



# CITY OF MILWAUKIE

## AGENDA

March 22, 2022

### PLANNING COMMISSION

[milwaukieoregon.gov](http://milwaukieoregon.gov)

**Hybrid Meeting Format:** the Planning Commission will hold this meeting both in person at City Hall and through Zoom video. The public is invited to watch the meeting in person at City Hall, online through the City of Milwaukie YouTube page ([https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB\\_m9cAw](https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw)), or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time. To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-92>) and follow the Zoom webinar login instructions.

**1.0 Call to Order – Procedural Matters — 6:30 PM**

**2.0 Planning Commission Minutes – Motion Needed**

2.1 February 22, 2022

**3.0 Information Items**

**4.0 Audience Participation** — This is an opportunity for the public to comment on any item not on the agenda

**5.0 Community Involvement Advisory Committee (CIAC)**

**6.0 Hearing Items**

6.1 2807 SE Sherrett St

Summary: Request to reduce the street-side and rear yard setbacks from 15 ft and 20 ft, respectively, down to 5 ft each.

Applicant: Ann DiNucci & Mike Mendez (represented by The Bookin Group)

Address: 2807 SE Sherrett St

File: VR-2022-001

Staff: Senior Planner Brett Kelver

6.2 10586 & 10610 SE Home Ave

Summary: Replat the 16 underlying subdivision lots and reconfigure the subject properties to create eight lots.

Applicant: Victoria Rystadt (represented by Mark Dane)

Address: 10586 & 10610 SE Home Ave

File: R-2021-004 (principal file), with VR-2021-019

Staff: Senior Planner Brett Kelver

**7.0 Planning Department Other Business/Updates**

**8.0 Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.

**9.0 Forecast for Future Meetings**

April 12, 2022      Hearing Item:      Senate Bill 458 Code Amendments

Hearing Item:      VR-2021-012, 9285 SE 58<sup>th</sup> Dr

## Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue an agenda item to a future date or finish the item.

### Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

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

### **Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice**

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) or phone at 503-786-7502. To request Spanish language translation services email [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

### **Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)**

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

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

Lauren Loosveldt, Chair  
Joseph Edge, Vice Chair  
Greg Hemer  
Robert Massey  
Amy Erdt  
Adam Khosroabadi  
Jacob Sherman

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

Laura Weigel, Planning Manager  
Vera Koliass, Senior Planner  
Brett Kolver, Senior Planner  
Adam Heroux, Associate Planner  
Ryan Dyar, Assistant Planner  
Will First, Administrative Specialist II



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

February 22, 2022

**Present:** Lauren Loosveldt, Chair  
Joseph Edge, Vice Chair  
Amy Erdt  
Adam Khosroabadi  
Robert Massey  
Jacob Sherman

**Staff:** Justin Gericke, City Attorney  
Vera Kolias, Senior Planner  
Laura Weigel, Planning Manager

**Absent:** Greg Hemer

(00:08:30)

### 1.0 Call to Order — Procedural Matters\*

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

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

(00:09:05)

### 2.0 Planning Commission Minutes

The November 9, 2021 minutes were approved with a 6 – 0 vote.

The January 25, 2022 minutes were approved with a 6 – 0 vote.

(00:10:39)

### 3.0 Information Items

**Laura Weigel, Planning Manager**, shared an update to the Middle Housing and Tree code City Council hearings, three hearings have been held all related to the proposed amendments to the tree code. The proposed middle housing code amendments will be discussed at the March 1 and 15 meetings. **Vera Kolias, Senior Planner**, added that Council has not yet deliberated on any proposed code amendments.

(00:11:45)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:12:36)

## 5.0 Community Involvement Advisory Committee (CIAC)

No information was presented for this portion of the meeting.

(00:14:09)

## 6.0 Work Session Items

(00:14:10)

### 6.1 Oregon Senate Bill 458 – Code Amendments

**Kolias** shared background information on Oregon Senate Bill 458 (SB 458), the bill is a follow up on Oregon House Bill 2001 (HB 2001). SB 458 ensures expedited land divisions for middle housing enabling units to be sold or owned individually. SB 458 applies to all middle housing types but does not apply to accessory dwelling units (ADUs). SB 458 land divisions must result in one dwelling per lot with separate utilities for each dwelling, the bill does allow common areas to be located on separate lots or shared tracts. Additionally, all dwelling units must meet the requirements of the Oregon Residential Specialty Code. The bill requires an expedited review of qualifying land divisions which the City will meet through a Type II review with a compressed 63-day time frame.

**Kolias** continued, SB 458 allows jurisdictions to require frontage improvements, concurrent reviews from other departments, preliminary and/or final plats, and building permits. Consistent with other land division reviews the proposed code amendments will not require concurrent reviews from other departments. SB 458 states new lots created cannot be required to provide street frontage for new lots, parking or driveway to each new lot, or minimum lot sizes or dimensions. Further, the city can only review and condition approval for land divisions of middle housing on criteria noted in SB 458. SB 458 allows the City to require that a notation appear on the final plat that indicates approval was granted under SB 458.

**Vice Chair Edge** asked whether any child lot property could also have an ADU under the expedited land division proposed here or through a traditional land division. **Kolias** responded that they would not be allowed in the proposed expedited land division code. Further, some middle housing units may not be allowed under the traditional land division review as street frontage is an approval criterion. **Justin Gericke, City Attorney**, responded that SB 458 is not clear in that regard.

**Vice Chair Edge** asked whether appeals are subject to the compressed timeline and will be heard by the Planning Commission. **Kolias** responded yes, appeals must be confined to the 63-day compressed review period and they will be heard by the planning commission.

(00:40:58)

## 7.0 Planning Department Other Business/Updates

**Weigel** shared that staff is awaiting a response from the Confederated Tribes of the Grand Ronde about whether the Commission can use the same Native Lands Acknowledgment used by Council.

**Weigel** shared that Council is resuming in-person meetings March 1<sup>st</sup> and Commissioners can participate in future Planning Commission meetings either online or in person in Council Chambers but are not obligated to attend in person.

**Chair Loosveldt** asked for clarification regarding COVID protocols during in-person meetings. **Weigel** responded that individual vaccination statuses will not be checked and the City is following state guidelines, masking is currently required. **Gericke** added that capacity will be limited to ensure physical distancing in Council Chambers. **Commissioner Sherman** added that Council Chambers are equipped with sufficient technology to make a hybrid experience smooth for participation both in-person and via Zoom.

**Commissioners Sherman, Edge, Massey, Khosroabadi, Erdt, and Loosveldt** noted their support for a hybrid meeting format.

(00:54:00)

## 8.0 Planning Commission Committee Updates and Discussion Items

(00:55:19)

### 9.0 Forecast for Future Meetings:

March 8, 2022	1. Public Hearing: CSU-2021-005, MHS Reader Board Sign at 2301 SE Willard St
March 22, 2022	1. Public Hearing: R-2021-004, 8-lot Subdivision Replat at 10586 & 10610 SE Home Ave
April 12, 2022	1. Public Hearing: VR-2022-001, Setback Variance at 2807 SE Sherrett St 2. Public Hearing: Senate Bill 458 Code Amendments 3. Public Hearing: VR-2021-012, 9285 SE 58 <sup>th</sup> Dr

Meeting adjourned at approximately 7:18 p.m.

Respectfully submitted,

Will First, Administrative Specialist II



# CITY OF MILWAUKIE

**To:** Planning Commission  
**Through:** Laura Weigel, Planning Manager  
**From:** Brett Kelter, Senior Planner  
**Date:** March 15, 2022, for March 22, 2022, Public Hearing  
**Subject:** **File:** VR-2022-001  
**Applicant/Owner:** Ann DiNucci and Mike Mendez  
**Address:** 2807 SE Sherrett St  
**Legal Description (Map & Tax Lot):** 1S1E25BA02600  
**NDA:** Ardenwald-Johnson Creek

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## ACTION REQUESTED

Approve application VR-2022-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2, respectively. This action would reduce the required street-side and rear yards and allow a proposed addition to the existing house to be set back only 5 ft from the west-side and rear property boundaries.

## BACKGROUND INFORMATION

### A. Site and Vicinity

1. The site is located at the northeast corner of Sherrett Street and 28<sup>th</sup> Avenue and is approximately 4,900 sq ft in area. The property is comprised of two tax lots straddling the municipal border between Milwaukie and Portland and is developed with an existing single-unit house (see Figure 1). Most of the house floor area is on the Milwaukie side of the boundary, though a small portion at the rear of the structure (a covered patio and upper story covered deck) is on the Portland side. A detached garage is

Figure 1. Aerial View



located at the northwest corner of the property and provides an unimproved vehicle access onto the 28<sup>th</sup> Avenue frontage. At that location, 28<sup>th</sup> Avenue serves as a pedestrian/bicycle connection to the Springwater Trail corridor that runs southwest-northeast behind the subject property.

## B. Zoning Designation

The majority of the subject property is within the Milwaukie city limits and is zoned Residential R-5 (see Figure 2a). The triangle-shaped tax lot that forms the northern portion of the property is within the Portland city limits and has an R5z zone designation—the “z” indicates an overlay where development constraints (such as natural resources or land hazards) may make the lot less suited for additional dwelling units. The surrounding area is also primarily residential (R-5), with an industrially zoned area with low- to medium-building coverage across and downslope from the Springwater Trail corridor to the north.

Figure 2a. Existing Zoning (Milwaukie) = majority of lot

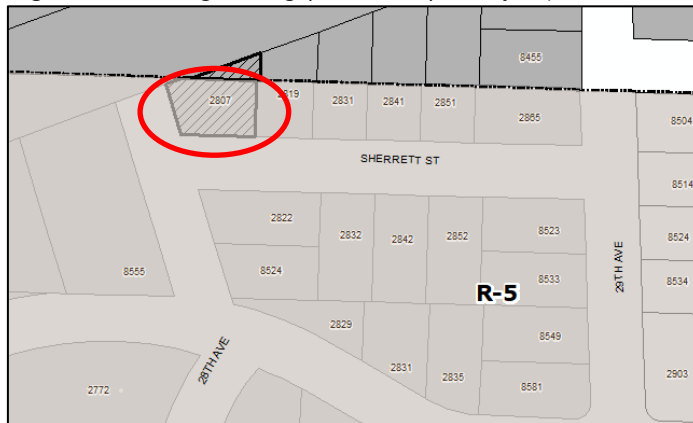
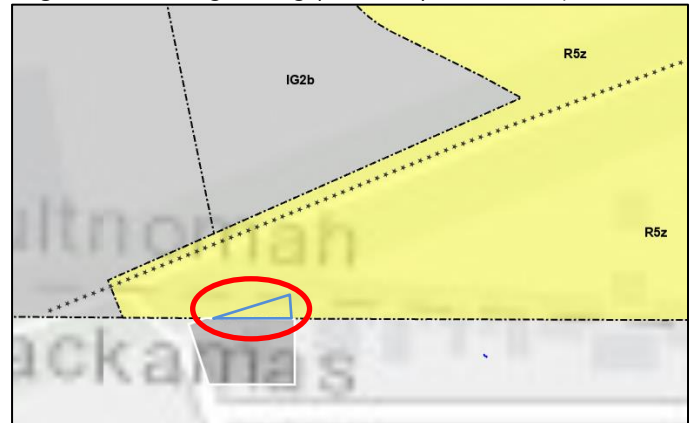


Figure 2b. Existing Zoning (Portland) = northern portion



## C. Comprehensive Plan Designation

Moderate Density (MD) for Milwaukie portion; Residential R5 for Portland portion

## D. Land Use History

- **1976:** Minor land partition file M-76-10, with variance file VR-76-09. The Planning Commission approved what was effectively a boundary adjustment, shifting the common boundary between the subject property (2807 SE Sherrett St) and the adjacent property to the east (2819 SE Sherrett St) 15 ft to the west. The variance was to acknowledge that, even with the adjustment and added area, 2819 SE Sherrett St would still be less than the minimum required 5,000 sq ft.

## E. Proposal

The applicants intend to demolish the existing detached garage and build an addition of approximately 1,260 sq ft onto the west side of the existing house. The proposed addition



would be located within 5 ft of the street-side property line and within approximately 5.25 ft of the rear property line. In the R-5 zone, the minimum required street-side yard setback is 15 ft and the rear yard setback requirement is 20 ft. The applicants have requested a variance from the setback standards to accommodate the proposed addition. With the removal of the detached garage and vehicle access to the site from 28<sup>th</sup> Avenue, a new driveway would be established from the Sherrett Street frontage at the east side of the house. A plan set and narrative description of the proposal are included in the applicant's submittal materials (see Attachment 3).

The proposed setback reductions exceed the allowances for Type II variance review and require Type III review instead.

## KEY ISSUES

### Summary

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

- A. Will the proposed street-side yard setback reduction negatively impact access to the Springwater Trail corridor via 28<sup>th</sup> Avenue?

### Analysis

#### **A. Will the proposed street-side yard setback reduction negatively impact access to the Springwater Trail corridor via 28<sup>th</sup> Avenue?**

The public right-of-way for 28<sup>th</sup> Avenue is 50 ft wide, though it is developed with only a 12-ft width of pavement that connects Sherrett Street to the Springwater Trail corridor. This portion of 28<sup>th</sup> Avenue is signed for No Parking on both sides of the street and generally offers a safe connection to the trail for bicycles and pedestrians. However, there are currently two points of vehicle access onto the 28<sup>th</sup> Avenue connector: one is a driveway serving the property at 8555 SE 28<sup>th</sup> Ave and the other is the unimproved driveway leading into the detached garage on the subject property.

Although the existing garage is not frequently used for vehicle access onto the property, it does represent one point of potential conflict with bicycle and pedestrian traffic accessing the trail. The proposal to demolish the garage offers the opportunity to close the property's frontage for vehicle access, which will eliminate that point of conflict and improve bike/ped safety on the 28<sup>th</sup> Avenue connector. (Fully eliminating vehicle access on this portion of 28<sup>th</sup> Avenue will mostly likely depend on future (re)development at 8555 SE 28<sup>th</sup> Ave.)

At its nearest, the existing garage is 4 ft from the 28<sup>th</sup> Avenue right-of-way boundary, which represents a nonconforming situation with respect to the current code.<sup>1</sup> For the proposed addition, the applicant has requested to reduce the street-side yard setback from 15 ft to 5 ft, which represents an improvement to the existing situation. Since this portion of 28<sup>th</sup> Avenue will continue to function primarily as a bike/ped connection to the trail rather than as regular local street, there are no plans for widening or other improvements within the existing right-of-way. Locating the proposed addition within 5 ft of the property line will not interfere with safe access to the trail.

## CONCLUSIONS

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

1. Approve the requested variances. This will allow a proposed addition to the existing house to be set back only 5 ft from the street-side and rear property boundaries.
2. Adopt the attached Findings and Conditions of Approval.

### B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- Establish at least one off-street parking space with a new accessway from the Sherrett Street frontage.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Chapter 12.16 Access Management
- MMC Section 19.301 Low Density Residential Zones (including R-5)
- MMC Section 19.607 Off-Street Parking Standards for Residential Areas
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III Review

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

The Commission has four decision-making options as follows:

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<sup>1</sup> MMC Subsection 19.502.1.E.1 requires accessory structures to meet the street-side yard requirement of the base zone. For the R-5 zone, the minimum street-side setback is 15 ft.

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

The final decision on these applications, which includes any appeals to the City Council, must be made by June 4, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Community Development, Engineering, Building, Public Works, Code Compliance, and Police Departments; Ardenwald-Johnson Creek Neighborhood District Association (NDA) and Land Use Committee (LUC); Clackamas Fire District #1 (CFD); Metro; Portland Parks and Recreation; and NW Natural. The following is a summary of the responses received by the City. See Attachment 4 for further details.

- **Alex McGladrey, Deputy Fire Marshal, CFD:** No comments.
- **Jeremy Lorence, East Metro Engineer, NW Natural:** No comments.
- **Lisa Gunion-Rinker, LUC Chair for Ardenwald-Johnson Creek NDA:**  
Acknowledged that removing the existing driveway on 28<sup>th</sup> Avenue was good and appreciated that the large tree at the southwest corner of the site would be retained. Expressed concerns about maintaining safe access to the Springwater Trail corridor for bicyclists and pedestrians during and after construction. Questioned whether a 10-ft street-side yard setback would provide a safer situation. Once staff provided more detailed information about the existing conditions, the concerns were withdrawn, and it was noted that the NDA had no opposition to the variance requests.

***Staff Response:** The improved portion of 28<sup>th</sup> Ave does not utilize the full 50-ft width of the public right-of-way (ROW) that exists there. The proposed addition would in fact be about 1 ft farther behind the ROW than the existing garage. Maintaining safe access in the ROW is a requirement both during and after construction.*

## ATTACHMENTS

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

	Public Copies	E-Packet
1. Recommended Findings in Support of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Recommended Conditions of Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Applicant's Submittal Materials (received Jan. 14, 2022, unless otherwise noted)		
a. Application Forms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Plan Sheets		
• Site Plan (revised March 10, 2022)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Building Elevations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Floor Plan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Side-Yard Height Plane	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Comments Received	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Public Copies = materials posted online to application website (<https://www.milwaukieoregon.gov/planning/vr-2022-001>).

E-Packet = meeting packet materials available one week before the meeting, posted online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-92>.

**ATTACHMENT 1**  
**Recommended Findings in Support of Approval**  
**File #VR-2022-001, Sherrett Street Yard Setback Variances**

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

1. The applicants, Ann DiNucci and Mike Mendez, have applied for approval of variances to the street-side and rear yard setbacks for their property at 2807 SE Sherrett St. The purpose of the request is to facilitate the construction of an addition to the existing single-unit house on the site. The land use file number for the variance request is VR-2022-001.
2. The subject property is approximately 4,900 sq ft in area and is zoned residential R-5. It is at the northeast corner of Sherrett Street and 28<sup>th</sup> Avenue. The property is comprised of two tax lots straddling the municipal border between Milwaukie and Portland and is developed with an existing house. Most of the house floor area is on the Milwaukie side of the boundary, though a small portion at the rear of the structure (a covered patio and upper story covered deck) is on the Portland side. A detached garage is located at the northwest corner of the property and provides an unimproved vehicle access onto the 28<sup>th</sup> Avenue frontage. At that location, 28<sup>th</sup> Avenue serves as a pedestrian/bicycle connection to the Springwater Trail corridor that runs southwest-northeast behind the subject property.

The applicants intend to demolish the detached garage and build an addition of approximately 1,260 sq ft onto the west side of the existing house. The proposed addition will be located within 5 ft of the street-side property line and within 5.25 ft of the rear property line. In the R-5 zone, the minimum required street-side yard setback requirement is 15 ft and the rear yard setback is 20 ft. The applicants have requested a variance from the setback standards to accommodate the proposed addition. With the removal of the detached garage and vehicle access to the site from 28<sup>th</sup> Avenue, a new driveway will be established from the Sherrett Street frontage at the east side of the house.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Chapter 12.16 Access Management
  - MMC Section 19.301 Low Density Residential Zones (incl. R-5)
  - MMC Section 19.607 Off-Street Parking Standards for Residential Areas
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.911 Variances
  - MMC Section 19.1006 Type III Review

The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held by the Planning Commission on March 22, 2022, as required by law.

4. MMC Chapter 12.16 Access Management

MMC 12.16 regulates access from private property onto public streets, with specific requirements and standards provided in MMC Section 12.16.040.

MMC Subsection 12.16.040.A states that access to private property is permitted with the use of driveway curb cuts, that driveways must meet all applicable guidelines of the Americans with Disabilities Act (ADA), and that the driveway approaches must be improved to meet the requirements of the City’s Public Works Standards.

MMC Subsection 12.16.040.C governs the location of accessways (driveways), requiring a minimum of 7.5 ft from the side property line in residential districts.

MMC Subsection 12.16.040.F.2 states that single-unit residential uses must have a minimum driveway apron width of 9 ft and a maximum width of 20 ft.

*The applicants are required to construct a hard-surface (asphalt or concrete) driveway approach on Sherrett Street in compliance with City of Milwaukie Public Works Standards. A condition has been established to ensure that this standard is met.*

*As conditioned, the Planning Commission finds that this standard is met.*

5. MMC Section 19.301 Low Density Residential Zones (including R-5)

MMC 19.301 establishes standards for Low Density Residential zones, including the R-5 zone, with development standards provided in MMC Subsections 19.301.4 and 19.301.5. The applicable standards are addressed as described in Table 5 (Zoning Compliance) below.

<b>Table 5 Applicable R-5 Development Standards</b>			
<b>Standard</b>	<b>R-5 Requirement</b>	<b>Existing House</b>	<b>Proposed (with new addition)</b>
Front Yard	20 ft	17 ft (to front porch) 21 ft (to house)	17 ft (to front porch) 21 ft (to house)
Side Yard (interior)	5 ft	22.5 ft (east side)	22.5 ft (east side)
Street-Side Yard	15 ft	23.33 ft (4 ft to detached garage)	5 ft (see Finding 8 for discussion of variance)
Rear Yard	20 ft	10.67 ft (0 ft to detached garage)	5.25 ft (see Finding 8 for discussion of variance)
Maximum lot coverage	35%	23.5%	32.5%
Minimum vegetation	25%	c.65%	59%
Front Yard Minimum Vegetation	40%	c.94%	c.81.5%

*As proposed, and with approval of the variances discussed in Finding 8, the Planning Commission finds that the applicable R-5 zone standards of MMC 19.301 are met.*

6. MMC Section 19.607 Off-Street Parking Standards for Residential Areas

MMC Subsection 19.607.1 establishes standards for residential driveways and vehicle parking areas, including a requirement for providing at least one off-street parking space for the property that is not located in the required front or street-side yard. The parking space must be at least 9 ft wide by 18 ft deep. No more than 50% of the front yard area can be used for parking, with no more than three parking spaces allowed in the front yard.

*Currently, the only off-street parking on the subject property is the detached garage located in the street-side yard adjacent to 28<sup>th</sup> Avenue, which constitutes a nonconforming situation. As proposed, the garage will be demolished to make room for the proposed house addition and vehicle access to the subject property from 28<sup>th</sup> Avenue will be closed. The applicants have proposed to establish a conforming off-street parking space on the east side of the property's Sherrett Street frontage, with a new 9-ft-wide driveway leading to a 12-ft by 19-ft parking area along the east side of the house. The proposed parking location is just beyond the 20-ft front yard setback, occupies well under 50% of the front yard area, and provides only one parking space in the front yard. In accordance with the applicability provisions of MMC Subsection 19.602.3, a condition has been established to ensure that the existing nonconforming parking situation is improved as proposed in conjunction with the proposed development.*

*As conditioned, the Planning Commission finds that the applicable standards of MMC 19.607 are met.*

7. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including expansions, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of MMC 19.700, including a new dwelling unit, any increase in gross floor area, land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips.

*The applicant is proposing to construct an addition between 200 sq ft and 1,499 sq ft. As per MMC Subsection 19.702.2.B, frontage improvements are not proportional to this development; however, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in MMC 19.708.2.*

*This standard is met.*

b. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. The City's street

design standards are based on the street classification system described in the City’s Transportation System Plan (TSP).

*The subject property has frontage on Sherrett Street, which the City’s TSP and Transportation Design Manual classify as a local street. According to MMC Table 19.708.2 Street Design Standards, the required right-of-way width for a local street is between 20 ft and 68 ft, depending on the required street improvements.*

*The existing right-of-way is approximately 51.74 ft. Right-of-way dedication is not required for this frontage.*

*This standard is met.*

*As proposed, the Planning Commission finds that the applicable standards of MMC 19.700 are met.*

8. MMC Section 19.911 Variances

a. MMC Subsection 19.911.2 Applicability

MMC 19.911.2 establishes applicability standards for variance requests.

Variances may be requested to any standard of MMC Title 19, provided the request is not specifically listed as ineligible in MMC Subsection 19.911.2.B. Ineligible variances include requests that result in a change of a review type, change or omission of a procedural step, change to a definition, increase in density, allowance of a building code violation, allowance of a use that is not allowed in the base zone, or the elimination of restrictions on uses or development that contain the word “prohibited.”

*The applicant has requested variances to the minimum street-side and rear yard requirements for the R-5 zone, established in MMC Table 19.301.4.B.1.*

*The requested variances meet the eligibility requirements.*

b. MMC Subsection 19.911.3 Review Process

MMC 19.911.3 establishes review processes for different types of variances. MMC Subsection 19.911.3.B establishes the Type II review process for limited variations to certain numerical standards, including a variance of up to 25% for street-side and rear yard width standards. MMC Subsection 19.911.3.C establishes the Type III review process for larger or more complex variations to standards that require additional discretion and warrant a public hearing.

*For the R-5 zone, the minimum required street-side yard setback is 15 ft and the required rear yard setback is 20 ft. The applicant has proposed to reduce the street-side yard setback to 5 ft and the rear yard setback to 5.25 ft. Both proposed reductions exceed the 25% limit for Type II review and so are subject to the Type III review process.*

c. MMC Subsection 19.911.4 Approval Criteria

MMC 19.911.4 establishes approval criteria for variance requests. For Type III variances, MMC Subsection 19.911.4.B.1 provides approval criteria related to



discretionary relief and MMC Subsection 19.911.4.B.2 provides approval criteria related to economic hardship.

