportunities based on the greater density allowed for the properties. Any increase in housing opportunities in the Portland metro area will be an asset. Therefore, there will be an improved situation with regard to compliance with this Goal seeking to improve housing choices and opportunities.

### **Goal 11 – Public Facilities and Services**

Comment: Public facilities and services are already available to the subject properties based on the existing use of such facilities and services for existing residential units. Where necessary, use of public facilities and services for an increase in housing density will continue to be available. Again, the potential increase in density will be minimal, but an increase nonetheless. However, existing public facilities and services will be available at suitable levels to allow for an increase in residential density.

### **Goal 12 – Transportation**

Comment: There are existing transportation facilities available at the present time to adequately serve the subject properties and provide full service access to/from the site. Possible improvements to local streets should improve local traffic movement, and improve off street and on street parking. TriMet service on SE King Road (line no. 33) will remain available for use by local residents, and new, higher residential density will have a miniscule impact on the demand for and use of local transportation facilities.

### **Goal 13 – Energy Conservation**

Comment: Redevelopment of the subject site should result in greater energy conservation because the new structures to be built will be much more energy efficient than the existing structures. New appliances,

heating system, fixtures, etc. will all be more energy efficient. As a result, the redevelopment of the subject properties at a slightly higher density will be in compliance with this Goal.

**Goal 14 – Urbanization**

Comment: The site is already designated “urban” by virtue of the fact that the subject properties are within the Portland Metro UGB. The redevelopment of the subject properties will increase the level of actual urbanization through new structures at higher densities than has been the case for the properties. Therefore, the Zoning Map Amendment from R-3 to R-2.5, with the Plan designation of Medium Density Residential will continue to fully satisfy this Goal.

**Goal 15 – Willamette River Greenway**

Comment: This Goal does not apply because the subject properties are not within the designated Willamette River Greenway.

**Goal 16 – Estuarine Resources**

**Goal 17 – Coastal Shorelands**

**Goal 18 – Beaches and Dunes**

**Goal 19 – Ocean Resources**

Comment: These four Goals do not apply to the proposed Comp Plan Map Amendment because the subject properties are not located on the Oregon coast where these four Goals really apply.