*The applicant has elected to address the discretionary relief criteria for the requested variance.*

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

*The existing detached garage is nonconforming with respect to the street-side and rear yard setbacks. It is within 4 ft of the 28<sup>th</sup> Avenue right-of-way boundary and exactly on or just over the rear lot line adjacent to the Springwater Trail corridor property. The proposed development involves removing the detached garage and replacing it with the daylight basement portion of the addition at 5 ft from the boundary with 28<sup>th</sup> Avenue and 5.25 ft from the rear boundary, which represents an improvement of the current nonconforming situation.*

*From the subject property's rear boundary, the Springwater Trail pathway itself is almost 50 ft downslope, so the requested variance for the rear yard will have no practical impact on that facility. Along 28<sup>th</sup> Avenue, the edge of the paved street is approximately 5 ft from the street-side boundary. This portion of 28<sup>th</sup> Avenue functions primarily as a connection to the trail for bicycles and pedestrians rather than as a regular local street, and there are no plans for widening or other improvements within the existing right-of-way. The requested variance for the street-side yard would provide at least 10 ft of separation between the new addition and the street, which is 1 ft more than at present.*

*Approval of the requested variances facilitates the removal of the existing nonconforming detached garage and will at least slightly increase the separation between on-site improvements and the 28<sup>th</sup> Avenue trail connection. By removing the existing vehicle access to the garage, it will also eliminate one of two remaining points of conflict for vehicles and bicycles and pedestrians accessing the Springwater Trail on 28<sup>th</sup> Avenue (the other being a driveway on the west side of 28<sup>th</sup> Avenue serving 8555 SE 28<sup>th</sup> Ave). The resulting shift of the subject property's driveway to the eastern side of its frontage on Sherrett Street will reduce the potential for vehicle conflicts at the intersection with 28<sup>th</sup> Avenue.*

*Requiring the applicants to meet the minimum setback standards would significantly limit the space available for the applicants to utilize that part of the site that is most valuable for them and most useful given the floorplan of the existing house. It would push the addition to the eastern side of the house and require a significant reconfiguration of the existing floor plan. It would also remove much of the incentive to demolish the existing nonconforming detached garage.*

*The Planning Commission finds that the analysis of the impacts and benefits of the requested variances compared to the baseline requirements is acceptable. This criterion is met.*

- (2) The proposed variance is determined to be both reasonable and appropriate, and it meets one or more of the following criteria:
- The proposed variance avoids or minimizes impacts to surrounding properties.
  - The proposed variance has desirable public benefits.
  - The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

*The subject property is irregularly shaped, due to the way 28<sup>th</sup> Avenue was platted at an angle along its western boundary and with the Springwater Trail corridor (which follows an old railroad line) running at a northeast-to-southwest angle along its northern boundary. The area is gently sloped, dropping approximately 7 ft from west to east across the subject property and offering views of the west hills at a distance across the Willamette River. The existing house is located near the middle of the property, but the focus of the site is toward the west and northwest, where an existing outdoor patio area and several windows take advantage of the privacy and views enhanced by the topography and surrounding development.*

*The east side of the property offers the best opportunity to add on to the existing house without needing a variance from any setbacks. But the east side of the house does not provide the views and privacy of the west side and is adjacent to another residential property. There are no residential properties immediately adjacent to the western (street-side) or northern (rear) boundaries.*

*The descending grade to the west of the existing house provides an opportunity to expand the floor area through a daylight basement with a rooftop deck. The applicants have opted to bring the main-floor portion of the proposed addition no closer to the western boundary than the minimum 15-ft street-side setback—only the daylight basement and rooftop deck portion will encroach into the street-side yard, which will limit the mass of the building where closest to 28<sup>th</sup> Avenue.*

*As noted above, the proposed development includes removal of the existing vehicle access to the garage. That action will also eliminate one of the two remaining points of conflict for vehicles and bicycles and pedestrians accessing the Springwater Trail on 28<sup>th</sup> Avenue. The applicants have also proposed to shift the subject property's driveway to the eastern side of its frontage on Sherrett Street, which will reduce the potential for vehicle conflicts at the intersection with 28<sup>th</sup> Avenue.*

*The Planning Commission finds that the requested variances are reasonable and appropriate and that they both meet one or more of the criteria provided in MMC Subsection 19.911.B.1.b.*

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

*The requested variances will allow the proposed addition to be closer to the northern and western property boundaries. As noted above, the actual pathway of the Springwater*

*Trail is approximately 50 ft from the northern property boundary and is at least 7 to 8 ft lower than the subject property, so the requested variance poses no significant impact. An existing 6-ft fence along the rear property line will provide some additional visual buffering.*

*Along the western boundary at 28<sup>th</sup> Avenue, the removal of the detached garage and vehicle access will eliminate one of two remaining points of conflict between vehicles and bicycles and pedestrians accessing the trail. The area between the street and the subject property includes some existing vegetation that provides some screening and buffering. The garage removal will open more space for additional vegetation between the street and the addition.*

*The Planning Commission finds that the requested variances would result in little to no impact to surrounding properties or access to the trail and that no conditions requiring specific mitigation are necessary. This criterion is met.*

*As proposed, the Planning Commission finds that the requested variances meet the approval criteria established in MMC 19.911.4.B.1 for Type III variances seeking discretionary relief.*

*The Planning Commission finds that the requested variances are allowable as per the applicable standards of MMC 19.911.*

9. The application was referred to the following departments and agencies on February 7, 2022:
- Milwaukie Community Development Department
  - Milwaukie Engineering Department
  - Milwaukie Building Department
  - Milwaukie Public Works Department (including Environmental Services)
  - Milwaukie Police Department
  - Milwaukie Code Compliance
  - City Attorney
  - Ardenwald-Johnson Creek Neighborhood District Association (NDA) Chairperson and Land Use Committee (LUC)
  - Clackamas Fire District #1 (CFD #1)
  - Metro
  - Portland Parks and Recreation
  - NW Natural

The responses received are summarized as follows:

- **Alex McGladrey, Deputy Fire Marshal, CFD:** No comments.
- **Jeremy Lorence, East Metro Engineer, NW Natural:** No comments.
- **Lisa Gunion-Rinker, LUC Chair for Ardenwald-Johnson Creek NDA:** Acknowledged that removing the existing driveway on 28th Avenue was good and appreciated that the large tree at the southwest corner of the site would be retained.

Expressed concerns about maintaining safe access to the Springwater Trail corridor for bicyclists and pedestrians during and after construction. Questioned whether a 10-ft street-side yard setback would provide a safer situation. Once staff provided more detailed information about the existing conditions, the concerns were withdrawn, and it was noted that the NDA had no opposition to the variance requests.

**ATTACHMENT 2**  
**Recommended Conditions of Approval**  
**File #VR-2022-001, Sherrett Street Yard Setbacks**

**Conditions**

1. As per Finding 4, the applicant is required to construct a hard surface driveway apron and approach in conformance with Milwaukie Municipal Code (MMC) Chapter 12.16 and Milwaukie Public Works Standards. An issued Right-of-Way Permit is required prior to starting any work within the public right-of-way.
2. As per Finding 6, establish at least one off-street parking space that complies with the applicable standards of MMC Section 19.607, with a new accessway from the Sherrett Street frontage of the subject property.

**Additional Requirements**

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

1. Expiration of Approval

As per MMC Subsection 19.1001.7.E, the land use approval granted with this decision will expire and become void unless the following criteria are satisfied. For proposals requiring any kind of development permit, the development must complete both of the following steps:

- a. Obtain and pay for all necessary development permits and start construction within two years of land use approval.
- b. Pass final inspection and/or obtain a certificate of occupancy within four years of land use approval.

**MILWAUKIE PLANNING**

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

# Application for Land Use Action

**Master File #: VR-2022-001**

 Review type\*:  I  II  III  IV  V
**CHECK ALL APPLICATION TYPES THAT APPLY:**

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

**RESPONSIBLE PARTIES:**

<b>APPLICANT</b> (owner or other eligible applicant—see reverse):	Ann DiNucci and Mike Mendez	
Mailing address:	2807 SE Sherrett St, Milwaukie	State/Zip: OR, 97222
Phone(s):	503-953-3250/ 503-351-7235 (Mike)	Email: ann.dinucci@cascadeenergy.com
<i>Please note: The information submitted in this application may be subject to public records law.</i>		
<b>APPLICANT'S REPRESENTATIVE</b> (if different than above):	Debbie Cleek, The Bookin Group	
Mailing address:	1020 SW Taylor Street, Suite 555, Portland	State/Zip: OR, 97205
Phone(s):	503-241-2423	Email: cleek@bookingroup.com

**SITE INFORMATION:**

Address:	2807 SE Sherrett St	Map & Tax Lot(s):	1S1E25BA 02600 and 1S1E24CD 05600
Comprehensive Plan Designation:	Residential	Zoning:	R5
		Size of property:	0.12 acres

**PROPOSAL (describe briefly):**

Type III Variance to reduce the street side and rear setbacks.

**SIGNATURE:**

<b>ATTEST:</b> 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: 1-4-2022

**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-2022-001	\$ 2000			<b>Materials submitted January 14, 2022; Payment received January 20, 2022</b>
Concurrent application files		\$			
		\$			
		\$			
Deposit (NR only)				<input type="checkbox"/> Deposit Authorization Form received	
<b>TOTAL AMOUNT RECEIVED: \$ 2000</b>			<b>RECEIPT #:</b>		<b>RCD BY:</b>
<b>Associated application file #s</b> (appeals, modifications, previous approvals, etc.):					
<b>Neighborhood District Association(s): Ardenwald-Johnson Creek</b>					
<b>Notes:</b>					



**MILWAUKIE PLANNING**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503.786.7600  
 planning@milwaukieoregon.gov

# PREAPPLICATION CONFERENCE WAIVER

I/We, Ann DiNucci and Mike Mendez (print), as applicant(s)/property owner(s) of 2807 SE Sherrett Street (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

The project includes a small addition onto an existing house that will require two Variances. The applicants met with Brett Kolver with the City to discuss the project and the variance process and he indicated that a Pre-Application Conference is not really necessary for such a small project.

Signed:   
 Applicant/Property Owner

Approved:   
 Planning Director



## I. SUMMARY OF PROPOSAL

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- Owner:** Ann DiNucci and Mike Mendez  
2807 SE Sherrett Street  
Milwaukie, OR 97222  
503-953-3250  
ann.dinucci@cascadeenergy.com
- Planner:** Debbie Cleek, The Bookin Group  
1020 SW Taylor Street, Suite 555  
Portland, OR 97205  
503-241-2423  
cleek@bookingroup.com
- Request:** A Type III Variance to decrease the street side yard and rear yard setbacks
- Location:** 2807 SE Sherrett Street
- Tax Lots:** 1S1E25BA 02600 and 1S1E24CD 05600
- Site Size:** 0.12 acres (5,160 sq. ft.)
- Zoning:** R5 (Low Density Residential)
- Summary:** The applicant is proposing to construct a 1,263 sq. ft. addition onto the west side of the existing house. The subject property is a corner lot with frontage on SE Sherrett Street and SE 28<sup>th</sup> Avenue. The proposed addition will be within 5 feet of the SE 28<sup>th</sup> Avenue property line and 5 feet from the rear yard setback, requiring Variances from the 20-foot minimum required street side and rear yard setbacks. Since the requested Variances represent more than a 25% variation from the required setback standards this request is reviewed under the Type III procedures.

## II. EXISTING CONDITIONS

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**Site Description.** The site is located on the corner of SE Sherrett Street and SE 28<sup>th</sup> Avenue, south of the Springwater Corridor Trail. Sherrett Street provides the main access to the site and is a 50-foot right-of-way that includes a paved vehicle surface but does not include curbs or sidewalks. To the west of the site is SE 28<sup>th</sup> Avenue, a 50-foot right-of-way that is currently constructed with approximately 13 feet of pavement that is primarily used as a connection for pedestrians and bicycles to access the Springwater Corridor. SE 28<sup>th</sup> Avenue is identified as a major bicycle and pedestrian connection in Milwaukie's Transportation System Plan. Aside from the paved surface the 28<sup>th</sup> Avenue right-of-way is otherwise unimproved and vegetated. The Springwater Corridor Trail is directly adjacent to the north of the site located in the center of a 100-foot right-of-way that is densely vegetated to screen the trail from the adjacent residences. The site slopes gently down toward the north and is planted with gardens and

ornamental landscaping. There are no streams or other groundwater present on the site, and it is not located in any mapped hazard or natural resource area.

The irregularly shaped lot consists of two tax lots, with the north lot (1S1E25BA 02600) located in the City of Portland and the south lot (1S1E24CD 05600) located in the City of Milwaukie. No development is proposed on the part of the lot located in City of Portland as part of this proposal. The combined 5,160 sq. ft. lot is a standard sized lot for the R5 zone, but due to its trapezoidal shape, much of the northwestern corner of the lot is not practical for building. The irregular lot shape also results in a reduced buildable area of the site located outside of the required setbacks.

The site is developed with an approximately 1,700 sq. ft. split-level house, with a single story on the north side and two stories in the rear (south) side. The house also includes a finished basement level. The house was originally constructed in 1915 and faces toward SE Sherrett Street. To the northwest of the house there is a detached garage. The garage is served by a gravel driveway from SE 28<sup>th</sup> Avenue.

The surrounding neighborhood is developed primarily with single-family residential homes on similarly sized lots. The surrounding zoning is primarily R5 (Low Density Residential), with some R7 (Low Density Residential) zoning to the east, across 32<sup>nd</sup> Avenue and some manufacturing zoning (M) to the west, across the railroad tracks. The properties north of the Springwater Corridor, located in the City of Portland are also developed with single-family residential homes and zoned R5 (single-dwelling residential). The north portion of the site located in the City of Portland is zoned R5 with the z (constrained sites) overlay and is located in the Johnson Creek Basin plan district.

**Proposed Project.** The proposed project consists of removing the detached garage and constructing a 2-story addition (and finished basement) on the west side of the house. The addition will match the existing design of the house and will be split-level, with only a single-story in the front and two stories at the rear. The addition will include a new workshop on the basement level with a rooftop deck that will be on-grade with the main floor of the house. If required, one new off-street parking space will be constructed on the east side of the house.

Due to the irregular shape of the lot, the location of the existing house, and the fact that there are rights-of-way on three of the four sides of the lot finding adequate area to construct the proposed addition was challenging. The addition is located on the west side of the house because there is more available site area on that side of the house. Additionally, a driving factor for the addition is to expand the existing kitchen which is located on the west side of the house. As a result of these constraints the proposed addition will not meet the minimum street side setback on SE 28<sup>th</sup> Avenue or the rear setback, and Variances to these standards are requested.

The 1,263 sq. ft. addition will meet the remaining development standards of the R5 zone as follows:

Standard	Requirements	Existing	Proposed
Front Setback	20 feet minimum	21' house/17' porch	21' (no change)
Side Setback	5 feet minimum	22'- 6" to east property line	22' – 6" (no change)
Street Side Setback	20 feet minimum	23' – 4" house; 4' (detached garage)	5' (variance requested)
Rear Setback	20 feet minimum	10' – 8" house/ garage over property line	5' (variance requested)
Building Height	2.5 stories or 35 feet	22' – 8"	22' – 8" (no change)
Side Yard Height Plane Limit	20 feet/45 degrees at setback	See plan set sheet 3 for diagram	See plan set sheet 3 for diagram
Lot Coverage	35% maximum	22.3%	30.8%
Vegetation Area	25% minimum	36.4%	32.9%

Section 19.605 requires that one off-street parking space be provided for the house. This requirement is currently met with the detached garage, which is being removed as part of the addition. This parking space will be replaced on-site on the east side of the house, with a new hard-surfaced driveway providing a 9 foot by 18 foot parking space. Section 19.607.1 prohibits this parking space from being located in the front yard setback, so it is shown setback 20 feet back from the property line. It is the applicant's understanding that the City of Milwaukie is considering a change to the Zoning Code (as part of the Middle Housing amendments) that would eliminate the requirement that this parking space be located outside of the required front setback. In anticipation of this change the applicant would like to leave open the possibility of moving the parking space closer to the street if the code does change. The site plan submitted with the application show the , one showing the required off-street parking space on the east side of the house meeting the current code, and one showing the parking space meeting the potential new code standards.

Residential additions over 1,500 sq. ft. in size trigger the threshold of Section 19.702.2, requiring public facility improvements. In this case the street frontage along Sherrett is under-improved since it is lacking curbs or sidewalks. However, the proposed addition is only anticipated to be 1,263 sq. ft. so the requirements of this section would not be triggered by this project.

### III. LEGAL FINDINGS

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**Approval Criteria.** The approval criteria for a Type III variance are found in Section 19.911.4 of the Milwaukie code. A Type III variance shall be approved when all of the criteria in either subsection 19.911.4.B.1 or 2 have been met. For this proposal the applicant has chosen to meet the criteria of subsection 1 – Discretionary Relief Criteria as addressed below:

- 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.*

**Response:** Granting the variances to the rear and side yard setbacks will allow a reasonable and nominal addition to be added on to the existing house, which would otherwise not be possible given the irregular shape of the lot and the burden of having large (20 foot) setbacks along three of the four

existing property lines. One benefit of granting these variances is that they will facilitate the removal of the existing detached garage, which is currently non-conforming due to its location in the rear yard setback and actually encroaches into the Springwater Corridor right-of-way by about a foot. Additionally, the existing garage, which provides the required off-street parking space for the house does not comply with Section 19.607.1, which prohibits parking to be located in the street side yard setback.

Because the addition is proposed on the north and west sides of the house it will have no impact on any neighboring residential lots, since public rights-of-way are adjacent to both of these property lines. On the north side the trail within the Springwater Corridor is setback from the property line approximately 25 feet and the area between the lot and the trail is vegetated to provide a screen for the trail. Additionally, the lot has a 6 foot tall wood fence around the perimeter that provides additional screening between the house and the trail. Along SE 28<sup>th</sup> Avenue the under-improved right-of-way includes only a paved strip used primarily for bikes and pedestrians, with the edge of the pavement setback approximately 20 feet from the new addition. The area between the pavement and the edge of the right-of-way includes vegetation that will help screen the addition. The removal of the existing gravel driveway on this side of the lot will also create the opportunity for even more vegetation on this side of the house. As such the proposed addition will be adequately setback and screened from users of the 28<sup>th</sup> Avenue path connection and will have no impact on adjacent neighbors.

As shown, this analysis of the impacts and benefits of the proposed variances shows that the requested variances will have no impact on the surrounding neighborhood or adjacent residential properties but will provide benefits by removing the encroaching garage and non-conforming off-street parking space from the site, and this criterion is met.

- 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.*

**Response:** As described above, the proposed variances will have no significant impacts on the surrounding properties.

Approval of the variances will provide a public benefit in the respect that granting them will result in the removal of the driveway entrance to the property from SE 28<sup>th</sup> Avenue, relocating it to SE Sherrett Street. Because SE 28<sup>th</sup> Avenue is an important connection to the Springwater Corridor for bicycles and pedestrians minimizing vehicle traffic on this street eliminate the potential for conflicts. By removing this existing driveway, it will reduce the vehicle traffic on 28<sup>th</sup> this street (though the neighbor to the west will still have driveway access) resulting in a safer connection for bicycles and pedestrians.

The requested variances respond to the existing site constraints, which include the location of the existing house, the irregularity of the lot shape, the split zoning (Milwaukie and Portland) and the location of the rights-of-way surrounding the lot. The addition is designed to enlarge and modernize

the 1915 house without dramatically changing the appearance of it from SE Sherrett house. From this main frontage the house will not appear taller or out of proportion with other houses in the neighborhood. The addition will match the character of the existing house in style and design. The addition also will preserve the large tree located in front corner of the lot that helps provide additional privacy and screening for a lot that has the public traveling by on nearly all sides.

As shown, the approval of the variances will not result in any significant impacts to surrounding properties but will provide a public benefit by increasing the safety on SE 28<sup>th</sup> Avenue and will allow the construction of an addition that is sensitive to the character of the existing house and the mature trees surrounding it. This criterion is met.

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

**Response:** Approving both requested variances will allow the living space of the house to be located closer to both the Springwater Corridor and SE 28<sup>th</sup> Avenue. Neither of these rights-of-way represent a typical neighborhood street since they both include minimal-to-no vehicle traffic and mature landscaping that will help provide a buffer between the house and the public. Therefore, the only potential impact from the variances would be on the applicant themselves, who will have their house closer to the public realm on two sides, reducing some of their privacy. This potential loss of privacy will be mitigated through the architecture of the design, future landscaping on the site and maintaining the fence around the perimeter of the site. These solutions will help to mitigate any impacts from the variances and this criterion is met.

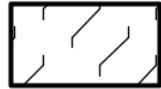
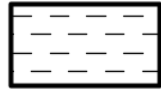


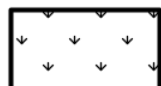

## **CONCLUSION**

As shown in this report, the requested variances to the street side yard and rear setbacks have been found to meet the approval criteria of Section 19.911.4.B.1 of the Milwaukie Code. The proposed addition is designed to match the character of the house while addressing the challenges posed by the size, shape and location of the lot and will result in no significant impacts on the surrounding neighborhood. Therefore, these variances should be approved.

---

(site plan updated March 10, 2022)

LEGEND:

-  EXISTING RESIDENCE
-  DETACHED GARAGE TO BE REMOVED
-  PROPOSED HOUSE ADDITION
-  PROPOSED BASEMENT W/ DECK OVER
-  EXISTING & PROPOSED VEGETATION
-  IMPERVIOUS AREAS

LOT COVERAGE:

EXISTING AREA:	
LOT AREA	4,900 SQ. FT.
EXISTING HOUSE	900 SQ. FT.
EXISTING GARAGE	254 SQ. FT.
TOTAL	1,154 SQ. FT.
LOT COVERAGE	23.5 %

PROPOSED AREAS:	
LOT AREA	4,900 SQ. FT.
STRUCTURE ONLY (FLAT WORK NOT INCLUDED)	1,589 SQ. FT.
LOT COVERAGE	32.4 %
(COVERAGE 35% MAX. ALLOWED) - MET	

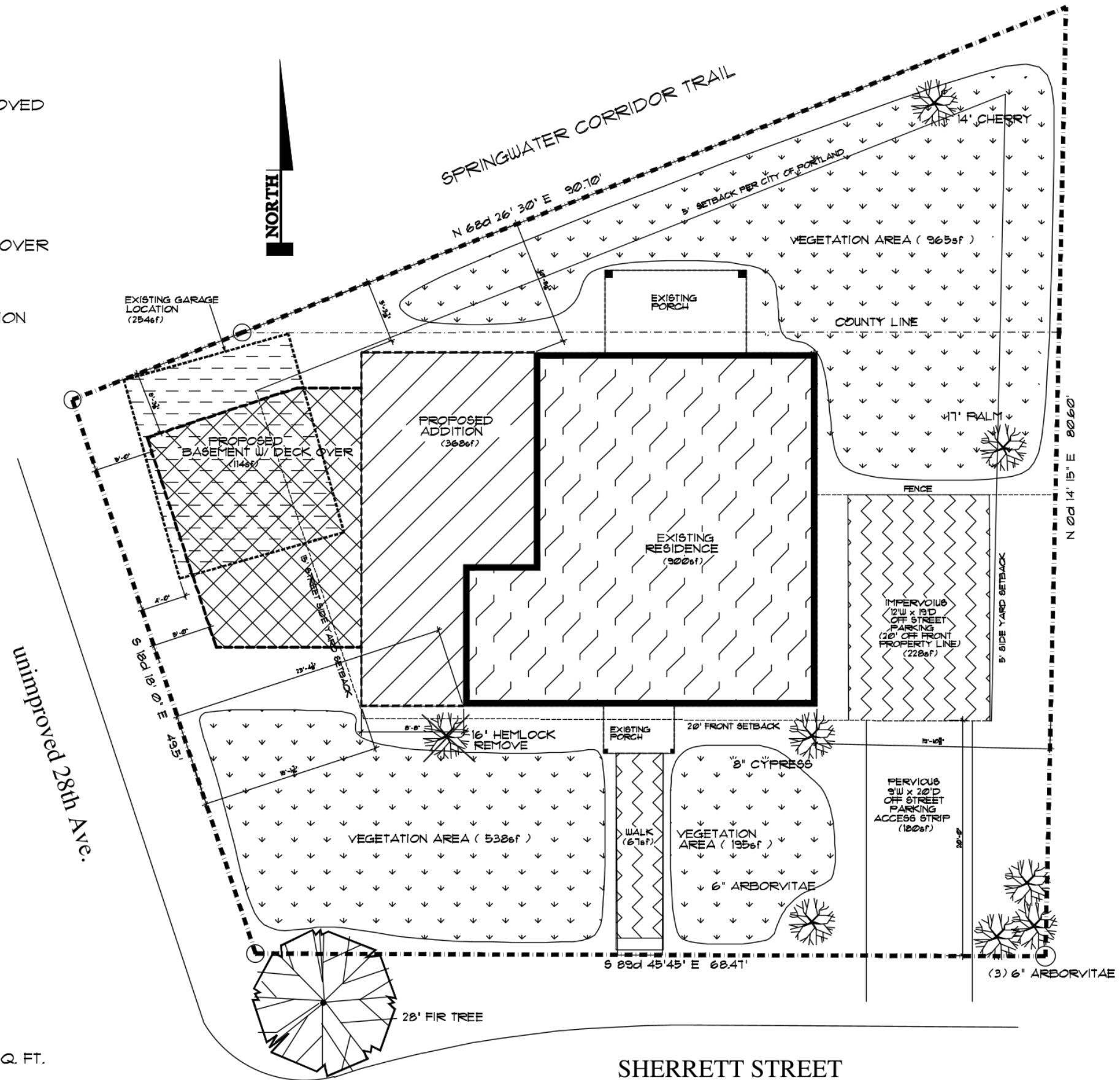
VEGETATION AREA:	
LOT AREA	4,900 SQ. FT.
VEGETATION AREA	1,698 SQ. FT.
LOT COVERAGE	34.6 %
(VEGETATION 25% MIN. REQUIRED) - MET	

FRONT YARD VEGETATION:	
FRONT YARD AREA	1,495 SQ. FT.
VEGETATION AREA	733 SQ. FT.
LOT COVERAGE	49.0 %
(VEGETATION 40% MIN. REQUIRED) - MET	

EXISTING AND PROPOSED FLAT WORK  
BOTH PERVIOUS AND IMPERVIOUS = 475 SQ. FT.

SITE PLAN

SCALE 1" = 10'-0"



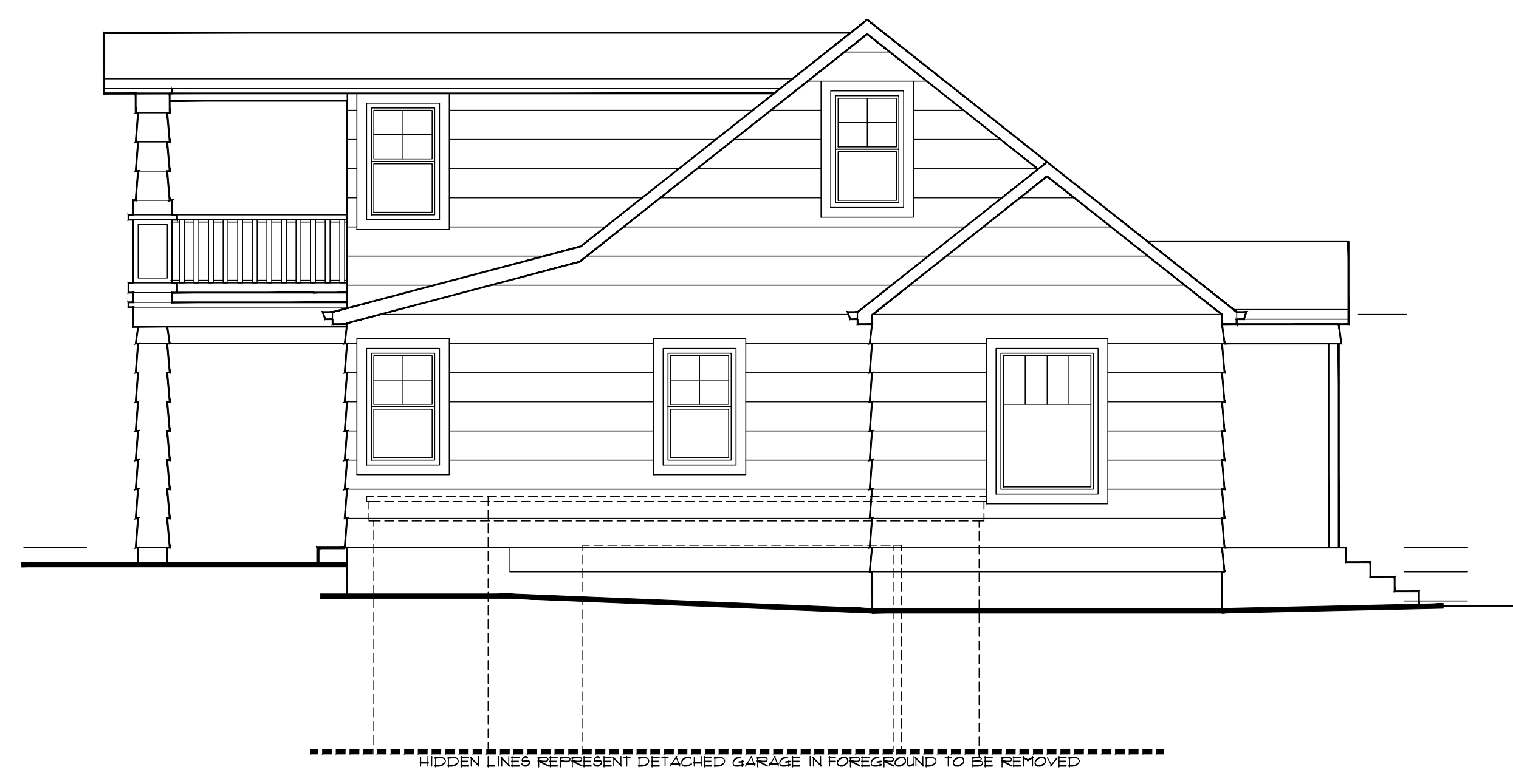
<b>JOB No.</b>	21072
<b>DATE</b>	1-12-2022
<b>SITE-0</b>	
<b>REV.</b> 3-10-2022	
<b>SITE INFORMATION:</b>	LOT AREA 5,160 SQ. FT. <b>BUILDING SITE ADDRESS:</b> 2807 S.E. SHERRETT STREET CITY OF MILWAUKIE, OR. CLACKAMAS COUNTY
<b>PROJECT:</b>	<b>OWNER:</b> MIKE MENDEZ 503-351-7235 ANN D'NICCI 503-953-3250
WATSON DESIGN WORKS WILL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION IT IS THE SOLE RESPONSIBILITY OF THE BUILDER / OWNER TO VERIFY ALL SITE CONDITIONS INCLUDING ANY FILL PLACED ON THE SITE THAT MAY CAUSE OF ANY POTENTIAL FIELD MODIFICATIONS.	
<b>WATSON DESIGN WORKS, Inc.</b> 1880 Willamette Falls Drive Suite 200-D West Linn, Or. 97008	

PROJECT: RESIDENTIAL BUILDING ADDITION  
 BUILDING SITE ADDRESS:  
 2807 S.E. SHERRETT STREET  
 CITY OF MILWAUKIE, OR.  
 CLACKAMAS COUNTY

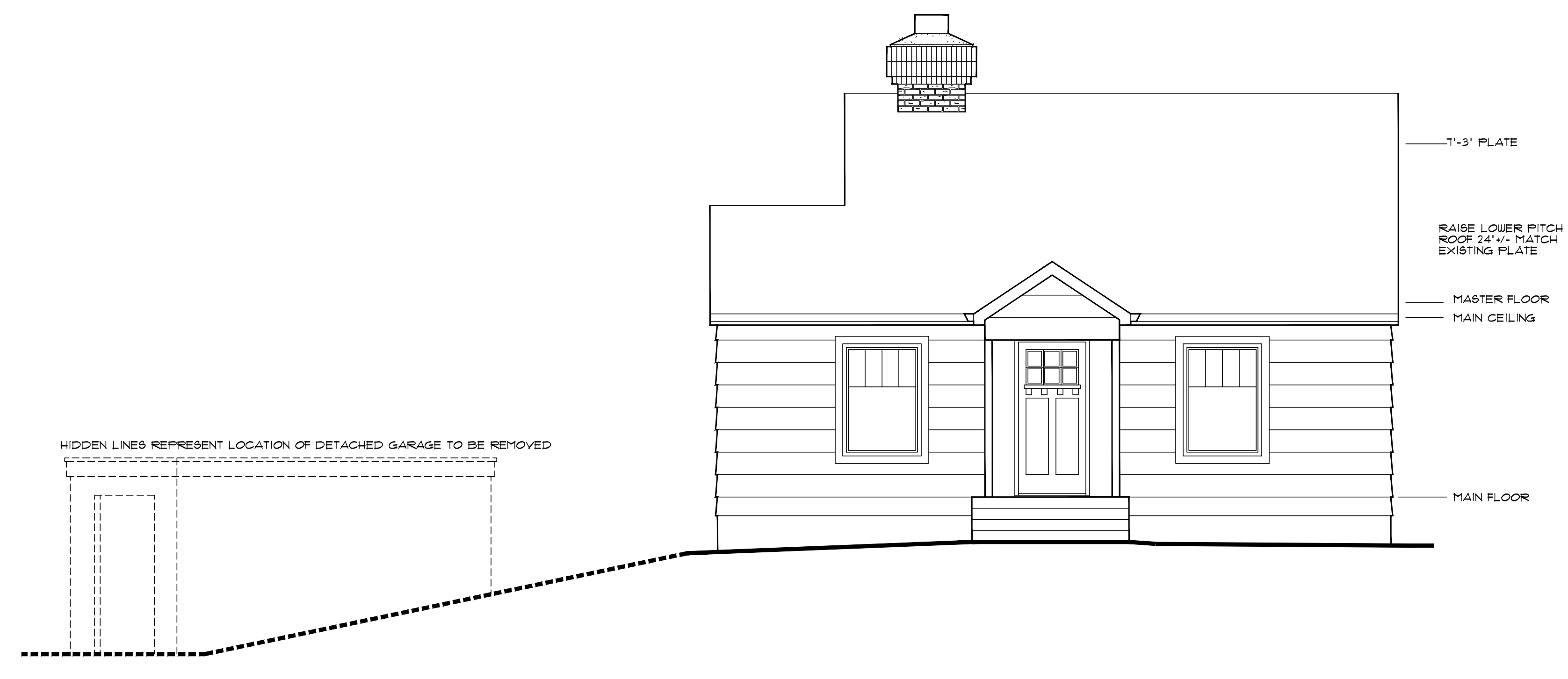
EXTERIOR ELEVATIONS  
 OWNER:  
 MIKE MENDEZ 503-351-7235  
 ANN DiNICCI 503-953-3250

PROPOSED SQUARE FOOTAGE	368 S.F.
MAIN AREA	205 S.F.
UPPER AREA	689 S.F.
LOWER AREA	1,263 S.F.
TOTAL AREA	2,265 S.F.
ROOF TOP DECK	225 S.F.

DATE: Est. 10-12-2021  
 Rev.  
 JOB No. 21072  
 SHEET 1



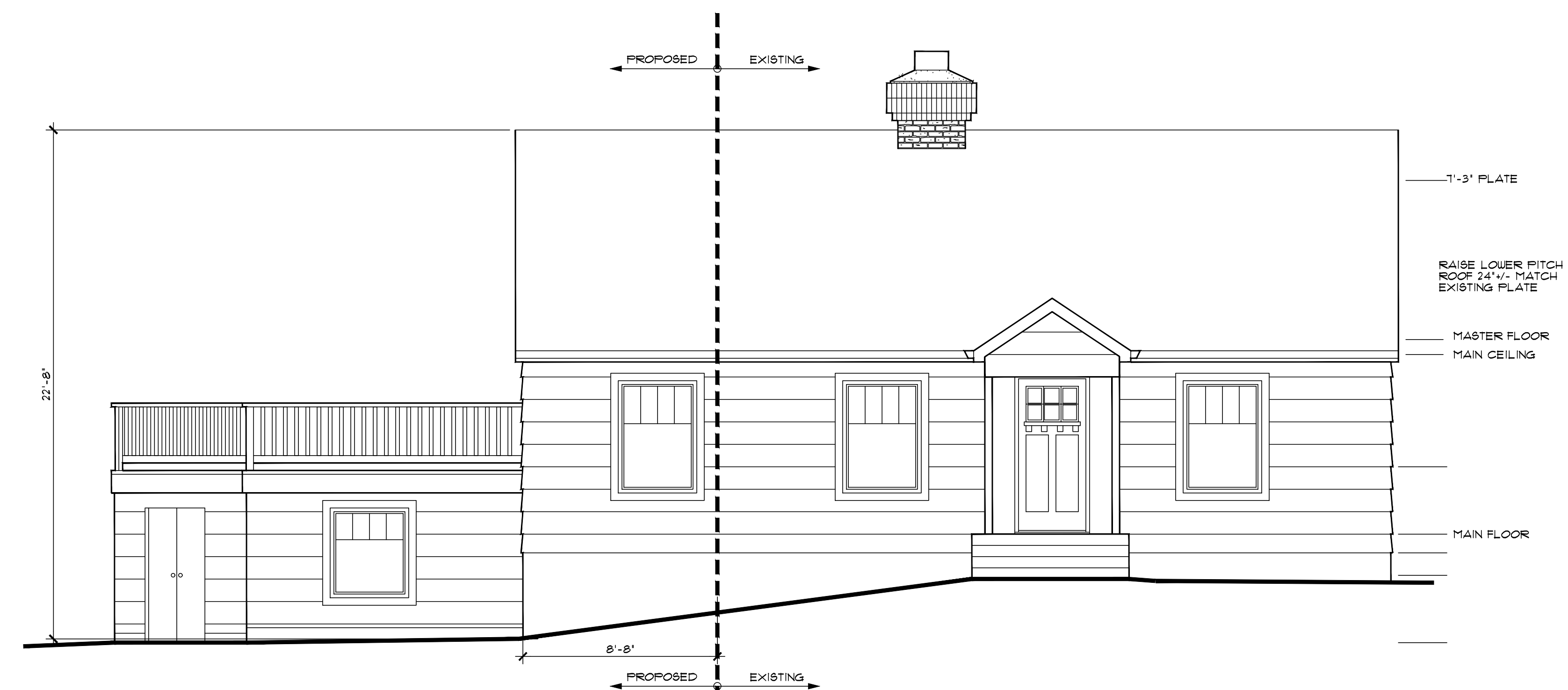
EXISTING LEFT / WEST ELEVATION  
 SCALE: 1/4" = 1'-0"



EXISTING FRONT / SOUTH / SEHRRETT ELEVATION  
 SCALE: 1/4" = 1'-0"



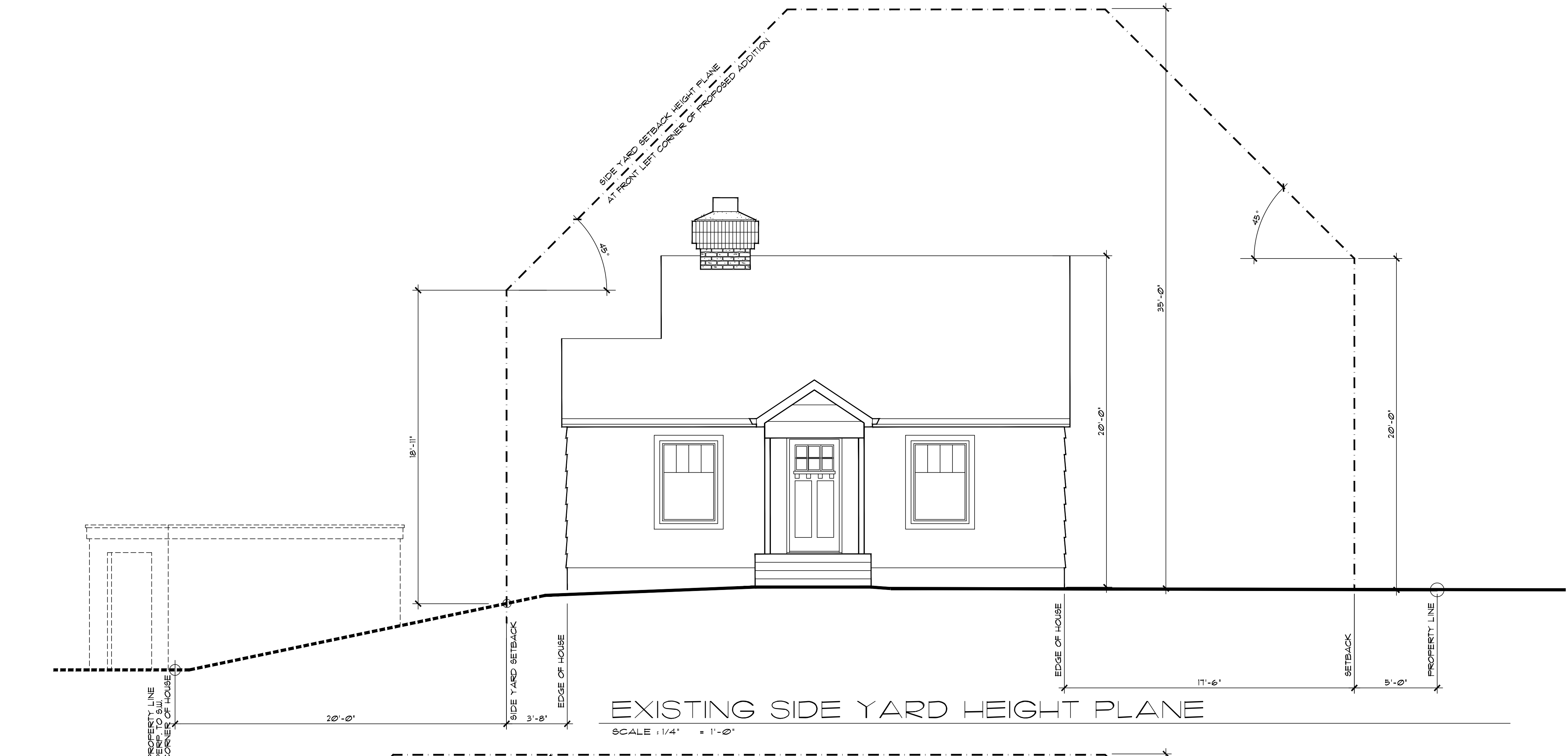
PROPOSED LEFT / WEST ELEVATION  
 SCALE: 1/4" = 1'-0"



PROPOSED FRONT / SOUTH / SHERRETT ELEVATION  
 SCALE: 1/4" = 1'-0"

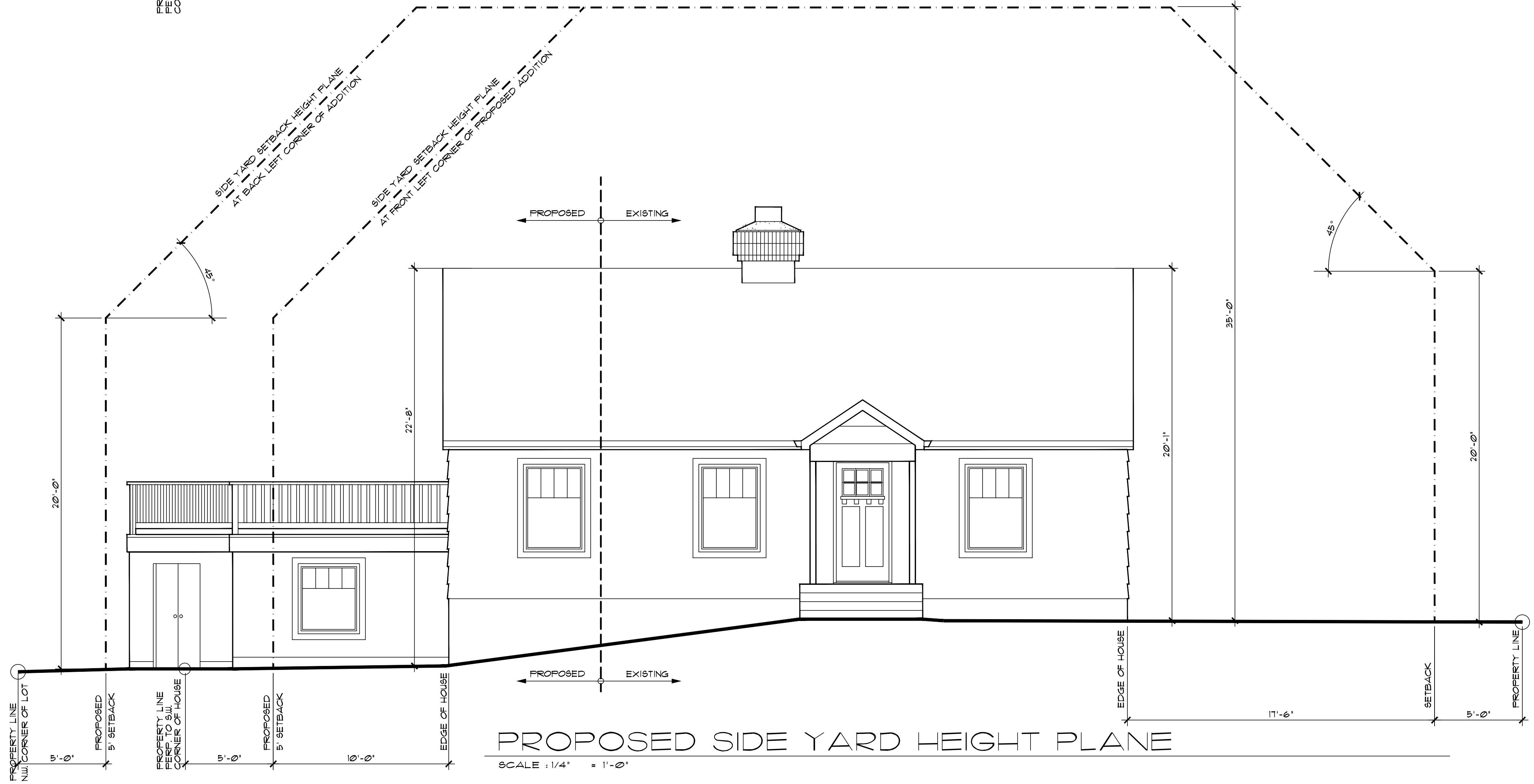






EXISTING SIDE YARD HEIGHT PLANE

SCALE: 1/4" = 1'-0"



PROPOSED SIDE YARD HEIGHT PLANE

SCALE: 1/4" = 1'-0"

ALTHOUGH MUCH CARE HAS GONE INTO THE PREPARATION OF THESE PLANS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS OF THE SITE. THESE PLANS ARE FOR THE CONSTRUCTION OF THE BUILDING ONLY AND DO NOT INCLUDE ANY OTHER WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS OF THE SITE. THESE PLANS ARE FOR THE CONSTRUCTION OF THE BUILDING ONLY AND DO NOT INCLUDE ANY OTHER WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

**WATTON DESIGN WORKS, Inc.**  
 1880 Willamette Falls Drive  
 Suite #200-D  
 West Linn, Or. 97068  
 503.655.1001  
 wattondesign.com

**PROJECT:** RESIDENTIAL BUILDING ADDITION  
**BUILDING SITE ADDRESS:**  
 2807 S.E. SHERRETT STREET  
 CITY OF MILWAUKIE, OR.  
 CLACKAMAS COUNTY

**SIDE YARD SETBACKS**

PROPOSED SQUARE FOOTAGE	368 S.F.
MAIN AREA	205 S.F.
UPPER AREA	689 S.F.
LOWER AREA	1,263 S.F.
TOTAL AREA	2,225 S.F.
ROOF TOP DECK	225 S.F.

**OWNER:**  
 MIKE MENDEZ 503-351-7235  
 ANN D'NICCI 503-953-3250

DATE: 1-12-2022  
 Rev.

JOB No. 21072

SHEET 3

**Brett Kelter**

---

**From:** McGladrey, Alex <alex.mcgladrey@Clackamasfire.com>  
**Sent:** Tuesday, February 8, 2022 11:53 AM  
**To:** Brett Kelter  
**Subject:** Re: VR-2022-001 Notice of Type III Land Use Proposal and Referral

This Message originated outside your organization.

---

Good Morning Brett,

CFD has no comment on the street and rear setbacks for this project.

Thanks

Alex McGladrey

Deputy Fire Marshal | Fire Marshal's Office

direct: 503.742.2662

main: 503.742.2600



*To Safely Protect & Preserve  
Life & Property*

**CLACKAMAS FIRE DISTRICT #1**

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

---

**From:** Will First <firstw@milwaukieoregon.gov>

**Sent:** Monday, February 7, 2022 16:40

**To:** Joseph Briglio <BriglioJ@milwaukieoregon.gov>; Steve Adams <AdamsS@milwaukieoregon.gov>; Jennifer Backhaus <BackhausJ@milwaukieoregon.gov>; Laura Weigel <WeigelL@milwaukieoregon.gov>; Samantha Vandagriff <VandagriffS@milwaukieoregon.gov>; Luke Strait <straitl@milwaukieoregon.gov>; Peter Passarelli <PassarelliP@milwaukieoregon.gov>; Justin Gericke <GerickeJ@milwaukieoregon.gov>; McGladrey, Alex <alex.mcgladrey@Clackamasfire.com>; MattRinker@hotmail.com <MattRinker@hotmail.com>; astrantialgr@gmail.com <astrantialgr@gmail.com>; schristinabailey@gmail.com <schristinabailey@gmail.com>; travis.tomlinson@gmail.com <travis.tomlinson@gmail.com>; Jason Wachs <WachsJ@milwaukieoregon.gov>; landusenotifications@oregonmetro.gov <landusenotifications@oregonmetro.gov>; Jeremy.Lorence@nwnatural.com <Jeremy.Lorence@nwnatural.com>; Tim Salyers <salyerst@milwaukieoregon.gov>; Jon Simkovic <SimkovicJ@milwaukieoregon.gov>; dylan.paul@portlandoregon.gov <dylan.paul@portlandoregon.gov>

**Cc:** Brett Kelter <KelterB@milwaukieoregon.gov>

**Subject:** VR-2022-001 Notice of Type III Land Use Proposal and Referral

Hello,

Please access the link below to find the Notice of Type III Land Use Proposal and Application Referral for land use application VR-2021-001 for 2807 SE Sherrett St. If you have any questions, please feel free to contact Senior Planner Brett Kelter at 503-786-7657 or [kelverb@milwaukieoregon.gov](mailto:kelverb@milwaukieoregon.gov).

<https://www.milwaukieoregon.gov/planning/vr-2022-001>

## Brett Kelter

---

**From:** Lorence, Jeremy <Jeremy.Lorence@nwnatural.com>  
**Sent:** Thursday, March 10, 2022 10:42 AM  
**To:** Brett Kelter; MattRinker@hotmail.com; astrantialgr@gmail.com; schristinabailey@gmail.com; travis.tomlinson@gmail.com; landusenotifications@oregonmetro.gov; dylan.paul@portlandoregon.gov  
**Subject:** RE: [External]RE: VR-2022-001 Notice of Type III Land Use Proposal and Referral

**This Message originated outside your organization.**

---

NW Natural has no comment. Thank you,

### Jeremy Lorence

NW Natural – East Metro Engineer  
Cell: 503.781.4467  
Office: 503.610.7693  
[Jeremy.Lorence@nwnatural.com](mailto:Jeremy.Lorence@nwnatural.com)

---

**From:** Brett Kelter <KelterB@milwaukieoregon.gov>  
**Sent:** Wednesday, March 9, 2022 5:05 PM  
**To:** MattRinker@hotmail.com; astrantialgr@gmail.com; schristinabailey@gmail.com; travis.tomlinson@gmail.com; landusenotifications@oregonmetro.gov; Lorence, Jeremy <Jeremy.Lorence@nwnatural.com>; dylan.paul@portlandoregon.gov  
**Subject:** [External]RE: VR-2022-001 Notice of Type III Land Use Proposal and Referral

**CAUTION:** This email originated outside NW Natural. Please DO NOT CLICK LINKS OR OPEN ATTACHMENTS unless you recognize the sender and know the content is safe.

Hello,

Apologies for not calling out sooner for any final comments on this variance request related to street-side and rear yard setbacks at 2807 SE Sherrett St, but if you have any comments to submit, now is the time.

This item will be going to a public hearing with the Planning Commission on March 22, with the staff report and recommended findings and conditions of approval being posted on Tuesday, March 15 (next week).

If you have any comments, please email them to me by Friday noon on March 11. Thank you,

### BRETT KELVER, AICP

Senior Planner  
he • him • his

---

**From:** Will First <firstw@milwaukieoregon.gov>  
**Sent:** Monday, February 7, 2022 4:40 PM  
**To:** Joseph Briglio <BriglioJ@milwaukieoregon.gov>; Steve Adams <AdamsS@milwaukieoregon.gov>; Jennifer Backhaus <BackhausJ@milwaukieoregon.gov>; Laura Weigel <Weigell@milwaukieoregon.gov>; Samantha Vandagriff <VandagriffS@milwaukieoregon.gov>; Luke Strait <straitl@milwaukieoregon.gov>; Peter Passarelli <PassarelliP@milwaukieoregon.gov>; Justin Gericke <GerickeJ@milwaukieoregon.gov>; Alex McGladrey

## Brett Kelter

---

**From:** Brett Kelter  
**Sent:** Thursday, March 10, 2022 1:35 PM  
**To:** Lisa Gunion-Rinker  
**Cc:** MattRinker@hotmail.com; schristinabailey@gmail.com; travis.tomlinson@gmail.com; landusenotifications@oregonmetro.gov; Jeremy.Lorence@nwnatural.com; dylan.paul@portlandoregon.gov  
**Subject:** RE: VR-2022-001 Notice of Type III Land Use Proposal and Referral

Thanks for the quick reply, Lisa. I'm glad the additional info helped. And I appreciate the clarification from your end about framing the comments as representing the NDA. I'll include this string of messages in the record and the meeting packet.

Much appreciated,

### BRETT KELVER, AICP

Senior Planner  
he • him • his

---

**From:** Lisa Gunion-Rinker <astrantialgr@gmail.com>  
**Sent:** Thursday, March 10, 2022 1:23 PM  
**To:** Brett Kelter <KelterB@milwaukieoregon.gov>  
**Cc:** MattRinker@hotmail.com; schristinabailey@gmail.com; travis.tomlinson@gmail.com; landusenotifications@oregonmetro.gov; Jeremy.Lorence@nwnatural.com; dylan.paul@portlandoregon.gov  
**Subject:** Re: VR-2022-001 Notice of Type III Land Use Proposal and Referral

**This Message originated outside your organization.**

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Thank you for the clarifications, Brett! From what you have noted, I was actually still standing in the ROW when I thought I had moved onto the neighbor's property. In that case, I don't have an issue with the "within 5' variance request towards 28th Street" if the addition will be 1' further back from the ROW.

The Ardenwald land use board was planning to meet with the owner this past weekend as a committee, but the timing did not work out. If no one else raises their concerns here, I would say that the opinion of the Ardenwald/JC neighborhood is that as long as safety concerns are met during construction for bicyclists and pedestrians accessing the Springwater Corridor Trail, there is no opposition to the proposed variance requests.

Best regards,  
Lisa Gunion-Rinker

On Thu, Mar 10, 2022 at 12:54 PM Brett Kelter <[KelterB@milwaukieoregon.gov](mailto:KelterB@milwaukieoregon.gov)> wrote:

Lisa,

Thank you for reviewing the application and sending your comments. I'll include this response and any additional back-and-forth in the record for the meeting packet.

To clarify, the existing detached garage is within 4 ft of the property line, as the improved portion of 28<sup>th</sup> Ave does not represent the full width of the public right-of-way (ROW) that is actually there. So, the proposed addition would

actually be about 1 ft farther back from the ROW than the existing garage. (The ROW width of 28<sup>th</sup> Ave there is 50 ft, so there is a lot of unimproved ROW on either side of the pavement.) I've included a screen shot of a portion of the site plan to illustrate this—the existing garage is represented with a light dashed line.

Your concern about access to the Springwater Trail corridor during construction is astute, and we can probably address that with a recommended condition of approval to require that access to the bike/ped path must be maintained throughout construction. Regardless of the setback on that side, it makes sense for us to clarify that safe access must be maintained and to keep construction vehicles and materials staging from impeding the path. I'll coordinate with our Engineering Department to figure out how best to word that. I think it may actually already be a requirement (that the ROW not be blocked during construction), so a condition may not be necessary so much as a reminder of that existing requirement.

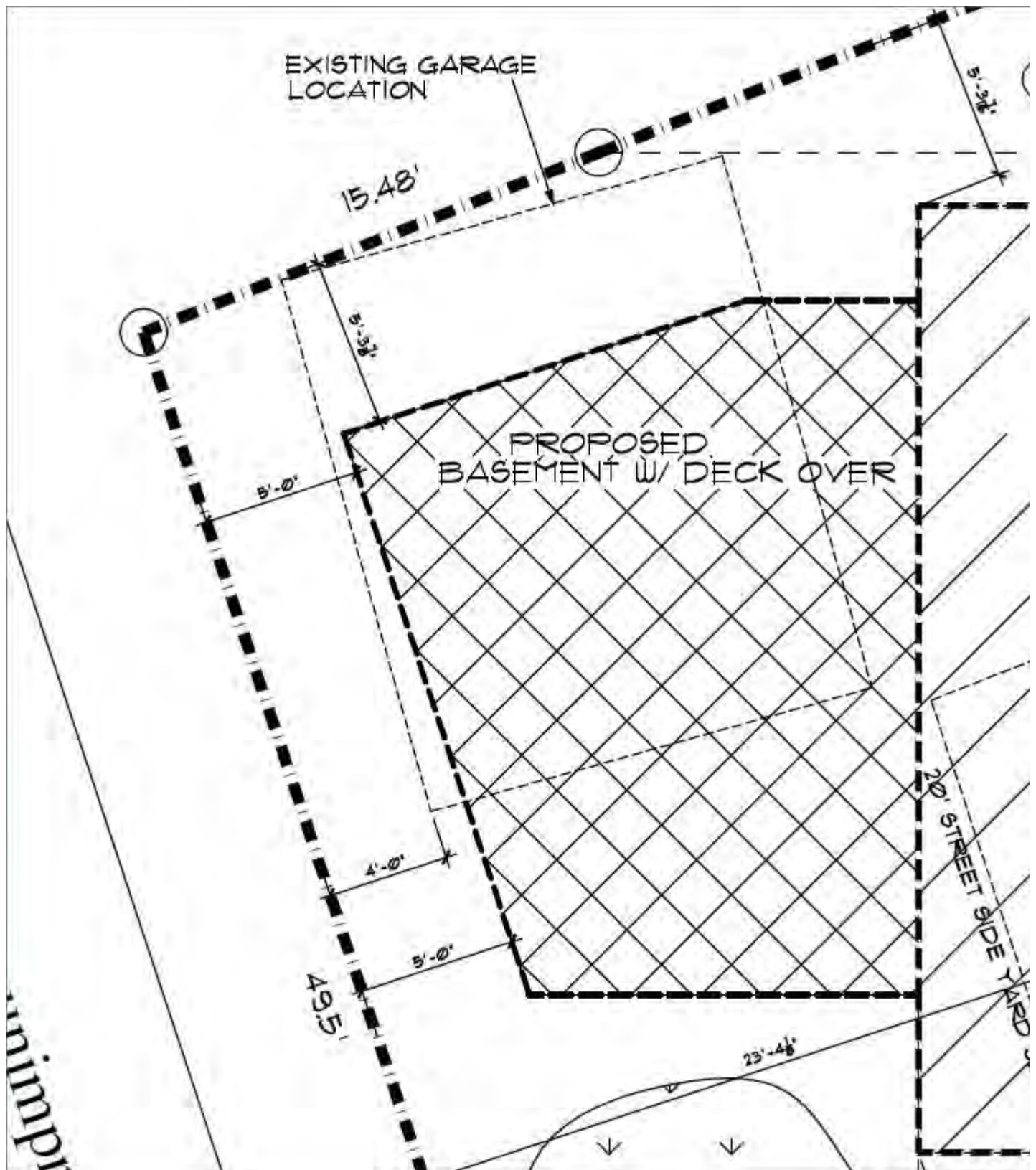
Post-construction, the existing vehicle access to the existing garage on the subject property will be removed, so that should somewhat reduce conflict between vehicles and bikes/peds on 28<sup>th</sup> Ave, since there is already posted No Parking on both sides of 28<sup>th</sup> Ave there. I think we'd eventually like to be able to close the private driveway on the west side of 28<sup>th</sup> Ave (the one you noted was in use when you visited the site, at 8555 SE 28<sup>th</sup> Ave) so that we could completely reserve that part of 28<sup>th</sup> Ave for bike/ped access to the Springwater Trail. Of course, this proposal does not provide an opportunity to address the westside driveway, so we may have to wait until some future development activity on that site triggers a proportional way to do that.

With all of this information in mind, do you want to revise any of your comments? And can you confirm whether those comments represent the Ardenwald-Johnson Creek NDA and or its Land Use Committee, or are they yours as an individual?

**BRETT KELVER, AICP**

Senior Planner

he • him • his



**From:** Lisa Gunion-Rinker <[astrantialgr@gmail.com](mailto:astrantialgr@gmail.com)>

**Sent:** Thursday, March 10, 2022 12:24 PM

**To:** Brett Kelter <[KelterB@milwaukieoregon.gov](mailto:KelterB@milwaukieoregon.gov)>

**Cc:** [MattRinker@hotmail.com](mailto:MattRinker@hotmail.com); [schristinabailey@gmail.com](mailto:schristinabailey@gmail.com); [travis.tomlinson@gmail.com](mailto:travis.tomlinson@gmail.com);

[landusenotifications@oregonmetro.gov](mailto:landusenotifications@oregonmetro.gov); [Jeremy.Lorence@nwnatural.com](mailto:Jeremy.Lorence@nwnatural.com); [dylan.paul@portlandoregon.gov](mailto:dylan.paul@portlandoregon.gov)

**Subject:** Re: VR-2022-001 Notice of Type III Land Use Proposal and Referral

This Message originated outside your organization.

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Hi Brett,

After looking at the site and reviewing the plans, the main concern I have would be access to the Springwater Corridor for bicyclists and pedestrians during construction and after construction. As I was reading the posted sign on 28th Street concerning the requested variances, and trying not to stand on the owner's property, a car came out of the driveway on the opposite side of the street and I had to move onto the property to move out of the way. There is insufficient space. I don't believe the neighbor's driveway will be safely accessible either during construction or after construction, as 28th street barely allows for a single car to pass at this juncture. Instead of building within 5' towards 28th Street would 10' suffice instead? Just trying to think of options that would benefit the homeowner, but keep the entrance to the Springwater Corridor safe as well.

The current garage is located within 10' of the 28th Street/bike/ped pathway and not having another car/driveway at the Springwater Corridor/28th Street juncture would be a good thing. I also like that the large tree on the corner will not be removed. I think the homeowner's request to improve their property has merit and do not want to see their project stopped, but feel that coming within 5' of 28th Street will cause safety concerns during construction and in the future.

Sincerely,

Lisa Gunion-Rinker

On Wed, Mar 9, 2022 at 5:04 PM Brett Kelter <[KelterB@milwaukieoregon.gov](mailto:KelterB@milwaukieoregon.gov)> wrote:

Hello,

Apologies for not calling out sooner for any final comments on this variance request related to street-side and rear yard setbacks at 2807 SE Sherrett St, but if you have any comments to submit, now is the time.

This item will be going to a public hearing with the Planning Commission on March 22, with the staff report and recommended findings and conditions of approval being posted on Tuesday, March 15 (next week).

If you have any comments, please email them to me by Friday noon on March 11. Thank you,

**BRETT KELVER, AICP**

Senior Planner

he • him • his

---

**From:** Will First <[firstw@milwaukieoregon.gov](mailto:firstw@milwaukieoregon.gov)>

**Sent:** Monday, February 7, 2022 4:40 PM

**To:** Joseph Briglio <[BriglioJ@milwaukieoregon.gov](mailto:BriglioJ@milwaukieoregon.gov)>; Steve Adams <[AdamsS@milwaukieoregon.gov](mailto:AdamsS@milwaukieoregon.gov)>; Jennifer Backhaus <[BackhausJ@milwaukieoregon.gov](mailto:BackhausJ@milwaukieoregon.gov)>; Laura Weigel <[WeigelL@milwaukieoregon.gov](mailto:WeigelL@milwaukieoregon.gov)>; Samantha Vandagriff <[VandagriffS@milwaukieoregon.gov](mailto:VandagriffS@milwaukieoregon.gov)>; Luke Strait <[straitl@milwaukieoregon.gov](mailto:straitl@milwaukieoregon.gov)>; Peter Passarelli <[PassarelliP@milwaukieoregon.gov](mailto:PassarelliP@milwaukieoregon.gov)>; Justin Gericke <[GerickeJ@milwaukieoregon.gov](mailto:GerickeJ@milwaukieoregon.gov)>; Alex McGladrey <[alex.mcgladrey@clackamasfire.com](mailto:alex.mcgladrey@clackamasfire.com)>; [MattRinker@hotmail.com](mailto:MattRinker@hotmail.com); [astrantialgr@gmail.com](mailto:astrantialgr@gmail.com); [schristinabailey@gmail.com](mailto:schristinabailey@gmail.com); [travis.tomlinson@gmail.com](mailto:travis.tomlinson@gmail.com); Jason Wachs <[WachsJ@milwaukieoregon.gov](mailto:WachsJ@milwaukieoregon.gov)>; [landusenotifications@oregonmetro.gov](mailto:landusenotifications@oregonmetro.gov); [Jeremy.Lorence@nwnatural.com](mailto:Jeremy.Lorence@nwnatural.com); Tim Salyers

<[salyerst@milwaukieoregon.gov](mailto:salyerst@milwaukieoregon.gov)>; Jon Simkovic <[SimkovicJ@milwaukieoregon.gov](mailto:SimkovicJ@milwaukieoregon.gov)>; [dylan.paul@portlandoregon.gov](mailto:dylan.paul@portlandoregon.gov)

**Cc:** Brett Kelter <[KelterB@milwaukieoregon.gov](mailto:KelterB@milwaukieoregon.gov)>

**Subject:** VR-2022-001 Notice of Type III Land Use Proposal and Referral

Hello,

Please access the link below to find the Notice of Type III Land Use Proposal and Application Referral for land use application VR-2021-001 for 2807 SE Sherrett St. If you have any questions, please feel free to contact Senior Planner Brett Kelter at 503-786-7657 or [kelterb@milwaukieoregon.gov](mailto:kelterb@milwaukieoregon.gov).

<https://www.milwaukieoregon.gov/planning/vr-2022-001>

Thank You.

### **Will First**

Administrative Specialist II

he • him • his

### **City of Milwaukie**

p: 503.786.7603 | e: [firstw@milwaukieoregon.gov](mailto:firstw@milwaukieoregon.gov)

6101 SE Johnson Creek Blvd | Milwaukie, OR 97206

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# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Laura Weigel, Planning Manager

**From:** Brett Kelter, Senior Planner

**Date:** March 15, 2022, for March 22, 2022, Public Hearing

**Subject:** **File(s):** R-2021-004 (principal), with VR-2021-019  
**Applicant/Owner:** Victoria Rystadt  
**Address(es):** 10586 and 10610 SE Home Ave  
**Legal Description(s) (Map & Tax Lot):** 1S2E30CD10100 and 1S2E31BA00700  
**NDA:** Hector Campbell

---

## **ACTION REQUESTED**

Approve principal application R-2021-004 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2, respectively. This action would allow the subject properties to be replatted to establish eight distinct lots, including three lots with existing houses and five vacant developable lots.

## **BACKGROUND INFORMATION**

### **A. Site and Vicinity**

The site consists of two properties that are comprised of 16 underlying lots (25 ft wide by 100 ft deep) from Blocks 20 and 37 of the Minthorn Addition, a subdivision platted in 1890. Both properties are currently developed with single-unit houses. There is one house on 10610 SE Home Ave and two houses on 10586 SE Home Ave—the second house is addressed as 10544 SE Home Ave and presents a nonconforming situation as per the current zoning code.<sup>1</sup>

The subject properties have their primary frontage on Home Avenue to the west. The 2018 platting of the Mission Park subdivision resulted in the extension of the Harrison Street right-of-way to the eastern edge of the subject properties. The Harrison Street alignment through Mission Park was deliberately designed to continue west through the subject

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<sup>1</sup> Milwaukie Municipal Code Subsection 19.504.4.A limits development in the R-10, R-7, and R-5 zones to one primary dwelling per lot.

properties and connect to Home Avenue. In fact, each property includes 25 ft of right-of-way width for a portion of the original Harrison Street that was platted with the Minthorn Addition subdivision but later vacated.

As shown in Figure 1, the land uses and development adjacent to the site are primarily single-unit dwellings.

**B. Zoning Designation**

The subject properties are zoned Residential R-5. As shown in Figure 2, most of the surrounding properties are also zoned R-5, with an area of R-7 zoning beyond the Mission Park subdivision to the east.

**C. Comprehensive Plan Designation**

Low Density (LD)

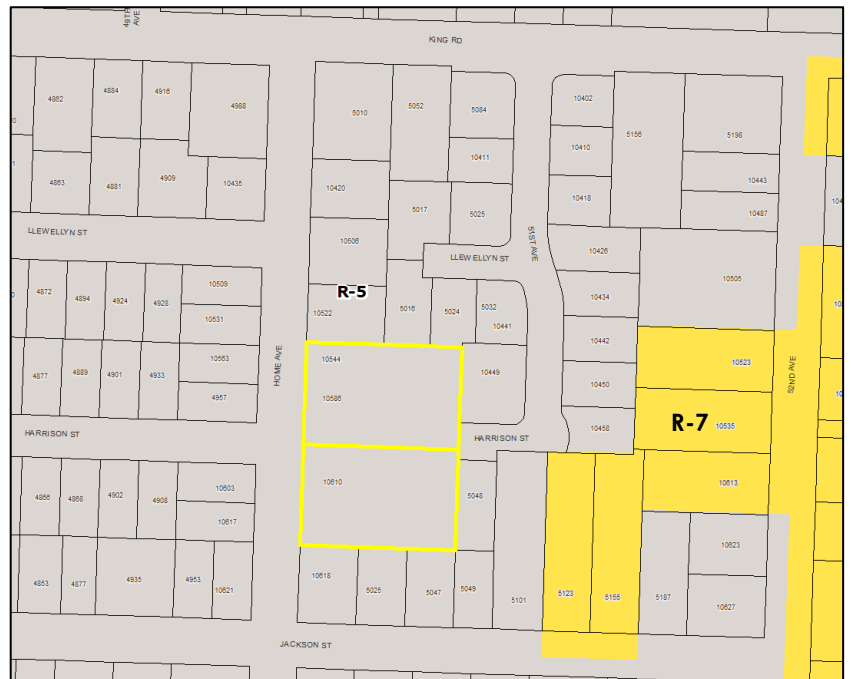
**D. Land Use History**

There is no history of past land use applications for either property.

**Figure 1. Aerial View** (subject properties outlined in yellow)



**Figure 2. Existing Zoning**

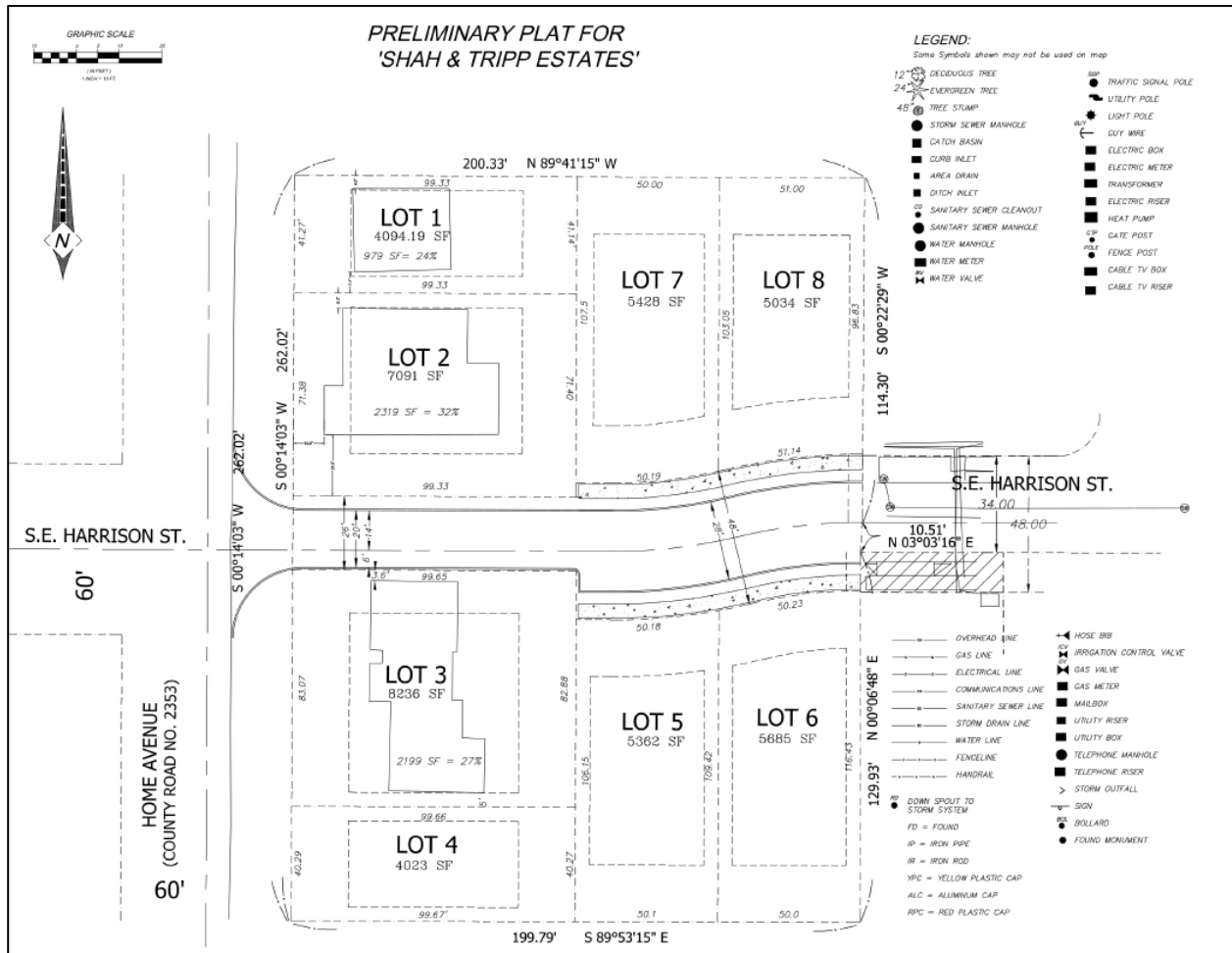


### E. Proposal

The proposed subdivision replat would consolidate and reconfigure the historical underlying lots to establish eight distinct lots. Three of the lots (Lots 1, 2, and 3) will contain the three existing houses (10544, 10586, and 10610 SE Home Ave, respectively); the other five lots will be vacant and developable.

As shown in Figure 3, Lots 1-4 will front on Home Avenue; Lots 5-8 will have frontage on a new extension of Harrison Street from its current terminus within the adjacent Mission Park subdivision to the east. A narrower fire access lane will be dedicated as public right-of-way between Lots 2 and 3 to connect Harrison Street to Home Avenue. The new street will have full improvements in front of Lots 5-8 (with a 48-ft right-of-way); the access lane (with a 26-ft right-of-way) will be improved with a durable surface and clearance sufficient for fire and emergency vehicles. The applicant has requested variances to reduce the lot width and lot area of Lots 1 and 4 below the minimum standards.

Figure 3. Proposed Lot Configuration



## KEY ISSUES

### Summary

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

- A. Are there any concerns with allowing the requested variances for lot width and lot area for Lots 1 and 4?
- B. Should Harrison Street be extended through to Home Avenue for vehicle access?

### Analysis

#### A. Are there any concerns with allowing the requested variances for lot width and lot area for Lots 1 and 4?

Working with the constraints of the existing development on the subject properties (i.e., three existing houses), the applicant has drawn up a plot plan that puts each of the three houses on its own lot and provides a fourth developable lot at the southern part of the Home Avenue frontage (in addition to the four vacant lots with new Harrison Street frontage). The result is two lots (Lots 1 and 4) that are narrower and smaller in area than the current minimum standards for the R-5 zone (see Table A).

<b>Table A R-5 dimensional standards requiring variance for Lots 1 and 4</b>			
<b>Standard</b>	<b>R-5 Requirement (minimum)</b>	<b>Lot 1</b>	<b>Lot 4</b>
Lot Area	5,000 sq ft	4,094 sq ft	4,023 sq ft
Lot Width	50 ft	41.27 ft	40.29 ft

In the case of Lot 1, the existing houses at 10544 and 10586 SE Home Ave are just under 13 ft apart. The proposed replat aims to maximize the width and area of Lot 1 by drawing the boundaries so the minimum 5-ft side yard setback is met for Lot 2 and with as much depth as possible for Lot 1 while avoiding the need for a lot-width variance for the adjacent Lot 7. The result is that Lot 1 is just over 41 ft wide (instead of the minimum 50 ft) and just under 4,100 sq ft in area. As proposed, the dimensions of Lot 1 capture the current practical sense of the property, minus the very deep back yard. In short, the proposed configuration seems the best one can do to put the house at 10544 SE Home Ave on its own lot while leaving room to create additional lots and provide the minimum required residential density.

For Lot 4, the situation is similar except that the lot will initially be vacant. The configuration and location of the existing house at 10610 SE Home Ave is such that there is no way to achieve a 50-ft minimum width for Lot 4 without impacting the south side-yard

setback for Lot 3. As proposed, Lot 3 will meet the minimum 5-ft setback standard, but that leaves only 40 ft of width for Lot 4. And similar to Lot 1, ensuring that Lots 5 and 6 meet minimum width standards and that Lot 5 avoids a compound line along its western boundary require the depth of Lot 4 to be just under 100 ft, which results in a lot area of only just over 4,000 sq ft. However, the proposed lot dimensions and area will allow for an adequate building footprint for this moderate density zone without imposing the need for additional variances.

**B. Should Harrison Street be extended through to Home Avenue for vehicle access?**

As evidenced by the public comments received from neighbors (see Attachment 4), there are concerns around the proposal to extend Harrison Street west to make a through-connection to Home Avenue. As proposed, the new street connection would be accessible to fire and emergency-service equipment, pedestrians and bicycles, and vehicle traffic.

Street connectivity is highly valued in community planning efforts and is reflected in the goals and policies of the City’s Comprehensive Plan and Transportation System Plan. Having a robust network of direct connections along sidewalks, bikeways, and streets provides a basis for efficient multi-modal transportation, with many options for commuting, errands, and recreation. It also offers more opportunities for local trips to avoid unnecessarily adding to congestion on arterial and collector streets. From a connectivity perspective, dead-end street systems represent lost opportunities to make the larger community more accessible for all.

When it was platted in 2018, the layout of streets within the Mission Park subdivision aligned Harrison Street so that it could eventually be extended all the way to Home Avenue. That was understood to depend on new development on the adjacent lots at 10586 and 10610 SE Home Ave, and it was impossible to know when that development would happen. But the Mission Park subdivision was not intended to be a dead-end street system for the long term.

For residents along what has been a dead-end street system for the past four years, the proposal represents a change. There is a perception that dead-end streets have lower traffic volumes; however, many factors come into play with respect to traffic volumes, such as the specifics of who lives on a given street, how many people in each household drive, how often they drive, how they drive, how many deliveries some residents receive in a given day or week, etc.

The level of traffic on a particular street has as much to do with street design as with whether it is connected to a larger street network. In addition, the location of a particular connection with respect to certain destinations or other traffic elements (such as bottlenecks or critical access points) greatly influences the level of use that the connection may receive. Drivers are most likely to cut through an area or look for shortcuts to save time and/or avoid something—in this case, there is no real incentive for non-residents of the area to use the proposed new street connection.

Narrow streets with multiple turns (like 51<sup>st</sup> Avenue and the proposed Harrison Street connection) are not attractive cut-through routes because they actually slow drivers down and calm traffic. Several of the public comments noted clear-vision concerns at the intersection of 51<sup>st</sup> Avenue and King Road as well as the superiority of the intersection of Home Avenue and King Road—the interest in avoiding the 51<sup>st</sup> Avenue/King Road intersection seem all the more reason to provide an alternative route for neighborhood residents.

The proposal to establish Lots 5-8 requires at least a partial extension of Harrison Street west from its current terminus, since the new lots are required to have frontage on a public street. The proposed development also requires that fire-vehicle access be provided to those lots. There are several options for creating fire access:

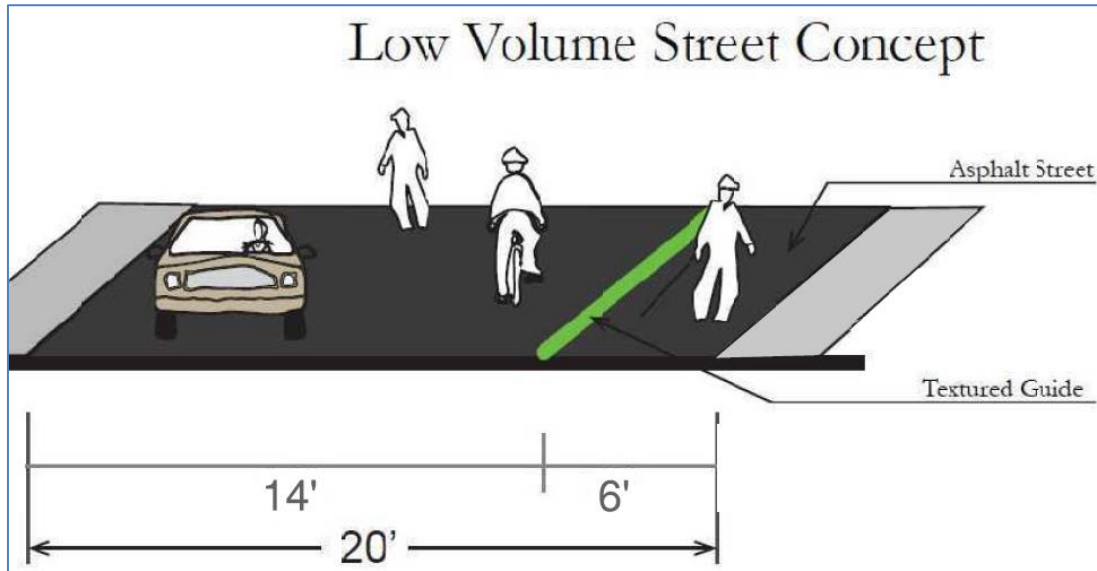
- A. **Turnaround** – Establishing a turnaround area at the new western end of an extended Harrison Street would involve carving an area out of some or all of Lots 5-8 that would allow a fire vehicle to pull in and turn around to exit back up 51<sup>st</sup> Avenue and King Road. Such a turnaround would require either the dedication of property to the public right-of-way or the recording of a restrictive easement to guarantee that the area would be kept clear and available for turnaround movements.
- B. **Through connection** – Extending Harrison Street all the way to Home Avenue eliminates the need for a turnaround and allows fire vehicles to go straight through. This accessway could be restricted, with bollards or some other measure to prevent vehicles from going through except in the case of emergency. Or it could be open and allow vehicles to move freely between Home Avenue and properties to the east. Such an access lane could take the form of an access easement across private property or a dedicated street.

The applicant has chosen the through-connection option and has proposed to dedicate the entire length of Harrison Street as public right-of-way. The City Engineer has determined that a “woonerf” design,<sup>2</sup> where pedestrians and vehicles share the paved roadway, is an appropriate configuration for what is intended to be a low-volume street connection along the portion of Harrison Street between Lots 2 and 3. Figure 4 shows the proposed design, with a 14-ft paved roadway next to a 6-ft marked pedestrian lane. Where the roadway narrows from 28 ft (in front of Lots 5-8) to 20 ft (between Lots 2 and 3), striping will make a visual connection between the new sidewalks on the wider portion of Harrison Street to the 6-ft pedestrian lane. The transition in street width and the various pavement markings will serve to calm traffic while safely providing the necessary facilities for pedestrians, bicycles, emergency vehicles, and regular vehicles.

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<sup>2</sup> The “woonerf” concept is one that arose from a planning effort with the Island Station Neighborhood District Association (NDA) and has been approved for use on 19<sup>th</sup> Avenue adjacent to the Elk Rock subdivision. The effort was to design a street within a limited right-of-way width that prioritizes bicycle and pedestrian traffic while allowing vehicles to use the road and providing adequate access for emergency vehicles.

**Figure 4.** Woonerf design for Harrison Street connection



The City Council has expressed strong support for the woonerf-style design for many of the community's low-volume residential streets. Staff has heard and understands the concerns of nearby residents who are opposed to opening the dead-end street system within Mission Park. However, as discussed above, connected networks of local streets are no more or less safe or heavily trafficked than dead-end streets. There is a significant value to the larger community in providing more connected local streets—staff is confident that the benefits of the proposed connection will become self-evident and that the misgivings of current residents (who are facing an understandably unnerving change) will be dispelled over time.

## CONCLUSIONS

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

1. Approve the application for subdivision replat as proposed. This will allow the establishment of eight distinct lots, three with existing houses and five that are vacant and developable.
2. Adopt the attached Findings and Conditions of Approval.

### B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- Woonerf-style design for the portion of Harrison Street between Lots 2 and 3—constructed as a 20-ft-wide paved surface, delineated with a 14-ft vehicle lane (with bicycle sharrows) and a 6-ft pedestrian route.

## **CODE AUTHORITY AND DECISION-MAKING PROCESS**

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

- MMC Title 12 Streets, Sidewalks, and Public Places
- MMC Title 17 Land Division, including:
  - MMC Chapter 17.12 Application Procedure & Approval Criteria
  - MMC Chapter 17.16 Application Requirements and Procedures
  - MMC Chapter 17.20 Preliminary Plat
  - MMC Chapter 17.28 Design Standards
  - MMC Chapter 17.32 Improvements
- MMC Section 19.301 Low Density Residential Zones (including R-5)
- MMC Chapter 19.500 Supplementary Development Regulations
- MMC Section 19.607 Off-Street Parking Standards for Residential Areas
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.911 Variances
- MMC Section 19.1006 Type III Review
- MMC Chapter 19.1200 Solar Access Protection

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

The Commission has four decision-making options as follows:

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

The final decision on these applications, which includes any appeals to the City Council, must be made by May 18, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

## **COMMENTS**

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Engineering and Building Departments, Hector Campbell Neighborhood District



Association (NDA), Clackamas Fire District #1 (CFD), North Clackamas School District, and NW Natural. The following is a summary of the responses received by the City. See Attachment 4 for further details.

- **Alex McGladrey, Deputy Fire Marshal, CFD:** The subject properties are in an area with public water supply and there are no site conditions that would prevent the applicant from constructing the proper access. Fire department access and water supply will be reviewed for compliance with the adopted edition of the Oregon Fire Code at the time of application for development permits.
- **Jeremy Lorence, East Metro Engineer, NW Natural:** No comments.
- **Sandy Conley, owner/resident at 10434 SE 51<sup>st</sup> Ave:** Concerns about cut-through traffic and decreased safety for residents if Harrison Street is extended through to Home Avenue. Not enough notice and information have been provided, and there has been some confusion about the details of the proposal. Urges the City not to push Harrison Street through to Home Avenue—if the connection is made, requests that the developer install two speed bumps on 51<sup>st</sup> Avenue.
- **Tom and Tamara Wissbaum, owners/residents at 10450 SE 51<sup>st</sup> Ave:** Strongly opposed to the proposal to open 51<sup>st</sup> Avenue and Harrison Street to through traffic, citing safety concerns. Amenable to a walking path from Harrison Street to Home Avenue as a compromise, but not a vehicle connection.
- **Kelsey Nealeigh and Jon O'Toole, owners/residents at 10458 SE 51<sup>st</sup> Ave:** Values the dead-end nature of the neighborhood and is concerned about cut-through traffic and decreased safety for residents if the street connection is made to Home Avenue. Cites clear vision issues with backing out of driveway near the corner of 51<sup>st</sup> Avenue and Harrison Street. Insufficient time and information for all neighborhood residents to adequately comment.
- **Allison Kruse, owner/resident at 10449 SE 51<sup>st</sup> Ave:** Insufficient information has been provided about potential safety and traffic impacts. Requests additional information about traffic impacts and proposed street design, with additional time for review.
- **Chris and Diane McKillop, owners/residents at 5101 SE Jackson St:** Concerns about tree removal, safety issues resulting from extending Harrison Street through to Home Avenue, apparent lack of proposed sidewalks along the street extension to Home Avenue, and impacts from cut-through traffic.
- **Axis Espinosa and Raju Reddy, owners/residents at 5025 SE Llewellyn St:** Concerns about cut-through traffic and decreased safety for residents, including that 51<sup>st</sup> Avenue is too narrow to be a through street.
- **Rolanne Stafford, owner/resident at 5017 SE Llewellyn St:** Concerns that no traffic study has been conducted for the proposed street extension, that there appears to be no sidewalk between Lots 2 and 3, and that the different widths of the Harrison Street extension do not meet design standards.

## ATTACHMENTS

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

	Public Copies	E-Packet
1. Recommended Findings in Support of Approval <i>(In progress—to be provided as a supplemental item as soon as available.)</i>	<input type="checkbox"/>	<input type="checkbox"/>
2. Recommended Conditions of Approval <i>(In progress—to be provided as a supplemental item as soon as available.)</i>	<input type="checkbox"/>	<input type="checkbox"/>
3. Applicant's Submittal Materials (received Oct. 21, 2021, unless otherwise noted)		
a. Application Forms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Narrative (revisions received Feb. 3, 2022)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Preliminary Plat and Plan Sheets (revisions received Feb. 3, 2022)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• Preliminary Plat		
• Existing Conditions		
• Grading and Utility Plan		
d. Preapplication conference report	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
e. Preliminary Stormwater Report (received Jan. 18, 2022)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
f. Plat name request (received Jan. 18, 2022)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Comments Received	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

Public Copies = materials posted online to application website (<https://www.milwaukieoregon.gov/planning/r-2021-004>).

E-Packet = meeting packet materials available one week before the meeting, posted online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-92>.



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

# Application for Land Use Action

Master File #: **R-2021-004**

Review type\*:  I  II  III  IV  V

**CHECK ALL APPLICATION TYPES THAT APPLY:**

<input 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 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 checked="" 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 checked="" type="checkbox"/> Replat <input checked="" type="checkbox"/> Subdivision <input type="checkbox"/> Miscellaneous: <input type="checkbox"/> Barbed Wire Fencing <input type="checkbox"/> Mixed Use Overlay Review <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"/> 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 checked="" type="checkbox"/> Variance: <input type="checkbox"/> Use Exception <input type="checkbox"/> Variance <input type="checkbox"/> Willamette Greenway Review <input type="checkbox"/> Other: _____ <input type="checkbox"/> Use separate application forms for: Annexation and/or Boundary Change • Compensation for Reduction in Property Value (Measure 37) Daily Display Sign • Appeal • Appeal
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**RESPONSIBLE PARTIES:**

**APPLICANT** (owner or other eligible applicant—see reverse): **VICTORIA RYSTADT**  
 Mailing address: **14945 SW SEQUOIA PKWY #150 PDX** State/Zip: **OR 97224**  
 Phone(s): **503 962 9653** Email: **victoriarysladt@gmail.com**  
 Please note: The information submitted in this application may be subject to public records law

**APPLICANT'S REPRESENTATIVE** (if different than above): **MARK DANE PLANNING**  
 Mailing address: **825 SE ~~3RD~~ 32ND AVENUE PDX** State/Zip: **OR 97214**  
 Phone(s): **503 332 7167** Email: **markdaneplanning@gmail.com**

**SITE INFORMATION:**

Address: **10544 | 10586 | 10610 SE HOME AVE** Map & Tax Lot(s): **12E306D12100 | 12E318A00700**  
 Comprehensive Plan Designation: \_\_\_\_\_ Zoning: \_\_\_\_\_ Size of property: \_\_\_\_\_

**PROPOSAL (describe briefly):**

**AN EIGHT LOT SUBDIVISION RETAINING THREE HOMES + EXTENDING SE HARRISON WEST TO SE HOME**

**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: **MARK DANE** Date: **10.21.21**

**IMPORTANT INFORMATION ON REVERSE SIDE**

\*For multiple applications, this is based on the most 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:** 21-0004PA

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	R-2021-004	\$ 2,000			Initial materials received 10/21/21; revised docs received 10/25/21 Payment received 11/08/21
Concurrent application files	VR-2021-019	\$ 1,500	25%	Multiple applications	
		\$			
		\$			
Deposit (NR only)					
<b>TOTAL AMOUNT RECEIVED: \$ 3,500</b>				<input type="checkbox"/> Deposit Authorization Form received	
RECEIPT #:			RCD BY:		
Associated application file #s (appeals, modifications, previous approvals, etc.):					
Neighborhood District Association(s): Hector Campbell					
Notes:					

# AN APPLICATION FOR THE DEVELOPMENT AND SUBDIVISION OF AN EIGHT LOT SUBDIVISION INCLUDING THE RETENTION OF THREE EXISTING HOMES FRONTING ONTO HOME AVENUE

## “SHAH & TRIPP ESTATES”

### Applicant:

Victoria Rystadt  
Oregon Real Estate Agent, MORE Realty  
14945 SW Sequoia Pkwy, Ste 150, Portland, OR 97224  
503.962.9653 / [victoriarystadt@gmail.com](mailto:victoriarystadt@gmail.com)

### Civil Engineer:

Tom Sisul  
SISUL ENGINEERING / A Division of Sisul Enterprises, Inc.  
375 PORTLAND AVENUE, GLADSTONE, OREGON 97027  
(503) 657-0188 / FAX (503) 657-5779 [Tomsisul@sisulengineering.com](mailto:Tomsisul@sisulengineering.com)

### Land Planner:

Mark Dane  
Mark Dane Planning Inc.  
825 SE 32<sup>nd</sup> Avenue  
Portland OR 97225  
503-332-7167 / [markdaneplanning@gmail.com](mailto:markdaneplanning@gmail.com)

### Land Surveyor

Toby G Bolden, PLS, CFedS / Survey Manager  
Centerline Concepts Land Surveying, Inc.  
19376 Molalla Avenue, Suite 120  
Oregon City, OR 97045  
Ph: 503.650.0188

### Property

Site Address: 10610 SE Home Ave, Milwaukie, 97222  
**Owner:** Alec Shah / 225 SW Carson St Portland, OR 97219  
Jurisdiction: [Milwaukie](#)  
Map Number: 12E31BA  
Tax lot Number: 12E31BA00700  
Parcel Number: 00089488  
Document Number: 2021-043160  
Census Tract: 021100

Primary Address: 10586 & 10544 SE Home Ave, Milwaukie, 97222  
**Owner:** Stephan Tripp  
Jurisdiction: [Milwaukie](#)  
Map Number: 12E30CD  
Tax lot Number: 12E30CD10100  
Parcel Number: 00080450  
Document Number: 2020-022296  
Census Tract: 021100

## Introduction

The applicant Victoria Rystadt is proposing the subdivision of two tax lots 12E31BA00700 & 12E30CD10100 into an eight-lot subdivision. This will include three lots for the existing homes at 10544, 10586, and 10610 SE Home Avenue. Of the five 'new' lots one will be undersized, and not meet the minimum lot width. The northern property boundary of the Lot has been determined by the south wall of the house at 10610 SE Home Avenue.

Of the eight lots – two: Lots 1 and 4 do not meet the minimum lot size nor lot width. The applicant is requesting two variances – one for lot width, and one for lot size.

Regarding setbacks all existing homes meet all setbacks except the north wall of lot 3, where the existing home will be 3.6-feet away from the proposed dedication of right-of-way. This is however permitted under CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS. More specifically 19.504 SITE DESIGN STANDARDS; subsection 19.504.2 Maintenance of Minimum Ordinance Requirements, which states that

*“No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use”*

The project will complete the street stub of SE Harrison Street out to Home Avenue providing fire, and vehicular access, and will develop full street improvements for lots 5 – 8,

The applicant has also proposed a 100 x 10-ft water quality swale adjacent to lot 2. Each new house will treat and detain its own water before permitting it to access the public system. The amount of new public infrastructure is relatively small. The design of the system is predicated on entering the shallow storm system west of Home Avenue. Once the Project Engineer, and City engineer have determined that this system would be applicable the civil will provide the calculations for the 25-year storm event et al.

## Zoning Compliance (MMC Title 19)

### Use Standards (e.g., residential, commercial, accessory)

*Comment: The development property is located in the Residential R-5 zone where single-family residential uses are permitted outright.*

### Dimensional Standards

*Comment: Under 19.301.4. the minimum lot size is 5,000 sq ft, with a minimum width of 50 ft and minimum depth of 80 ft. Standard lots must have a minimum of 35 ft of frontage on a public street. All lots will meet the 35-ft frontage requirement. However, Lot 1, and Lot 4 do not meet the minimum 50-ft lot width. There will have to be some nudging of lots to try and minimize the number of variances required. The applicant would like to work with staff to better determined the more acceptable path. A Type II variance would allow a reduction of up to 10% of the required lot depth (up to 5 ft in this case), but a Type III variance will be required for lot area (there is no Type II option) It may be that a type III variance is required for lot size, and width.*

The minimum density for the R-5 zone is 7.0 dwelling units per acre, with a maximum density of 8.4 units per acre. MMC Subsection 19.202.4 establishes procedures for rounding density calculations and requires that the area of all right-of-way dedications (such as for new streets) be subtracted from the gross area prior to calculating density.

Development standards for the lots themselves (including setbacks, building height, lot coverage, etc.) are also found in MMC Table 19.301.4 and are more relevant at the building permit stage, except where existing structures will remain (such as the existing house on Lot 1).

The required street improvements will require right-of-way dedication along the two new lots to the east. The street improvements shall include new curb, new gutter, new set back sidewalks, and landscape strips/planters. These improvements should match the existing street improvements as completed by the development to the east (Mission Park, and 5048 SE Harrison St).

A 48-ft wide right-of-way, with minimum 5-ft wide setback sidewalks, and 28-ft wide paved surface between curbs is the required street design.

LOT #	MIN STANDARD	LOT 1	LOT 2	LOT 3	LOT 4	LOT 5	LOT 6	LOT 7	LOT 8
LOT SIZE	5,000	4094 *	7091	8236	4023 *	5362	5685	5428	5034
LOT WIDTH	50	41.27 **	72.38	83.07	40.29 **	50.1	50	50	51
STREET	35	41.27	72.38	83.07	40.29	50.1	50	50	51
LOT DEPTH	80	99.33	99.33	99.66	99.66	107.75	112	101.5	100
F Y SETBACK	20	20	10.9^	20	20	20	20	20	20
S S Y SETBACK	15	N/A 4.5 ^^^	21.5	3.6 ^^	N/A	N/A	N/A	N/A	N/A
S Y SETBACK	5	5.4	6.3	5	5	5	5	5	5
R Y SETBACK	20	20	20	20	20	20	20	20	20
MAX HEIGHT AT S.Y.S	20	>20	>20	>20	#	#	#	#	#
MAX LOT COVERAGE	35%	24%	32%	27%	#	#	#	#	#
MIN VEG IN F.Y.	40%	77%	61%	82%	#	#	#	#	#

\* VARIANCE TO LOT SIZE REQUIRED

\*\* VARIANCE TO WIDTH REQUIRED

^ EXISTING FY SETBACK

^^ PROPOSED SETBACK BETWEEN EXISTING HOUSE AND NEW STREET

^^^ EXISTING SIDEYARD SETBACK BETWEEN THE OETH PROPERTY INE AND THE EXISTING HOME.

# TO BE PROCESSED UNDER BUILDING PERMIT

## **Overlay Zones (MMC 19.400)**

*Comment: There are no special overlays for the subject property*

## **Site Improvements/Site Context**

### **Landscaping Requirements**

*Comment: Single-family residential development requires a few specific requirements for landscaping: A minimum vegetation requirement = 25% of lot area; front yard minimum vegetation = 40% of front yard (measured between the front face of the house and the front property, so not simply the area within required front yard setback of 20 ft) ; Related to landscaping, parking and maneuvering areas cannot exceed 50% of the front yard area (as per MMC Subsection 19.607.1.D) The applicant does not anticipate the proposed residential development not be able to comply with these standards.*

### **Onsite Pedestrian/Bike Improvements (MMC 19.504, 19.606, and 19.609)**

*Comment: There are no specific pedestrian or bicycle improvements required for single-family residential development, therefore no onsite ped / bicycle improvements are proposed.*

### **Connectivity to surrounding properties**

*Comment: The applicant has proposed the construction of full street improvements for the four lots on the eastern portion of the property, while connecting through to the intersection of Home and Harrison. This allows for a reasonable connectivity, completing the block of the current Harrison Street terminating at the east property line of the Parcel.*

### **Building Design Standards (MMC 19.505)**

*Comment: This proposal is for the development of the property. No home plans are being submitted as part of this application. Subsection 19.505.1 provides design standards for single-family dwellings, including for building articulation, street-facing façade design, main entrances, and detailed design. Compliance with these standards will be confirmed at the building permit stage.*

### **Downtown Design Standards (MMC 19.508)**

*Comment: This subsection is not applicable*



## **Parking Standards (MMC 19.600)**

### **Residential Off-Street Parking Requirements**

*Comment: Table 19.605.1, a minimum of one off-street parking space is required per single-family dwelling unit. Section 19.607 establishes requirements for residential off-street parking. The required parking spaces will be at least 9 ft wide and 18 ft deep, and will be located within the garage and not in the required front yard or street-side (i.e., within the first 20 ft of the property as measured from the property line*

*The applicant anticipates each of the five non-built lots will have a two-car garage with a two car driveway for a total of four off-street spaces.*

### **Multi-Family/Commercial Parking Requirements**

*Comment: This subsection is not applicable*

## **Approval Criteria (MMC 19.900)**

Community Service Use (CSU) (MMC 19.904)

*Comment: This subsection is not applicable*

### **Conditional Use (MMC 19.905)**

*Comment: This subsection is not applicable*

### **Development Review (MMC 19.906)**

### **Variance (MMC 19.911)**

*Comment: From the initial pre-app, it appears that variances will be required for at least two elements of the project: lot width and lot area. Up to 3 variance requests can be included in a single variance application (for that single application fee). With multiple variance requests, if any of the variances requires Type III review, all variances must be evaluated with Type III review. The question arises whether the variance request can be for a single lot or multiple lots*

*The applicant understands that MMC 19.911.4.B establishes approval criteria for Type III variances in general. The applicant may choose to use either the broadly applicable Discretionary Relief criteria or the more narrowly focused Economic Hardship criteria, though please note that the Economic Hardship criteria are quite stringent.*

*The applicant would like to use the initial completeness review to accurately determine the number, type, and multiple lot option of the variances. The application, and then narrative will be updated to reflect these changes*

## **Land Division (MMC Title 17)**

### **Design Standards**

*Comment: 17.28.040 establishes general standards for lot design, including a requirement for rectilinear lots (as practicable) and limits on compound lot line segments. Cumulative lateral changes in the direction of side or rear lot lines must not exceed 10% of the distance between opposing lot corners along a given lot line, unless a Type III variance is granted. None of the perimeters of this property are parallel or perpendicular. The applicant has therefore proposed to take the east right-of-way and the baseline for the development and has run all internal lines either parallel or perpendicular with this line.*

### **Preliminary Plat Requirements**

MMC Section 17.16.060 provides application requirements and procedures for preliminary plats, including a reference to the City’s preliminary plat checklist. The checklist outlines the specific pieces of information that must be shown on the plat, based on the provisions for preliminary plat established in MMC Chapter 17.20.

MMC Section 17.12.040 establishes approval criteria for preliminary plats. The application must include a narrative description demonstrating that the proposal meets all applicable code requirements and design standards, and it must meet the following criteria:

- (1) the proposed plat complies with Title 19 and other applicable regulations & standards.
- (2) the proposed land division allows for reasonable development and does not create the need for a variance.
- (3) the proposed subdivision plat name is not duplicative and satisfies all applicable standards of ORS 92.090(1); and
- (4) the streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street pattern.

## **Sign Code Compliance (MMC Title 14)**

### **Sign Requirements**

*Comment: This subsection is not applicable*

## **Noise (MMC Title 16)**

### **Noise Mitigation (MMC 16.24)**

*Comment: This subsection is not applicable*

### **Neighborhood District Associations**

Hector Campbell Prior to submitting the application, the applicant is encouraged (but not required) to present the project at a regular meeting of the relevant Neighborhood District Association

Hector Campbell NDA Chair : David Aschenbrenner / 2dasch@gmail.com

Regular meeting—second Monday, 6:30pm (online)

## **ENGINEERING & PUBLIC WORKS COMMENTS**

### **Public Facility Improvements (MMC 19.700)**

#### **Applicability (MMC 19.702)**

MMC 19.702 establishes the applicability of MMC 19.700, including to new construction and modification and/or expansion of an existing structure or a change or intensification in use that results in a new dwelling unit, any new increase in gross floor area, and/or in any projected increase in vehicle trips.

The proposed development would result in new construction that would increase vehicle trips and does therefore trigger the applicability of MMC 19.700.

#### **Transportation Facilities Review (MMC 19.703)**

*Comment: A Transportation Facilities Review (TFR) Land Use Application is not required for this submittal.*

### **Transportation Impact Study (MMC 19.704)**

*Comment: A Transportation Impact Study (TIS) is not required for this submittal*

### **Rough Proportionality (MMC 19.705)**

*Comment: The subject property is developed with three existing single-family homes. There is an existing home addressed at 10544 SE Home Avenue - Lot 1 (grand-fathered on a sub-standard lot). There is a second larger home addressed at 10586 Home Avenue - Lot 2. South of this is a home addressed at 10610 SE Home Avenue - Lot 3. The City has determined that the requirements for right-of-way (ROW) dedication and street improvements must remain proportional to the impacts resulting from development of the proposed new lots. Therefore, no new half street construction would be required along either the existing frontage on Home Avenue, or along any new extension of Harrison Street.*

*There is a strip of land 45-feet wide south of the house at 10610 SE Home Avenue. The applicant is proposing that this portion of the parent property become a subdivided lot. Because the rest of the 222 ft frontage will remain unimproved the applicant proposing that the frontage of lot 4 remain unimproved to match the properties both to the north and south. However, the applicant understand that the increased burden requires a form of compensation to the City. The applicant is proposing a payment of a fee in lieu of the frontage improvements along the 40-ft frontage of lot 4.*

### **Agency Notification (MMC 19.707)**

*Comment: This subsection is not applicable*

### **Transportation Requirements (MMC 19.708)**

1. General Requirements
2. Street Design Standards
3. Sidewalk Requirements
4. Pedestrian/Bicycle Path Requirements

1. General Requirements
  - a. Access Management: All development subject to MMC 19.700 shall comply with access management standards contained in MMC 12.16
  - b. Clear Vision: All development subject to MMC 19.700 shall comply with clear vision standards contained in MMC 12.24
  - c. Development in Non-Downtown Zones: Street right-of-way shall be dedicated to the public for street purposes in accordance with MMC 19.708.2. Dedication and construction of a half-street is generally not acceptable; however a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half-street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate 2 travel lanes pursuant to MMC 19.708.2

*Comment: The applicant is proposing the full dedication of right-of-way Infront of lots 5 -8. With sufficient dedication of right-of-way to permit vehicular circulation, and fire access out to Home Avenue. No further dedication or improvement of Home Avenue is proposed.*

2. Street Design Standards

**Comment:** The applicant is proposing for lots 5 – 8 a total right-of-way width of 48-ft, with a minimum travel lane of 10-ft, a minimum setback sidewalk width of 5-ft, and a landscape strip width of 4-ft. The width from curb-to-curb shall be 28-ft including the gutter.

The code states that where landscape strips are required, street trees shall be planted a minimum of every 40-ft in accordance with the Public Works Standards and Milwaukie Street Tree List and Street Tree Planting Guidelines. The applicant has proposed the planting of three street trees on the four lots with a further two street trees on north side of the fire lane on the sideyard of Lot 2

The applicant has proposed a 185-ft reserve curves to relocate the existing centerline at the east line, and westerly stub of SE Harrison so the street can shift south to match the existing centerline of Harrison west of SE Home Avenue. The Public Standards for design speed, horizontal/vertical curves, grades, and curb return radii are met.

3. Sidewalk Requirements

**Comment:** The proposed sidewalks in front of lots 5-8 will be constructed within the dedicated public right-of-way and designed in accordance with the Public Works Standards and the City of Milwaukie Americans with Disabilities Act Transition Plan. No sidewalks are proposed adjacent to the existing homes, or along the frontage of Lot 4.

4. Design Standards

**Comment:** The Fire code provides that paths that provide fire access or a public utility corridor shall have a minimum right-of-way width of 20-ft and a minimum improved surface of 15-ft. The applicant is proposing a 20-ft paved surface to allow two-way traffic, and fire protection.

**Utility Requirements (MMC 19.709)**

**Comment:** The applicant is proposing a 10-ft Public Utility Easement (PUE) along the street frontage of each new lot, excepting the north street sideyard of lot 3 which will only have 3.6-feet between the north wall of the garage, and e the new right-of-way. Upon Preliminary approval the applicant shall provide engineered utility plans to the City Engineer for review and approval prior to construction to demonstrate compliance with all City Standards and requirements.

**Flood Hazard Area (MMC 18)**

**Development Permit (MMC 18.04.100)**

**Comment:** The subject property is not located in a designated flood hazard area.

**Environmental Protection (MMC 16)**

**Weak Foundation Soils (MMC 16.16)**

**Comment:** The proposed development is not located in the City-regulated soil hazard area.

**Erosion Control (MMC 16.28)**

**Comment:** An erosion control permit will be submitted at the Construction Document phase of the project.

**Tree Cutting (MMC 16.32)**

**Comment:** Any major pruning or removal of trees in the public ROW requires a posting and notice procedure that can take up to five weeks if successful.

## Public Services (MMC 13)

### Water System (MMC 13.04)

*Comment:* The applicant is proposing a new water line extension to complete a loop between the current westerly stub of Harrison on the east boundary of the property out to the existing line in Home Avenue. Any portion of the new street is beyond the standard maximum distance permitted between hydrants; the applicant will provide a new hydrant in the underserved area.

The existing water laterals for the three homes will be retained.

### Sewer System (MMC 13.12)

*Comment:* An 8-in concrete sewer main runs along the southern edge of the northern property, coordination for the street improvements will also include sewer connections. The applicant is proposing the connection of a sanitary main out to the main in the road at Home Street.

### Stormwater Management (MMC 13.14)

*Comment:* To ensure the Stormwater mitigation meets the city's NPDES permit through design of facilities according to the 2016 City of Portland Stormwater Management Manual. Applicant will provide an infiltration test to be completed by a Geotechnical engineer.

Because Infiltration between curb and sidewalk is allowed, the Applicant will install either a drywell or other approved overflow management discharge point for runoff from the ROW to assure that rain garden(s) or swale(s) are not overwhelmed during a storm event.

### Fee in Lieu of Construction (MMC 13.32)

*Comment:* While Improvements are required to be constructed for the proposed four eastern lots, a Fee in Lieu of Construction is proposed for the proposed 40-ft frontage on Home Ave. the applicant requests that staff provide a FILOC estimate will be provided as soon as possible.

## Public Places (MMC 12)

### Right of Way Permit (MMC 12.08.020)

*Comment:* The applicant will apply for a Right-of-Way Permit for all frontage improvements, utility work within the right-of-way, and driveway construction for each lot.

### Access Requirements (MMC 12.16.040)

*Comment:* MMC 12.16.040, states that private property shall be provided street access (driveways). These driveways shall be constructed under a right-of-way permit in accordance with the current Milwaukie Public Works Standards

### Clear Vision (MMC 12.24)

*Comment:* A clear vision area shall be maintained at all driveways and accessways.

## Conclusion

*Comment:* The applicant anticipates that the design as proposed will meet the City's requirements, and where variances are required, they are sufficiently justified to permit staff to recommend approval. As this application proceeds the Applicant will communicate directly with outside agencies

*as directed by the City. The applicant anticipates that these may include the following: TriMet / North Clackamas School District /North Clackamas Parks and Recreation District (NCPRD) In addition as part of the construction plan submittal the developer must communicate directly with utility providers. It is anticipated to include the following: PGE / NW Natural / Clackamas River Water (CRW) / Telecomm (Comcast, Century Link) / Water Environmental Services (WES) and finally for Garbage Collection (Waste Management, Hood view Disposal and Recycling)*

## 19.911 VARIANCES

### 19.911.1 Purpose

Variations provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variations are intended to provide some flexibility while ensuring that the intent of each development standard is met. Variations may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variations shall not be granted that would be detrimental to public health, safety, or welfare.

**Comment:** *the applicant is requesting two variations to aid in the development of property that is burdened with three existing homes, and the need to provide fire access out to Home Ave. The lot width on both Lots 1 & 4 are a consequence of the distance from the location of the existing homes on Lots 2 & 3. The lot size variance for lots 1 & 4 is the lessor request for variations of adjustments that would be needed for lots 5 – 8 to meet all the R5 standards. It brings the grandfathered house on lot 1 into compliance and allows a smaller lot on lot 4 without having to demolish the home on lot 3. (The sum of the two lots is greater than 10,000 SF on both lots 1 & 2, and on 3 & 4).*

### 19.911.2 Applicability

#### A. Eligible Variations

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

**Comment:** *The applicant is requesting two variations:*

- 1) The first is to the minimum Lot size which in the R5 zone is 5,000 SF. Lots 1 and 4 will be a little over 4,000SF. This is a 20% variance to the code standard.*
- 2) The second variance is for lot width, again for Lots 1 & 4. The minimum lot width under the R5 zone is 50-feet. In both cases the lots are 40-feet wide. There is a need for a 20% variance to lot width.*
- 3) There is a third substandard issue. The north wall of the existing home on Lot 3 will be 3.6-feet away from the proposed south right-of-way of the proposed through Street. However as noted earlier in the text this is permitted under CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS. More*

*specifically 19.504 SITE DESIGN STANDARDS; subsection 19.504.2 Maintenance of Minimum Ordinance Requirements, which states that: “No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use”.*

#### B. Ineligible Variances

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word “prohibited.”
2. To change a required review type.
3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

**Comment:** *The variances as proposed are not included under 19.911.1.B. This section is not applicable.*

#### C. Exceptions

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either “by right” or as part of a specific land use application review process.

**Comment:** *As noted previously the north wall of the existing home on Lot 3 will be 3.6-feet away from the proposed south right-of-way of the proposed through Street. This is permitted under CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS. More specifically 19.504 SITE DESIGN STANDARDS; subsection 19.504.2 Maintenance of Minimum Ordinance Requirements, which states that: “No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use”.*

#### 19.911.3 Review Process

##### A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.

**Comment:** *Given that both the lot size, and lot width variances are a 20% reduction from the standard both variances will have to go through a Type III process and hearing.*

2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.

**Comment:** *Both variances are being submitted as part of the subdivision application.*

3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

**Comment:** *The applicant is submitting two variance requests: The first for the lot sizing of Lots 1 & 4; the second for the lot width of lots 1 & 4.*

#### B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.
8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

**Comment:** *The 20% variance to lot size, and lot width do Not meet the criteria for a type II process.*

#### C. Type III Variances

Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section 19.1006.

**Comment:** *The applicant is requesting two type III variances.*

#### 19.911.4 Approval Criteria

##### A. Type II Variances

**Comment:** *This section is not applicable.*

##### B. Type III Variances

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



1. Discretionary Relief Criteria

- 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.

**Comment:** *Increasing the lot width of lots 1 and 4 to 51 feet to meet minimum lot width, and lot size would at the very least require partial if not complete demolition of the homes on lots 2 & 3. Removing both homes would allow for lots 1 – 4 to meet all standards but at considerable cost to the homeowners.*

- 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.

**Comment:** *There is an existing home on Lot 1. Granting this variance would allow the house to remain. The external sideyard setback of 4.5-feet on the north side of the house. This is a pre-existing condition and permitted outright. Both lots exceed the minimum lot depth, so there is no additional density or development on adjacent property that would not meet the criteria if the existing homes on lots 1, 2, and 3 were removed. The external south sideyard setback for a new home on lot 4 would remain at 5-feet*

- (2) The proposed variance has desirable public benefits.

**Comment:** *The variances as proposed allow for the development of the property in a manner which provides additional fire safety to the homes on the current Street stub of SE Harrison Road. It also will complete the necessary circulation pattern anticipated by the earlier development.*

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

**Comment:** *The variance permits the retention of the existing homes whilst also permitting the development of 4 new lots with not substandard variance request. The variance requests are a response to current built environment. That while not increasing the underlying density permitted allows for an efficient use of the parent parcels. The impacts to adjacent parcels will NOT be increased because of both variances.*

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

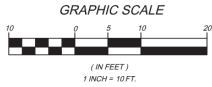
**Comment:** *The impact of the variance is to allow the retention of two homes. It does not change the external sideyard setbacks, nor compliance with the lot depth on same said external lines.*

2. Economic Hardship Criteria

**Comment:** *While economic hardship could be argued, the applicant believes that the variance requests rises to criteria outlined under 19.911.4.B.1*

19.911.5 Use Exceptions

**Comment:** *The variance is NOT being requested under Use Exceptions*



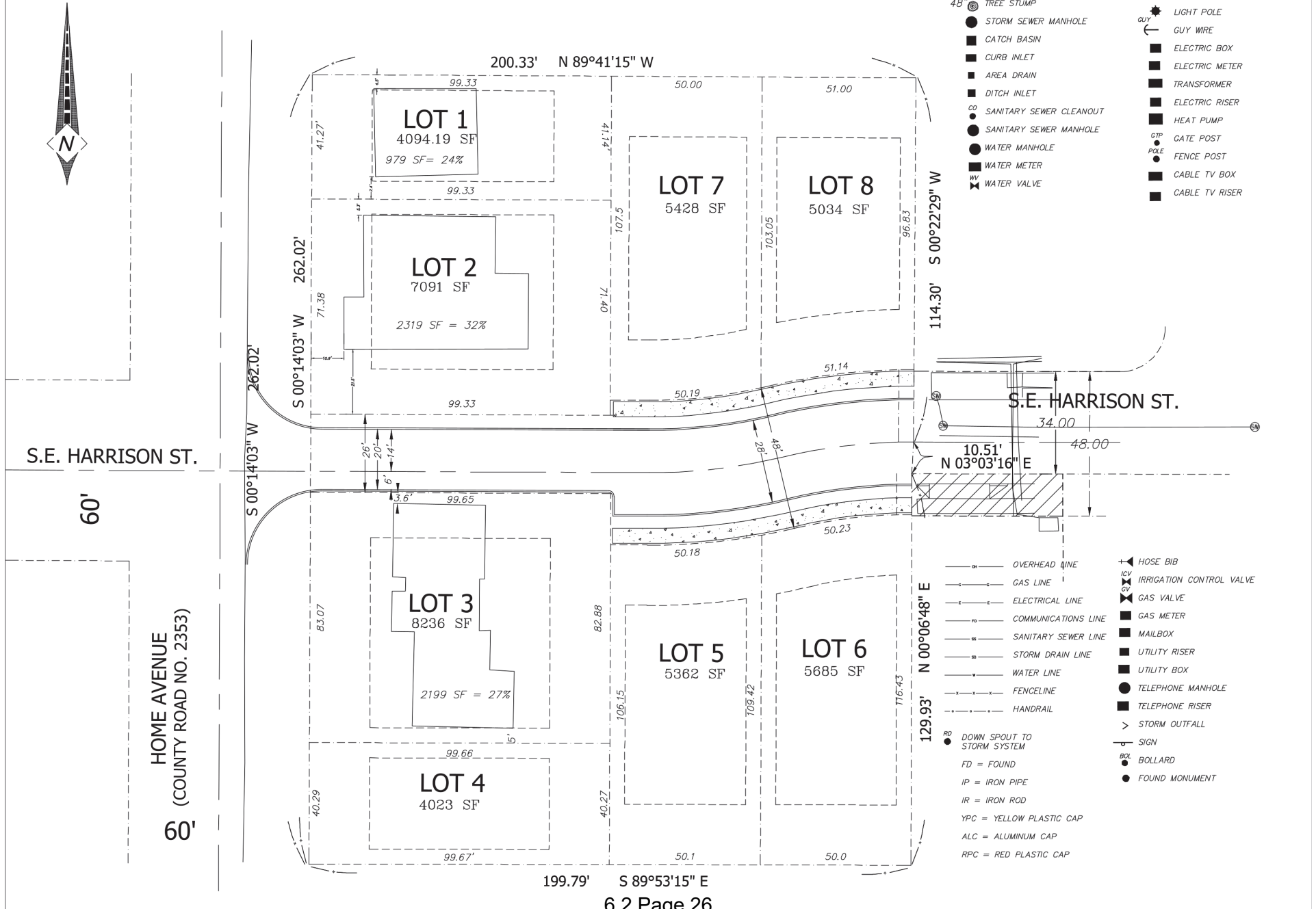
# PRELIMINARY PLAT FOR 'SHAH & TRIPP ESTATES'

## LEGEND:

Some Symbols shown may not be used on map

- 12" DECIDUOUS TREE
- 24" EVERGREEN TREE
- 48" TREE STUMP
- STORM SEWER MANHOLE
- CATCH BASIN
- CURB INLET
- AREA DRAIN
- DITCH INLET
- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- WATER MANHOLE
- WATER METER
- ⊗ WATER VALVE
- SGP TRAFFIC SIGNAL POLE
- UTILITY POLE
- LIGHT POLE
- ⊗ GUY WIRE
- ELECTRIC BOX
- ELECTRIC METER
- TRANSFORMER
- ELECTRIC RISER
- HEAT PUMP
- GTP GATE POST
- POLE
- FENCE POST
- CABLE TV BOX
- CABLE TV RISER

- OVERHEAD WIRE
- GAS LINE
- ELECTRICAL LINE
- COMMUNICATIONS LINE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCELINE
- HANDRAIL
- RB DOWN SPOUT TO STORM SYSTEM
- FD = FOUND
- IP = IRON PIPE
- IR = IRON ROD
- YPC = YELLOW PLASTIC CAP
- ALC = ALUMINUM CAP
- RPC = RED PLASTIC CAP
- HOSE BIB
- ICV IRRIGATION CONTROL VALVE
- GV GAS VALVE
- GAS METER
- MAILBOX
- UTILITY RISER
- UTILITY BOX
- TELEPHONE MANHOLE
- TELEPHONE RISER
- > STORM OUTFALL
- SIGN
- BOLLARD
- FOUND MONUMENT



GRAPHIC SCALE



(IN FEET)  
1 INCH = 20 FT.



EXISTING CONDITIONS MAP FOR  
'SHAH & TRIPP ESTATES'

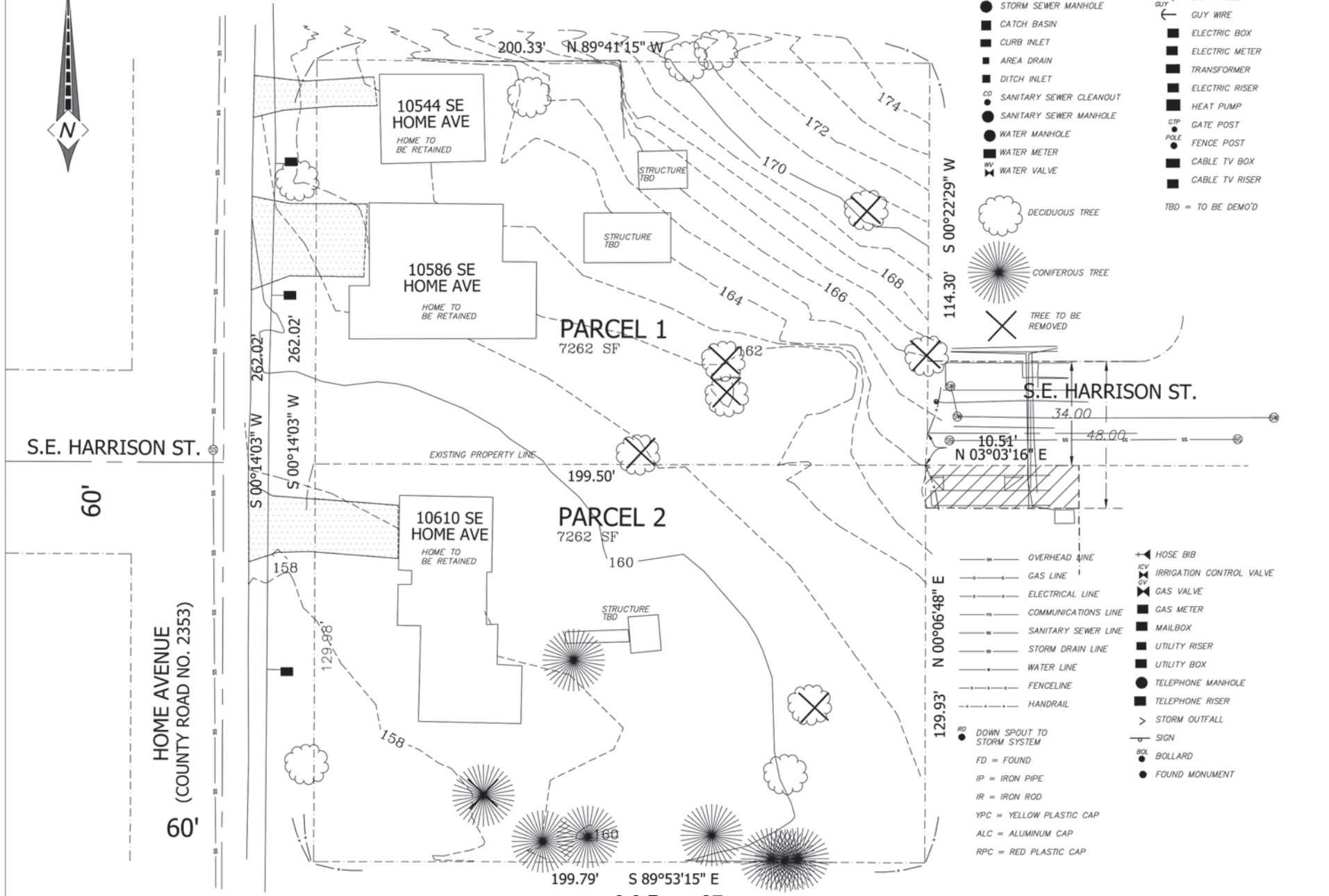
LEGEND:

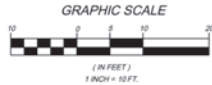
Some Symbols shown may not be used on map

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- SANITARY SEWER MANHOLE
- WATER MANHOLE
- WATER METER
- WV WATER VALVE
- SGP TRAFFIC SIGNAL POLE
- UTILITY POLE
- LIGHT POLE
- GUY WIRE
- ELECTRIC BOX
- ELECTRIC METER
- TRANSFORMER
- ELECTRIC RISER
- HEAT PUMP
- GTP GATE POST
- POLE FENCE POST
- CABLE TV BOX
- CABLE TV RISER
- TBD = TO BE DEMO'D

- DECIDUOUS TREE
- CONIFEROUS TREE
- TREE TO BE REMOVED

- OVERHEAD WIRE
- GAS LINE
- ELECTRICAL LINE
- COMMUNICATIONS LINE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCELINE
- HANDRAIL
- HOSE BIB
- IRRIGATION CONTROL VALVE
- GAS VALVE
- GAS METER
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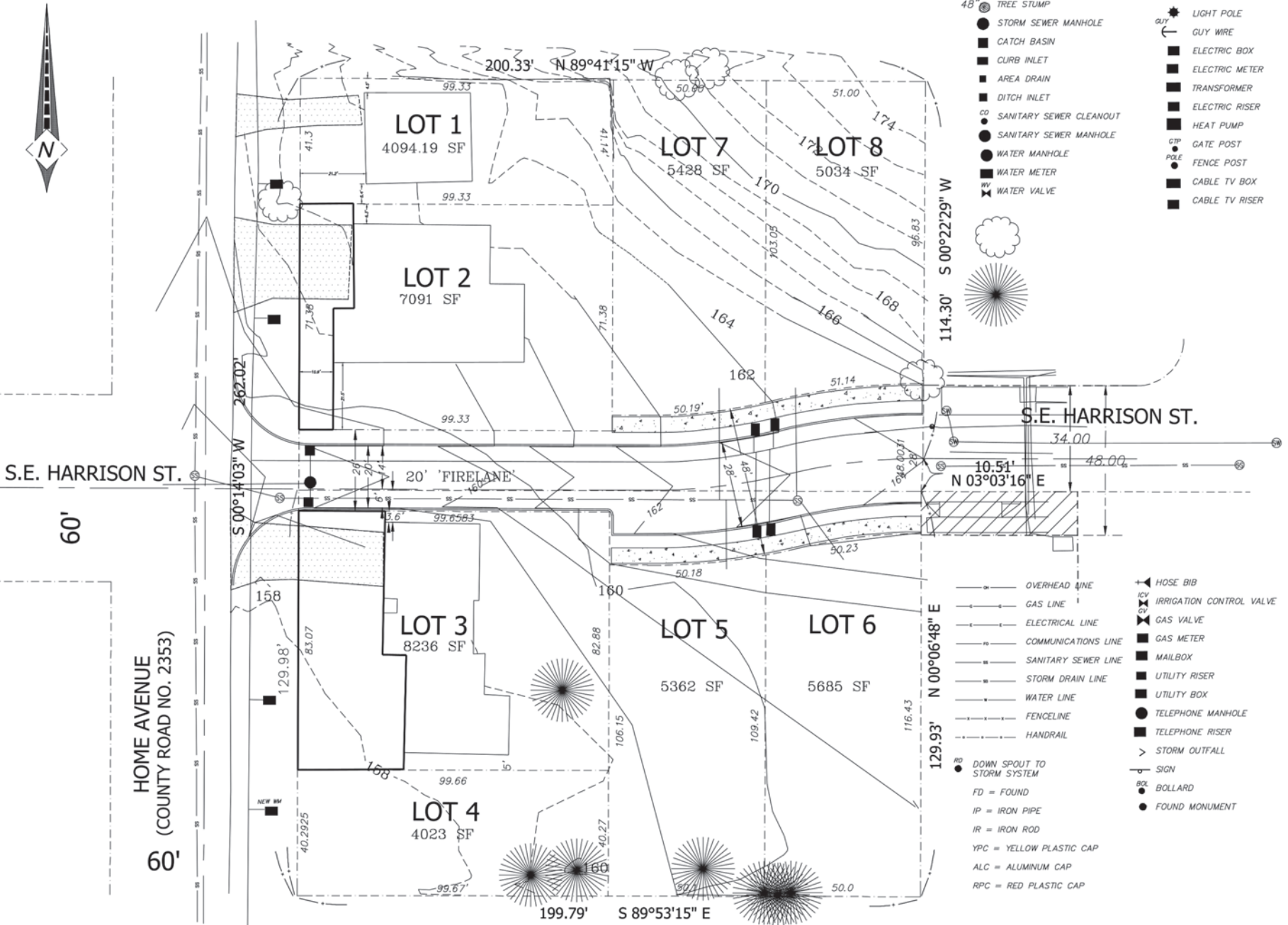


# PROPOSED IMPROVEMENTS PLAN FOR 'SHAH & TRIPP ESTATES'

## LEGEND:

Some Symbols shown may not be used on map

- |                            |                         |
|----------------------------|-------------------------|
| 12" DECIDUOUS TREE         | SGP TRAFFIC SIGNAL POLE |
| 24" EVERGREEN TREE         | UTILITY POLE            |
| 48" TREE STUMP             | LIGHT POLE              |
| STORM SEWER MANHOLE        | GUY WIRE                |
| CATCH BASIN                | ELECTRIC BOX            |
| CURB INLET                 | ELECTRIC METER          |
| AREA DRAIN                 | TRANSFORMER             |
| DITCH INLET                | ELECTRIC RISER          |
| CS SANITARY SEWER CLEANOUT | HEAT PUMP               |
| SS SANITARY SEWER MANHOLE  | GTP GATE POST           |
| WM WATER MANHOLE           | POLE FENCE POST         |
| WM WATER METER             | CABLE TV BOX            |
| WV WATER VALVE             | CABLE TV RISER          |



- |                               |                          |
|-------------------------------|--------------------------|
| OVERHEAD LINE                 | HOSE BIB                 |
| GAS LINE                      | IRRIGATION CONTROL VALVE |
| ELECTRICAL LINE               | GAS VALVE                |
| COMMUNICATIONS LINE           | GAS METER                |
| SANITARY SEWER LINE           | MAILBOX                  |
| STORM DRAIN LINE              | UTILITY RISER            |
| WATER LINE                    | UTILITY BOX              |
| FENCELINE                     | TELEPHONE MANHOLE        |
| HANDRAIL                      | TELEPHONE RISER          |
| DS DOWN SPOUT TO STORM SYSTEM | STORM OUTFALL            |
| FD = FOUND                    | SIGN                     |
| IP = IRON PIPE                | BOLLARD                  |
| IR = IRON ROD                 | FOUND MONUMENT           |
| YPC = YELLOW PLASTIC CAP      |                          |
| ALC = ALUMINUM CAP            |                          |
| RPC = RED PLASTIC CAP         |                          |



# CITY OF MILWAUKIE

May 7, 2021

Alec Shah  
225 SW Carson St  
Portland, OR 97219

**Re: Preapplication Report**

Dear Alec:

Enclosed is the Preapplication Report Summary from your meeting with the City on 4/22/2021, concerning your proposal for action on property located at 10610 SE Home Ave.

A preapplication conference is required prior to submittal of certain types of land use applications in the City of Milwaukie. Where a preapplication conference is required, please be advised of the following:

- Preapplication conferences are valid for a period of 2 years from the date of the conference. If a land use application or development permit has not been submitted within 2 years of the conference date, the Planning Manager may require a new preapplication conference.
- If a development proposal is significantly modified after a preapplication conference occurs, the Planning Manager may require a new preapplication conference.

If you have any questions concerning the content of this report, please contact the appropriate City staff.

Sincerely,

*Tempest Blanchard*

Tempest Blanchard  
Administrative Specialist II



**CITY OF MILWAUKIE**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503.786.7600  
[planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov)  
[building@milwaukieoregon.gov](mailto:building@milwaukieoregon.gov)  
[engineering@milwaukieoregon.gov](mailto:engineering@milwaukieoregon.gov)

# Preapplication Conference Report

Project ID: 21-0004PA

This report is provided as a follow-up to the meeting that was held on 4/22/2021 at 10:00 AM

The Milwaukie Municipal Code is available here: [www.qcode.us/codes/milwaukie/](http://www.qcode.us/codes/milwaukie/)

## APPLICANT AND PROJECT INFORMATION

<b>Applicant:</b>	Alec Shah	<b>Applicant Role:</b>	Property Owner
<b>Applicant Address:</b>	225 SW Carson St Portland, OR 97219		
<b>Company:</b>	N/ARFr-		
<b>Project Name:</b>			
<b>Project Address:</b>	10610 SE Home Ave	<b>Zone:</b>	R-5
<b>Project Description:</b>	Partition this lot into four lots: the current house being on one of the lots and extnd Harrison St.		
<b>Current Use:</b>	Single-unit dwelling with attached garage		
<b>Applicants Present:</b>	Alec Shah and Stephan Tripp (owner of 10586 SE Home Ave)		
<b>Staff Present:</b>	Jennifer Backhaus, Engineering Technician III; Janine Gates, Assistant Planner; and Brett Kelter, Associate Planner.		

## PLANNING COMMENTS

### Zoning Compliance (MMC Title 19)

<input checked="" type="checkbox"/>	<b>Use Standards (e.g., residential, commercial, accessory)</b>	In the Residential R-5 zone, single-family residential uses are permitted outright.
<input checked="" type="checkbox"/>	<b>Dimensional Standards</b>	<p>Dimensional standards for R-5 lots are provided in Milwaukie Municipal Code (MMC) Table 19.301.4. Minimum lot size is 5,000 sq ft, with a minimum width of 50 ft and minimum depth of 80 ft. Standard lots must have a minimum of 35 ft of frontage on a public street; flag lots are not allowed for this project per MMC 17.28.050 Flag Lot Development and Future Access.</p> <p>The minimum density for the R-5 zone is 7.0 dwelling units per acre, with a maximum density of 6.2 units per acre. MMC Subsection 19.202.4 establishes procedures for rounding density calculations and requires that the area of all right-of-way dedications (such as for new streets) be subtracted from the gross area prior to calculating density.</p> <p>Development standards for the lots themselves (including setbacks, building height, lot coverage, etc.) are also found in MMC Table 19.301.4 and are more relevant at the building permit stage, except where existing structures will remain (such as the existing house on Lot 1).</p>

		<p>As proposed, the proposed lot south of the current home appears to not meet the minimum standards for lot width (50 ft) and lot area (5,000 sq ft). A Type II variance would allow a reduction of up to 10% of the required lot depth (up to 5 ft in this case), but a Type III variance will be required for lot area (there is no Type II option).</p> <p>The required street improvements will require right-of-way dedication along the two new lots to the east. The street improvements shall include new curb, new gutter, new set back sidewalks, and landscape strips/planters. These improvements should match the existing street improvements as completed by the development to the east (Mission Park, and 5048 SE Harrison St).</p> <p>A 48-ft wide right-of-way, with minimum 5-ft wide setback sidewalks, and 28-ft wide paved surface between curbs is the required street design. The applicant should coordinate these improvements with the property to the north with regards to right-of-way dedication and/or purchasing additional property to facilitate street improvements.</p>
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**Land Use Review Process**

<input checked="" type="checkbox"/>	<b>Applications Needed</b>	<ul style="list-style-type: none"> <li>• Replat (subdivision replat)</li> <li>• Variance (up to three variance requests per application)</li> <li>• Final Plat (processed separately, after preliminary plat approval)</li> </ul> <p>The applicant should submit a complete electronic copy of all application materials for the City's initial review. Due to the COVID pandemic, hard copies of materials are not currently desired. A determination of the application's completeness will be issued within 30 days.</p> <p>Once the application is deemed complete, a public hearing with the Planning Commission will be scheduled. As long as measures remain in place to address the COVID pandemic, the public hearing will be conducted online. Public notice will be sent to property owners and current residents within 300 ft of the subject property no later than 20 days prior to the hearing date. At least 14 days before the hearing, a sign giving notice of the application must be posted on the subject property, to remain until the decision is issued. Staff will prepare a report with analysis of the proposal and a recommendation for decision that will be made available one week before the hearing. Both staff and the applicant will have the opportunity to make presentations at the hearing, followed by public testimony and then deliberation by the Commission.</p> <p>Issuance of a decision starts a 15-day appeal period for the applicant and any party who establishes standing. Development permits submitted during the appeal period may be reviewed but are not typically approved until the appeal period has ended.</p> <p>The 2021 schedule for Planning Commission hearings, including dates by which an application must be deemed complete in order to be eligible for a particular hearing date, is attached for reference</p>
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<input checked="" type="checkbox"/>	<b>Fees</b>	<ul style="list-style-type: none"> <li>• Replat (Subdivision Replat) (Type III) = \$2,000</li> <li>• Variance (Type III) = \$2,000 (reduced to \$1,500 with discount)</li> <li>• Final Plat (Type I) = \$200 (will be processed separately, after preliminary approval)</li> </ul> <p><i>Note:</i> For multiple applications, there is a 25% discount offered for each application fee beyond the most expensive one.</p>
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<input checked="" type="checkbox"/>	<b>Review Type:</b> Choose an item.	<ul style="list-style-type: none"> <li>• Subdivision Replat = Type III</li> <li>• Variance = Type III (processed according to highest review type for any variance)</li> <li>• Final Plat = Type I</li> </ul>
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**Overlay Zones (MMC 19.400)**

<input type="checkbox"/>	<b>Willamette Greenway</b>	(There are no special overlays for the subject property.)
<input type="checkbox"/>	<b>Natural Resources</b>	

<input type="checkbox"/>	<b>Historic Preservation</b>	
<input type="checkbox"/>	<b>Flex Space Overlay</b>	
<b>Site Improvements/Site Context</b>		
<input checked="" type="checkbox"/>	<b>Landscaping Requirements</b>	<p>For single-family residential development, there are only a few specific requirements for landscaping:</p> <ul style="list-style-type: none"> <li>• Minimum vegetation requirement = 25% of lot area</li> <li>• Front yard minimum vegetation = 40% of front yard (measured between the front face of the house and the front property, so not simply the area within required front yard setback of 20 ft)</li> <li>• Related to landscaping, parking and maneuvering areas cannot exceed 50% of the front yard area (as per MMC Subsection 19.607.1.D)</li> </ul>
<input type="checkbox"/>	<b>Onsite Pedestrian/Bike Improvements (MMC 19.504, 19.606, and 19.609)</b>	There are no specific pedestrian or bicycle improvements required for single-family residential development.
<input checked="" type="checkbox"/>	<b>Connectivity to surrounding properties</b>	<p>The adjacent property to the north at 10586 SE Home Ave is also interested in dividing their property. The property owners of 10610 SE Home Ave and 10586 SE Home Ave plan to coordinate with the construction and cost of the street improvements. This will allow for a more cohesive roadway and make the development of both lots less costly.</p> <p>See MMC 19.703 for street and frontage improvement requirements.</p>
<input type="checkbox"/>	<b>Circulation</b>	
<input checked="" type="checkbox"/>	<b>Building Design Standards (MMC 19.505)</b>	MMS Subsection 19.505.1 provides design standards for single-family dwellings, including for building articulation, street-facing façade design, main entrances, and detailed design. Compliance with these standards will be confirmed at the building permit stage.
<input type="checkbox"/>	<b>Downtown Design Standards (MMC 19.508)</b>	
<b>Parking Standards (MMC 19.600)</b>		
<input checked="" type="checkbox"/>	<b>Residential Off-Street Parking Requirements</b>	<p>As per MMC Table 19.605.1, a minimum of one off-street parking space is required per single-family dwelling unit.</p> <p>MMC Section 19.607 establishes requirements for residential off-street parking. The required parking space must be at least 9 ft wide and 18 ft deep and cannot be located in the required front yard or street-side (i.e., within the first 20 ft of the property as measured from the property line). All required parking spaces, as well as all parking and maneuvering areas within a required front or side yard, must have a durable and dust-free surface. Areas for boat and RV parking can be graveled, as can be any maneuvering and unrequired parking areas outside a required front or side yard.</p>
<input type="checkbox"/>	<b>Multi-Family/Commercial Parking Requirements</b>	
<b>Approval Criteria (MMC 19.900)</b>		
<input type="checkbox"/>	<b>Community Service Use (CSU) (MMC 19.904)</b>	
<input type="checkbox"/>	<b>Conditional Use (MMC 19.905)</b>	



<input type="checkbox"/>	<b>Development Review (MMC 19.906)</b>	
<input checked="" type="checkbox"/>	<b>Variance (MMC 19.911)</b>	<p>It appears that variances will be required for at least two elements of the project: lot width and lot area. Up to 3 variance requests can be included in a single variance application (for that single application fee). With multiple variance requests, if any of the variances requires Type III review, all variances must be evaluated with Type III review.</p> <p>MMC 19.911.4.B establishes approval criteria for Type III variances in general. The applicant may choose to use either the broadly applicable Discretionary Relief criteria or the more narrowly focused Economic Hardship criteria, though please note that the Economic Hardship criteria are quite stringent.</p>
<b>Land Division (MMC Title 17)</b>		
<input checked="" type="checkbox"/>	<b>Design Standards</b>	<p>MMC Section 17.28.040 establishes general standards for lot design, including a requirement for rectilinear lots (as practicable) and limits on compound lot line segments. Cumulative lateral changes in the direction of side or rear lot lines must not exceed 10% of the distance between opposing lot corners along a given lot line, unless a Type III variance is granted. Lot 8 shows a compound lot line segment in its SE corner resulting from the shape of the overall subject property—this aspect is not under the applicant’s control and so is allowable.</p> <p>MMC Section 17.28.050 precludes flag lots where there is potential for future street access or roadway development. Harrison Street dead-ends at the eastern boundary of the subject property and can be extended westward to provide frontage for two of the proposed new lots.</p>
<input checked="" type="checkbox"/>	<b>Preliminary Plat Requirements</b>	<p>MMC Section 17.16.060 provides application requirements and procedures for preliminary plats, including a reference to the City’s preliminary plat checklist. The checklist outlines the specific pieces of information that must be shown on the plat, based on the provisions for preliminary plat established in MMC Chapter 17.20.</p> <p>MMC Section 17.12.040 establishes approval criteria for preliminary plats. The application must include a narrative description demonstrating that the proposal meets all applicable code requirements and design standards, and it must meet the following criteria:</p> <ul style="list-style-type: none"> <li>(1) the proposed plat complies with Title 19 and other applicable regulations &amp; standards;</li> <li>(2) the proposed land division allows for reasonable development and does not create the need for a variance;</li> <li>(3) the proposed subdivision plat name is not duplicative and satisfies all applicable standards of ORS 92.090(1); and</li> <li>(4) the streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street pattern.</li> </ul>
<input checked="" type="checkbox"/>	<b>Final Plat Requirements (See Engineering Section of this Report)</b>	<p>MMC Section 17.16.070 provides application requirements and procedures for final plats, with a reference to the City’s final plat checklist. The checklist outlines the specific pieces of information that must be shown on the plat, based on the provisions for final plat established in MMC Chapter 17.24.</p> <p>MMC Section 17.12.050 establishes the following approval criteria for final plats:</p> <ul style="list-style-type: none"> <li>(1) Compliance with the preliminary plat approved by the approval authority, with all conditions of approval satisfied.</li> <li>(2) The preliminary plat approval has not lapsed.</li> <li>(3) The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.</li> </ul>

		<p>(4) The plat contains a donation to the public of all common improvements, including streets, roads, parks, sewage disposal, and water supply systems.</p> <p>(5) All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.</p> <p>(6) The plat complies with the Zoning Ordinance and other applicable ordinances and regulations.</p> <p>(7) Submission of signed deeds when access control strips are shown on the plat.</p> <p>(8) The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92.060. The plat must indicate the initial point of the survey and give the dimensions and kind of such monument and its reference to some corner established by the U.S. Survey or giving two or more objects for identifying its location.</p> <p>Note that construction of all required public improvements must be completed, inspected, and accepted by the City prior to the City's sign-off on the final plat, unless an arrangement for bonding or other interim measure is made and agreed upon by the City.</p>
<b>Sign Code Compliance (MMC Title 14)</b>		
<input type="checkbox"/>	<b>Sign Requirements</b>	
<b>Noise (MMC Title 16)</b>		
<input type="checkbox"/>	<b>Noise Mitigation (MMC 16.24)</b>	
<b>Neighborhood District Associations</b>		
<input checked="" type="checkbox"/>	<b>Hector Campbell</b>	<p>Prior to submitting the application, the applicant is encouraged (but not required) to present the project at a regular meeting of the relevant Neighborhood District Association (NDA), in this case the Hector Campbell NDA.</p> <p><b><u>Hector Campbell NDA Chair</u></b></p> <p>David Aschenbrenner</p> <p><a href="mailto:2dasch@gmail.com">2dasch@gmail.com</a></p> <p>Regular meeting—second Monday, 6:30pm (online)</p>
	Choose an item.	
	Choose an item.	
<b>Other Permits/Registration</b>		
<input type="checkbox"/>	<b>Business Registration</b>	
<input type="checkbox"/>	<b>Home Occupation Compliance (MMC 19.507)</b>	
<b>Additional Planning Notes</b>		
<b>ENGINEERING &amp; PUBLIC WORKS COMMENTS</b>		
<b>Public Facility Improvements (MMC 19.700)</b>		

<input checked="" type="checkbox"/>	<b>Applicability (MMC 19.702)</b>	<p>MMC 19.702 establishes the applicability of MMC 19.700, including to new construction and modification and/or expansion of an existing structure or a change or intensification in use that results in a new dwelling unit, any new increase in gross floor area, and/or in any projected increase in vehicle trips.</p> <p>The proposed development would result in new construction that would increase vehicle trips and does therefore trigger the applicability of MMC 19.700.</p>
<input type="checkbox"/>	<b>Transportation Facilities Review (MMC 19.703)</b>	A Transportation Facilities Review (TFR) Land Use Application is not required.
<input type="checkbox"/>	<b>Transportation Impact Study (MMC 19.704)</b>	A Transportation Impact Study (TIS) is not required.
<input checked="" type="checkbox"/>	<b>Rough Proportionality (MMC 19.705)</b>	<p>The subject property is developed with an existing single-family house. The requirements for right-of-way (ROW) dedication and street improvements are proportional to the impacts resulting from development of the proposed new lots.</p> <p>Street improvements, or collection of a fee in lieu of construction, are required along the frontages of the proposed undeveloped lots where existing improvements do not meet current City standards.</p> <p>ROW dedication for an extension of Harrison St will be required along the entire length frontage of the two proposed eastern lots. Fee in Lieu of Construction will be required for the proposed 40-ft frontage of the fourth lot to the south of the lot that will retain the existing house.</p> <p>No ROW dedication or frontage improvements are proportional for the lot with the existing house, as it presents no new impacts as part of the proposed land division.</p>
<input type="checkbox"/>	<b>Agency Notification (MMC 19.707)</b>	
<input checked="" type="checkbox"/>	<b>Transportation Requirements (MMC 19.708)</b> <ol style="list-style-type: none"> <li>1. General Requirements</li> <li>2. Street Design Standards</li> <li>3. Sidewalk Requirements</li> <li>4. Pedestrian/Bicycle Path Requirements</li> </ol>	<ol style="list-style-type: none"> <li>1. General Requirements <ol style="list-style-type: none"> <li>a. Access Management: All development subject to MMC 19.700 shall comply with access management standards contained in MMC 12.16</li> <li>b. Clear Vision: All development subject to MMC 19.700 shall comply with clear vision standards contained in MMC 12.24</li> <li>c. Development in Non-Downtown Zones: Street right-of-way shall be dedicated to the public for street purposes in accordance with MMC 19.708.2. Dedication and construction of a half-street is generally not acceptable, however a half-street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half-street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half-street shall be the minimum width necessary to accommodate 2 travel lanes pursuant to MMC 19.708.2</li> </ol> </li> <li>2. Street Design Standards <ol style="list-style-type: none"> <li>a. The total right-of-way shall have a width of 48-ft, with a minimum travel lane of 10-ft, a minimum setback sidewalk width of 5-ft, and a landscape strip width of 4-ft. The width from curb-to-curb shall be 28-ft including the gutter.</li> <li>b. Where landscape strips are required, street trees shall be planted a minimum of every 40-ft in accordance with the Public Works Standards and Milwaukie Street Tree List and Street Tree Planting Guidelines</li> <li>c. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.</li> </ol> </li> <li>3. Sidewalk Requirements <ol style="list-style-type: none"> <li>a. Sidewalks shall be provided on the public street frontage of all developments per the requirements of this chapter. Sidewalks shall be constructed within the dedicated public right-of-way and designed in accordance with the Public Works Standards and the City of Milwaukie American's with Disabilities Act Transition Plan.</li> </ol> </li> <li>4. Design Standards</li> </ol>

		a. Paths that provide fire access or a public utility corridor shall have a minimum right-of-way width of 20-ft and a minimum improved surface of 15-ft.
<input checked="" type="checkbox"/>	<b>Utility Requirements (MMC 19.709)</b>	<p>A 10-ft Public Utility Easement (PUE) is required along each new lot. The applicant shall provide engineered utility plans to the City Engineer for review and approval prior to construction to demonstrate compliance with all City Standards and requirements. The City Engineer shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all city permitting requirements and standards.</p> <p>Utility improvements are subject to the requirements of MMC 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered part of the monitoring process.</p>
<b>Flood Hazard Area (MMC 18)</b>		
<input type="checkbox"/>	<b>Development Permit (MMC 18.04.100)</b>	The subject property is not located in a designated flood hazard area.
<input type="checkbox"/>	<b>General Standards (MMC 18.04.150)</b>	
<input type="checkbox"/>	<b>Specific Standards (MMC 18.04.160)</b>	
<input type="checkbox"/>	<b>Floodways (MMC 18.04.170)</b>	
<b>Environmental Protection (MMC 16)</b>		
<input type="checkbox"/>	<b>Weak Foundation Soils (MMC 16.16)</b>	The proposed development is not located in the City-regulated soil hazard area.
<input checked="" type="checkbox"/>	<b>Erosion Control (MMC 16.28)</b>	An erosion control permit is required for the proposed.
<input checked="" type="checkbox"/>	<b>Tree Cutting (MMC 16.32)</b>	Any major pruning or removal of trees in the public ROW requires a posting and notice procedure that can take up to five weeks if successful.
<b>Public Services (MMC 13)</b>		
<input checked="" type="checkbox"/>	<b>Water System (MMC 13.04)</b>	<p>Connection and extension of City utilities is subject to plan and application review. Application for City utility billing connection shall be made on approved forms: <a href="https://www.milwaukieoregon.gov/building/water-connection-application">https://www.milwaukieoregon.gov/building/water-connection-application</a></p> <p>A system development charge must be paid prior to new connections to city water.</p>
<input checked="" type="checkbox"/>	<b>Sewer System (MMC 13.12)</b>	<p>Connection and extension of City utilities is subject to plan and application review. It shall be the permittee's or representative's responsibility to request inspection of the work and to allow reasonable time for the City to schedule the inspection. Inspections shall be requested for and made during the normal business hours of the City. Should inspections be required during nonbusiness hours, the permittee shall reimburse the City for all overtime costs incurred.</p> <p>An 8-in concrete sewer main runs along the southern edge of the northern property, coordination for the street improvements should also include sewer connections.</p> <p>A system development charge must be paid prior to new connections or impacts due to intensification of use to city sanitary sewer.</p>

☒	<b>Stormwater Management (MMC 13.14)</b>	<p>Stormwater mitigation must meet the city's NPDES permit through design of facilities according to the 2016 City of Portland Stormwater Management Manual. Applicant will be required to provide an infiltration test to be completed by a Geotechnical engineer.</p> <p>Infiltration between curb and sidewalk is allowed. Applicant will need to install a drywell or other approved overflow management discharge point for runoff from the ROW to assure that rain garden(s) or swale(s) are not overwhelmed during a storm event.</p> <p>A system development charge must be paid prior to building permit issuance.</p>
☒	<b>System Development Charge (MMC 13.28.040)</b>	<p>All new development or intensification of use shall be subject to system developments charges.</p> <p>Latest charges are determined by the Master Fee Schedule available here: <a href="https://www.milwaukieoregon.gov/finance/fees-charges">https://www.milwaukieoregon.gov/finance/fees-charges</a></p> <p>Additional information is available here: <a href="https://www.milwaukieoregon.gov/building/system-development-charges-sdcs">https://www.milwaukieoregon.gov/building/system-development-charges-sdcs</a></p>
☒	<b>Fee in Lieu of Construction (MMC 13.32)</b>	<p>Improvements are required to be constructed for the proposed two eastern lots, and Fee in Lieu of Construction will be collected for the proposed 40-ft frontage on Home Ave.</p> <p>A FILOC estimate will be provided as soon as possible.</p>

### Public Places (MMC 12)

☒	<b>Right of Way Permit (MMC 12.08.020)</b>	<p>A Right-of-Way Permit will be required for all frontage improvements, utility work within the right-of-way, and driveway construction for each lot.</p>
☒	<b>Access Requirements (MMC 12.16.040)</b>	<p>Per MMC 12.16.040, private property shall be provided street access via accessways (driveways). These driveways shall be constructed under a right-of-way permit in accordance with the current Milwaukie Public Works Standards</p>
☒	<b>Clear Vision (MMC 12.24)</b>	<p>A clear vision area shall be maintained at all driveways and accessways.</p>

### Additional Engineering & Public Works Notes

The city strongly recommends coordination with the adjacent property to the north to complete street and frontage improvements.

## BUILDING COMMENTS

All drawings must be submitted electronically through [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

New buildings or remodels shall meet all the provisions of the current applicable Oregon Building Codes. All State adopted building codes can be found online at: <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

All building permit applications are electronic and can be applied for online with a valid CCB license number or engineer/architect license at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov). Each permit type and subpermit type are separate permits and will need to be applied for individually. Plans need to be uploaded to their specific permits in PDF format as a total plan set (not individual pages) if size allows.

Note: Plumbing and electrical plan reviews (when required) are done off site so two (2) paper copies will be required for those reviews only. Paper copies should be delivered to our office for processing.

Site utilities require a separate plumbing permit. This permit will require plumbing plan review so two (2) paper copies will be required for this review. Paper copies should be delivered to the Building Division office for processing. The grading plan submitted to the Engineering Department does not cover this review.

If you have any building related questions, please email us at [building@milwaukieoregon.gov](mailto:building@milwaukieoregon.gov).

### Additional Building Notes

e.g. sprinklers, accessibility, alarms, bathrooms, exits, elevator

### OTHER FEES

<input type="checkbox"/>	<b>Construction Excise Tax</b> Affordable Housing CET – Applies to any project with a construction value of over \$100,000.	<b>Calculation:</b> Valuation *1% (0.1)
<input type="checkbox"/>	<b>Metro Excise Tax</b> Metro – Applies to any project with a construction value of over \$100,000.	<b>Calculation:</b> Valuation *0.12% (0.0012)
<input type="checkbox"/>	<b>School Excise Tax</b> School CET – Applies to any new square footage.	<b>Calculation:</b> Commercial = \$0.67 a square foot, Residential = \$1.35 a square foot (not including garages)

### FIRE DISTRICT COMMENTS

Please see the attached memorandum for fire district comments.

### COORDINATION WITH OTHER AGENCIES

**Applicant must communicate directly with outside agencies. These may include the following:**

- Metro
- Trimet
- North Clackamas School District
- North Clackamas Parks and Recreation District (NCPRD)
- Oregon Parks and Recreation
- ODOT/ODOT Rail
- Department of State Lands
- Oregon Marine Board
- Oregon Department of Fish and Wildlife (ODOT)
- State Historic Preservation Office
- Clackamas County Transportation and Development

### MISCELLANEOUS

#### State or County Approvals Needed

<input type="checkbox"/>	Boiler Approval (State)	
<input type="checkbox"/>	Elevator Approval (State)	
<input type="checkbox"/>	Health Department Approval (County)	

#### Arts Tax

<input type="checkbox"/>	Neighborhood Office Permit	
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### Other Right-of-Way Permits

<input type="checkbox"/>	<b>Major:</b>	
<input type="checkbox"/>	<b>Minor:</b>	
<input type="checkbox"/>	<b>Painted Intersection Program Permits:</b>	
<input type="checkbox"/>	artMOB Application	
<input type="checkbox"/>	Traffic Control Plan (Engineering)	
<input type="checkbox"/>	<b>Parklet:</b>	
<input type="checkbox"/>	Parklet Application/ Planning Approval	
<input type="checkbox"/>	Engineering Approval	
<input type="checkbox"/>	Building Approval	
<input type="checkbox"/>	<b>Sidewalk Café:</b>	
<input type="checkbox"/>	<b>Tree Removal Permit:</b>	

### Infrastructure/Utilities

**Applicant must communicate directly with utility providers. These may include the following:**

- PGE
- NW Natural
- Clackamas River Water (CRW)
- Telecomm (Comcast, Century Link)
- Water Environmental Services (WES)
- Garbage Collection (Waste Management, Hoodview Disposal and Recycling)

### Economic Development/Incentives

<input type="checkbox"/>	<b>Enterprise Zone:</b>	
<input type="checkbox"/>	<b>Vertical Housing Tax Credit:</b>	
<input type="checkbox"/>	<b>New Market Tax Credits:</b>	
<input type="checkbox"/>	<b>Housing Resources:</b>	

**PLEASE SEE NOTE AND CONTACT INFORMATION ON THE FOLLOWING PAGE**

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This is only preliminary preapplication conference information based on the applicant's proposal, and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If a note in this report contradicts the Milwaukie Municipal Code, the MMC supersedes the note. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

---

**BUILDING DEPARTMENT**

Samantha Vandagriff	Building Official	503-786-7611
Harmony Drake	Permit Technician	503-786-7623
Stephanie Marcinkiewicz	Inspector/Plans Examiner	503-786-7636

**ENGINEERING DEPARTMENT**

Steve Adams	City Engineer	503-786-7605
Jennifer Backhaus	Engineering Technician III	503-786-7617

**PLANNING DEPARTMENT**

Laura Weigel	Planning Manager	503-786-7654
Vera Koliass	Senior Planner	503-786-7653
Brett Kolver	Associate Planner	503-786-7657
Mary Heberling	Assistant Planner	503-786-7658
Janine Gates	Assistant Planner	503-786-7627

**COMMUNITY DEVELOPMENT DEPARTMENT**

Kelly Brooks	Interim Community Development Director	503-786-7616
Alison Wicks	Development Project Manager	503-786-7661
Christina Fadenrecht	Housing & Economic Development Assistant	503-786-7624
Tempest Blanchard	Administrative Specialist II	503-786-7600
Emilie Bushlen	Administrative Specialist II	503-786-7600

**CLACKAMAS FIRE DISTRICT**

Mike Boumann	Lieutenant Deputy Fire Marshal	503-742-2673
Lt. Alex McGladrey	Fire Inspector	503-742-2660



## Pre-Application Meeting Comments:

To: Janine Gates, City of Milwaukie

From: Alex McGladrey, Deputy Fire Marshal, Clackamas Fire District #1

Date: 20/04/2021

Re: 21-004PA, Partition at 10610 SE Home Street

---

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the Fire and Building Code Officials. The following items should be addressed by the applicant:

### **Fire Department Apparatus Access**

- 1) Provide address numbering that is clearly visible from the street
- 2) No part of a building may be more than 150 feet from an approved fire department access road.
- 3) Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to fire hydrants) and an unobstructed vertical clearance of not less than 13 feet 6 inches.
- 4) Driveways serving up to three, single family dwellings or duplexes may be reduced to 12 feet in width, but shall provide 20 feet of clear width.
- 5) The inside turning radius and outside turning radius for a 20' wide road shall not be less than 28 feet and 48 feet respectively, measured from the same center point.
- 6) Access roads between 12% and 15% grade will only be approved if fire sprinklers are installed in all new structures served by that road. Access roads in excess of 15% grade are generally not approved.
- 7) Provide an approved turnaround for dead end access roads exceeding 150 feet in length.

Note: Some options include providing a fire department turnaround, establishing an access road from Home Ave, residential fire sprinklers may be considered as an alternate when approved by the Fire Marshal.

- 8) Fire Department turnarounds shall meet the dimensions found in the fire code applications guide.
- 9) Fire department access roads must support a 75,000 lb. fire apparatus.
- 10) Gates across access roads must be pre-approved by the Fire District.
- 11) When fire access and water supply requirements cannot be met, installing residential fire sprinklers may be accepted as an alternate on a case by case basis.

## Water Supply

- 1) Fire Hydrants, One and Two-Family Dwellings & Accessory Structures: Where a portion of a structure is more than 600 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the structure(s), additional fire hydrants and mains shall be provided.
- 2) For one and two family dwellings located in areas with reliable municipal fire fighting water supply the following shall apply:
  - a. <3,600 square feet (including attached garage)
    - i. 1,000 gpm @ 20 psi with hydrant within 600 feet of furthest portion of new residential construction, (OFC Section B105.2)
  - b. >3,600 square feet (including attached garage)
    - i. Shall meet fire flow requirements specified in Appendix B of the current Oregon Fire Code, (OFC, Table B105.1)
    - ii. Shall meet hydrant coverage as specified in appendix C of the current Oregon Fire Code, (OFC , Table C105.1)

Note: In lieu of the above fire flow requirements, residential fire sprinklers may be considered as an alternate when approved by the Fire Marshal.

- 3) A Fire Access and Water Supply plan is required for subdivisions. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, FDC location (if applicable), building square footage, and type of construction. The applicant shall provide fire flow tests per NFPA 291 or hydraulic model when applicable and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority. In addition, a PDF version shall be sent directly [alex.mcgladrey@clackamasfire.com](mailto:alex.mcgladrey@clackamasfire.com) for review.
- 4) The applicant must obtain a stamp of approval from Clackamas Fire District #1 that demonstrates fire apparatus access and water supply requirements will be satisfied.

Please see our design guide at:

<http://www.clackamasfire.com/wp-content/uploads/2020/07/2020-07-08-Fire-Code-Applications-Guide.pdf>

\*Call or email with any questions. [alex.mcgladrey@clackamasfire.com](mailto:alex.mcgladrey@clackamasfire.com)

Thank you,

Alex McGladrey  
Deputy Fire Marshal  
Clackamas Fire District #1  
503-742-2662

# ***Subdivision at 10610 SE Home Avenue***

*Milwaukie, OR*

**Developer: Victoria Rystadt**

J.O. SGL 21-60

January 7, 2022

## ***STORMWATER CALCULATIONS***



EXPIRES: 6/30/

### **SISUL ENGINEERING**

*A Division of Sisul Enterprises, Inc.*

**375 Portland Avenue  
Gladstone, OR 97027**

PHONE: (503) 657-0188

FAX: (503) 657-5779

**Narrative:**

The subdivision site location is at 10544, 10586 and 10610 SE Home Avenue in Milwaukie, Oregon. There are currently three existing homes on the site and 5 additional homesites are being proposed. Generally, the site slopes southwesterly, at an approximate 10-15% in the northeast corner of the site and as little as 2% in the southwest corner.

A public street extension through the site (SE Harrison) with some constrained conditions, will connect SE Home to an existing street stub on the east side of the site. Four of the new proposed home sites will access this new street extension and the fifth new home site will have access to Home Avenue.

There is little in the way of a formal storm drain system in the immediate area along Home Avenue, except for one catch basin on the north side of SE Harrison, which appears to drain westerly to a collection of drywells in vicinity of Harrison and SE 47<sup>th</sup>. There is also a storm drain system in newer street system to the east of the site that appears drains to some sort of infiltration system to the east of the subject site, but generally uphill from most of the proposed subdivision site.

From City GIS records it appears that City drywells are used for storm drainage to the north, west and south of the site, along with an infiltration system of some sort to the east.

We have not yet seen an infiltration test report for the subject site, but based on the surrounding facilities, we will assume infiltration is possible at some depth. For the purposes of this preliminary drainage report we are assuming a drywell system in the vicinity of SE Home Avenue and SE Harrison Street will be possible for stormwater disposal, but in case that is not feasible, a shallow infiltration system, either through planters or infiltration chambers will be looked at.

This preliminary study looked at what size water quality planter, in accordance with City of Portland Stormwater Manual, would be necessary for water quality purposes.

**Water Quality:**

Per City of Portland stormwater PAC calculator to meet the pollution reduction requirements for the impervious area of proposed street extension area and the four proposed home sites that could drain to this proposed street extension a street side planter of at least 300 SF will be needed. See the PAC calculation print out that follows in this narrative.

The fifth homesite that would take access to SE Home Avenue would likely require an onsite water quality planter, unless frontage improvements are required along SE Home Avenue, in which case a public storm water quality

facility may be created for additional impervious area in Home Avenue, that could potentially allow the fifth home site (Lot 4) to utilize.

**Stormwater Disposal:**

As no onsite geotechnical infiltration testing has yet been performed, we can only rely on information from NRCS with regards to infiltration rates. From NCRS data it is estimated that the onsite soils can drain at approximately 0.7 inches per hour, in at least the top 60 inches of soil. Such a rate if it were to hold up, by onsite testing would require a significant footprint for infiltration disposal.

Because of the number of drywells being utilized within a few blocks of the proposed subdivision site, it is felt that at a deeper depth, drywells will be feasible. The USGS depth to groundwater, website (see attached) indicates that it is approximately 50 feet to groundwater at the subject site and therefore, reasonably deep drywells, if sands or cobble soil layers are available, should allow for drywells, without restrictions for high groundwater conditions.

**Soil Type:**

This site has two soil types as identified by (Web Soil Survey).

- 71A - Quatama Loam, 0-3 percent slopes – Hydrologic Group ‘C’
- 53B - Latourell Loam, 3 to 8 percent slopes – Hydrologic Group ‘B’

**Area:**

The new impervious area for the site is estimated as follows:

- Lots 5-8 – Proposed Impervious: 2500 sf/each
- New Right-of-way – Estimated Impervious: 10,000 sf

**Rainfall Distribution:**

The rainfall intensity is based on the values locked into the City of Portland stormwater PAC Calculator.

**Time of Concentration – Pre-Developed:**

For conservative results, a minimum time of concentration of 5 minutes will be used.

**Site Conditions & Design Values**

**Water Quality Analysis:**

Based on Portland’s PAC Calculator, for water quality (Pollution Reduction) a 300 SF planter will be able to provide water quality for approximately 20,000 SF of impervious surfaces.

While we did not look specifically at Lot 4, if Lot 4 were developed without any improvements to Home Avenue, under DEQ rules, it would be rule authorized to infiltrate to an onsite drywell or other infiltration system, as a residential system.

### Stormwater Disposal:

As noted above, it is assumed that drywells will be utilized for stormwater disposal, but currently we have insufficient information to model the depth and number of drywells that may be required.

## Portland PAC Calculator Print outs

### PAC Report


Project Name	Permit No.	Created
Home Street subdivision	none	1/6/22 8:09 AM
Project Address	Designer	Last Modified
10610 SE Home Avenue Milwaukie, OR 97222	Tom Sisul	1/6/22 9:01 AM
	Company	Report Generated
	Sisul Engineering	1/6/22 9:01 AM


### Project Summary

Preliminary design for stormwater

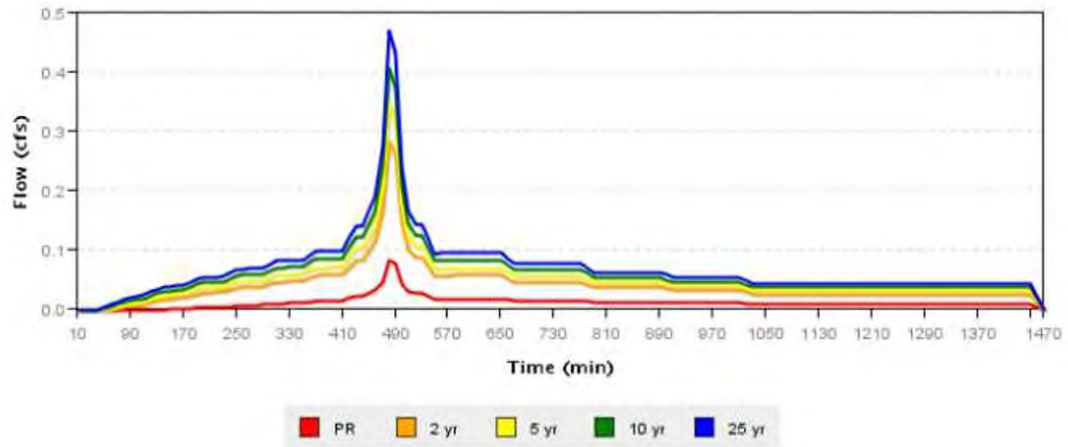
Catchment Name	Impervious Area (sq ft)	Native Soil Design Infiltration Rate	Hierarchy Category	Facility Type	Facility Config	Facility Size (sq ft)	Facility Sizing Ratio	PR Results	Flow Control Results
Facility A	20000	0.70	3	Planter (Flat)	C	300	1.5%	Pass	Fail

## Catchment Facility A

Site Soils & Infiltration Testing Data	Infiltration Testing Procedure	Open Pit Falling Head
	Native Soil Infiltration Rate ( $I_{test}$ )	0.70
<b>Correction Factor</b>	$CF_{test}$	2
<b>Design Infiltration Rates</b>	Native Soil ( $I_{design}$ )	0.35 in/hr 
	Imported Growing Medium	2.00 in/hr
<b>Catchment Information</b>	Hierarchy Category	3
	Disposal Point	C
	Hierarchy Description	Off-site flow to drainageway, river, or storm-only pipe system
	Pollution Reduction Requirement	Pass
	10-year Storm Requirement	N/A
	Flow Control Requirement	The post-development peak rates for the 2, 5 and 10-year design storms must be equal or less than the pre-development rates.
	Impervious Area	20000 sq ft 0.459 acre
	Time of Concentration ( $T_c$ )	5
Pre-Development Curve Number ( $CN_{pre}$ )	72	
Post-Development Curve Number ( $CN_{post}$ )	98	

 Indicates value is outside of recommended range

## SBUH Results



	Pre-Development Rate and Volume		Post-Development Rate and Volume	
	Peak Rate (cfs)	Volume (cf)	Peak Rate (cfs)	Volume (cf)
PR	0	1.153	0.083	1045.056
2 yr	0.025	795.848	0.282	3618.918
5 yr	0.057	1248.751	0.345	4447.831
10 yr	0.095	1760.081	0.407	5277.984
25 yr	0.137	2317.339	0.469	6108.92

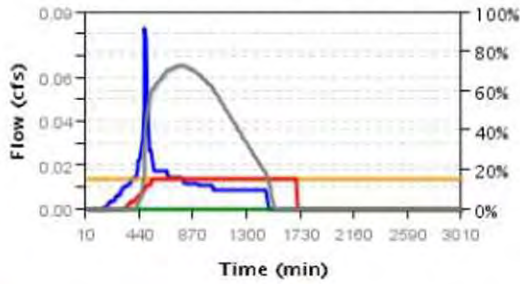


## Facility Facility A

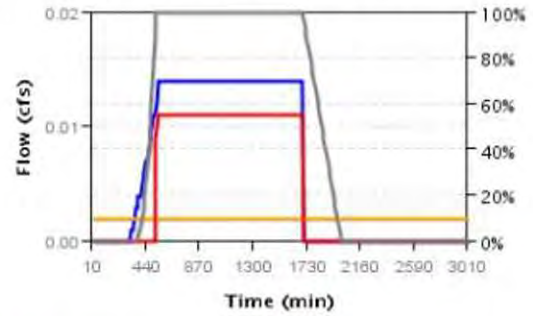
<b>Facility Details</b>	Facility Type	<b>Planter (Flat)</b>
	Facility Configuration	<b>C: Infl. with RS and underdrain (Ud)</b>
	Facility Shape	<b>Planter</b>
<b>Above Grade Storage Data</b>		
	Bottom Area	<b>300 sq ft</b>
	Bottom Width	<b>6.00 ft</b>
	Storage Depth 1	<b>12.0 in</b>
	Growing Medium Depth	<b>18 in</b>
	Surface Capacity at Depth 1	<b>300.0 cu ft</b>
	Design Infiltration Rate for Native Soil	<b>0.002 in/hr</b>
	Infiltration Capacity	<b>0.014 cfs</b>
<b>Below Grade Storage Data</b>		
	Rock Storage Depth	<b>18 in</b>
	Rock Porosity	<b>0.30 in</b>
	Storage Depth 3	<b>6.0 in</b>
<b>Facility Facts</b>	Total Facility Area Including Freeboard	<b>300.00 sq ft</b>
	Sizing Ratio	<b>1.5%</b>
<b>Pollution Reduction Results</b>	Pollution Reduction Score	<b>Pass</b>
	Overflow Volume	<b>808.724 cf</b>
	Surface Capacity Used	<b>74%</b>
	Rock Capacity Used	<b>100%</b>
<b>Flow Control Results</b>	Flow Control Score	<b>Fail</b>
	Overflow Volume	<b>4975.434 cf</b>
	Surface Capacity Used	<b>100%</b>
	Rock Capacity Used	<b>100%</b>

	Post-development outflow (cfs)	≤	Pre-development inflow (cfs)	
2 year	0.28	≤	0.025	Fail
5 year	0.342	≤	0.057	Fail
10 year	0.405	≤	0.095	Fail

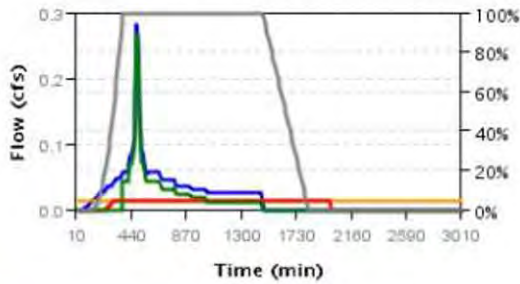
Pollution Reduction Event Surface Facility Modeling



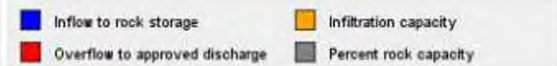
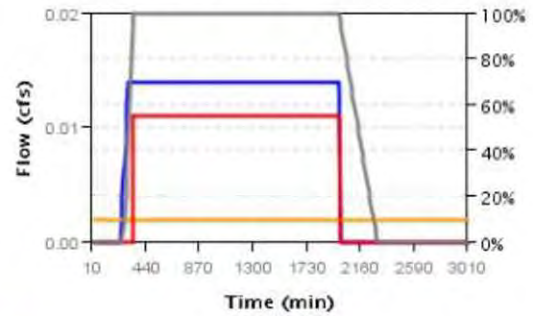
Pollution Reduction Event Below Grade Modeling



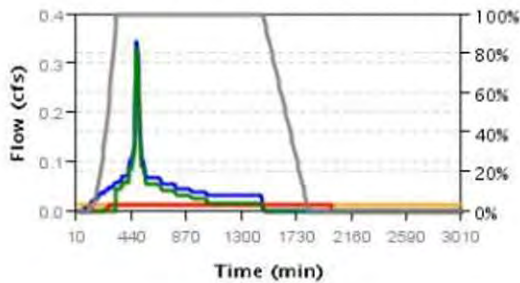
2 Year Event Surface Facility Modeling



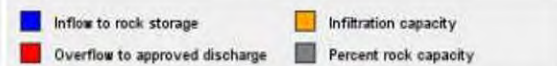
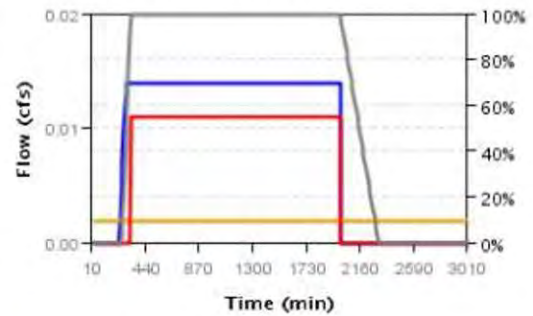
2 Year Event Below Grade Modeling



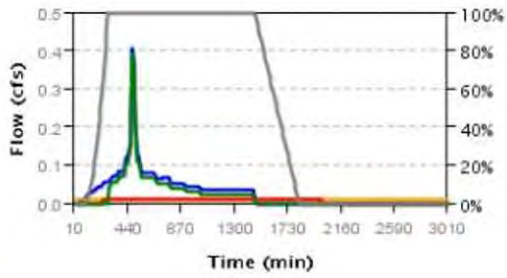
5 Year Event Surface Facility Modeling



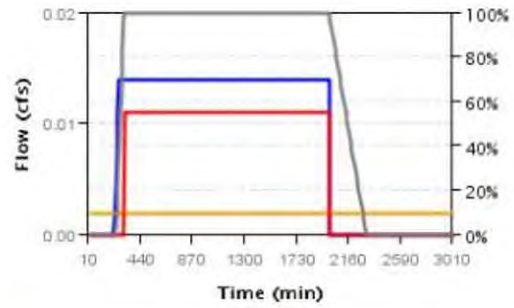
5 Year Event Below Grade Modeling



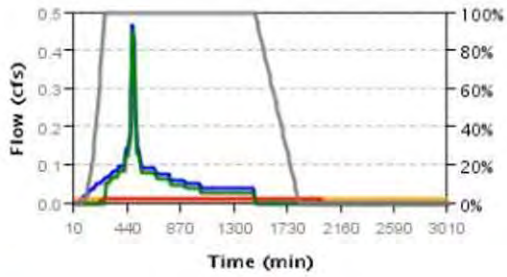
10 Year Event Surface Facility Modeling



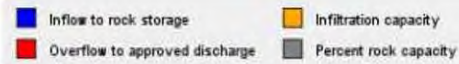
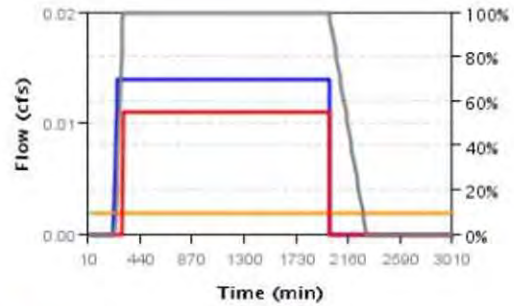
10 Year Event Below Grade Modeling



25 Year Event Surface Facility Modeling

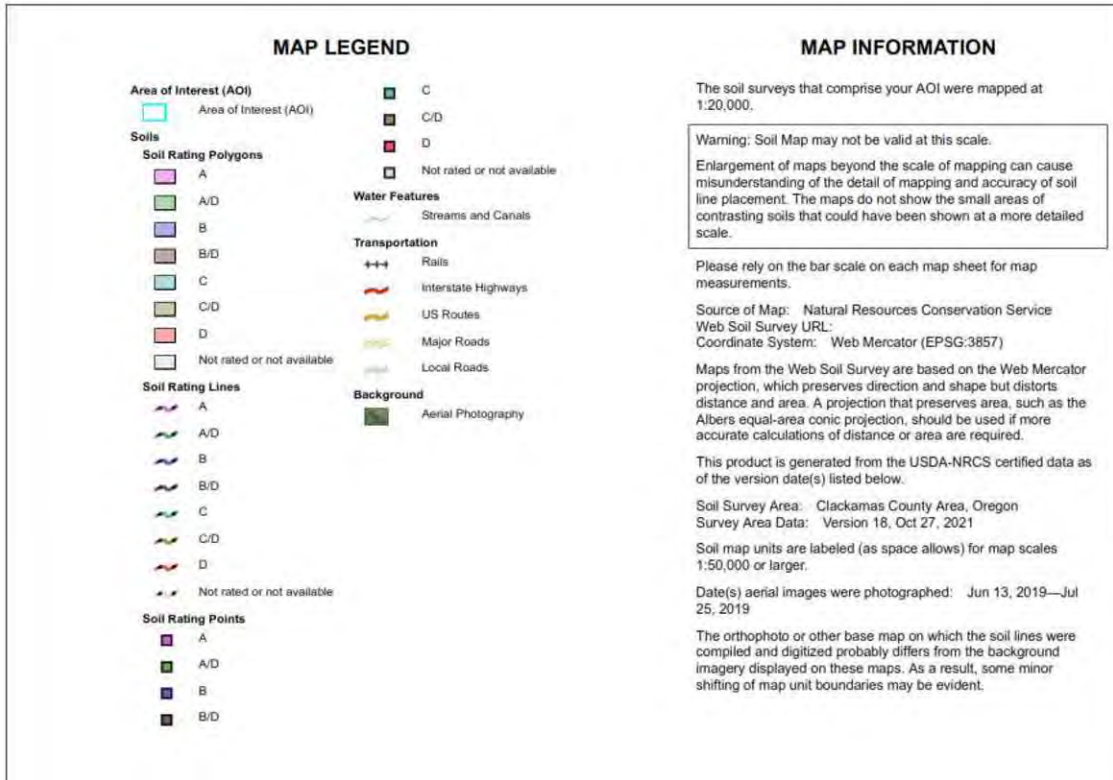


25 Year Event Below Grade Modeling



# Hydrologic Soil Group Information

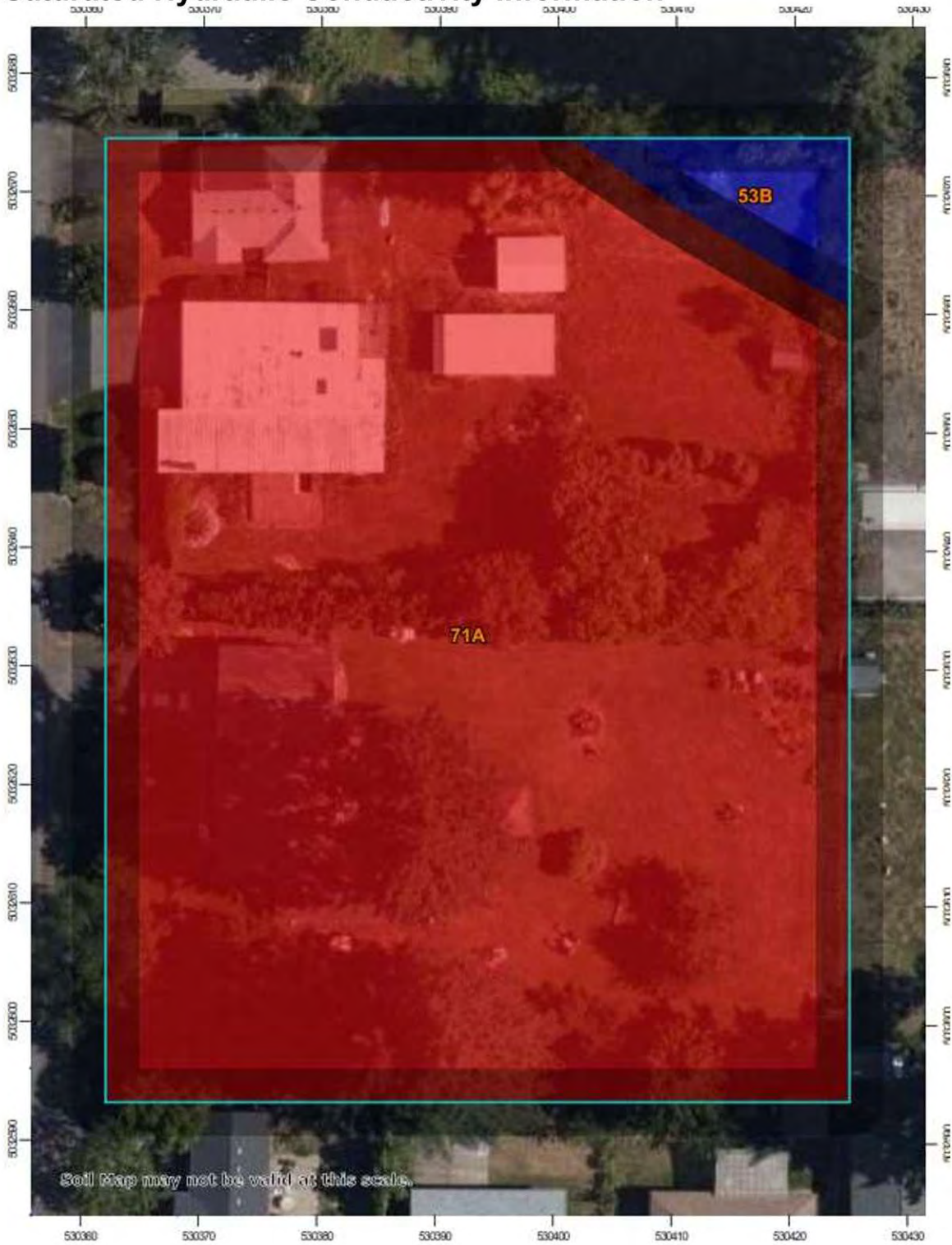


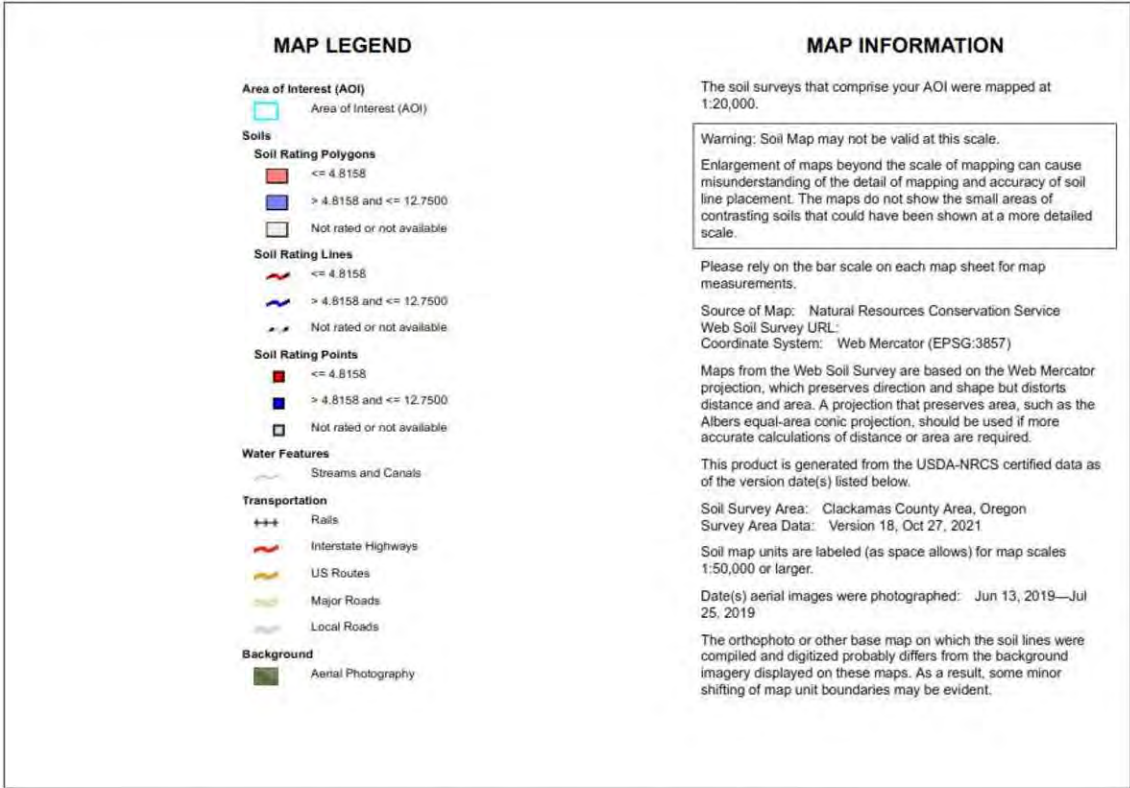


## Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
53B	Latourell loam, 3 to 8 percent slopes	B	0.0	3.4%
71A	Quatama loam, 0 to 3 percent slopes	C	1.2	96.6%
<b>Totals for Area of Interest</b>			<b>1.3</b>	<b>100.0%</b>

# Saturated Hydraulic Conductivity Information



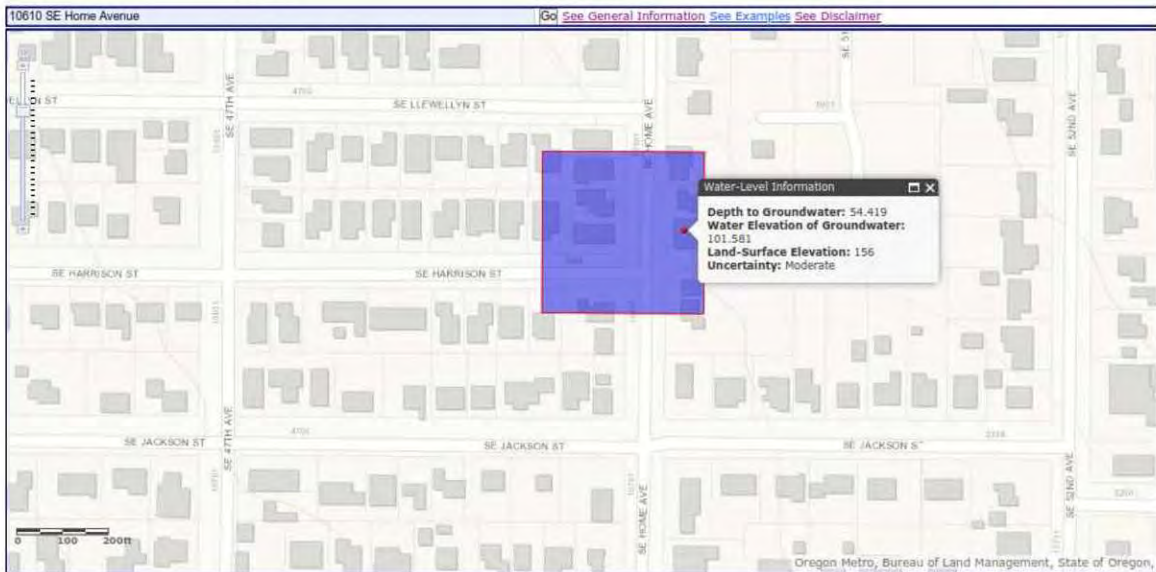


## Saturated Hydraulic Conductivity (Ksat)

Map unit symbol	Map unit name	Rating (micrometers per second)	Acres in AOI	Percent of AOI
53B	Latourell loam, 3 to 8 percent slopes	12.7500	0.0	3.4%
71A	Quatama loam, 0 to 3 percent slopes	4.8158 <b>=0.68 in/hr</b>	1.2	96.6%
<b>Totals for Area of Interest</b>			<b>1.3</b>	<b>100.0%</b>

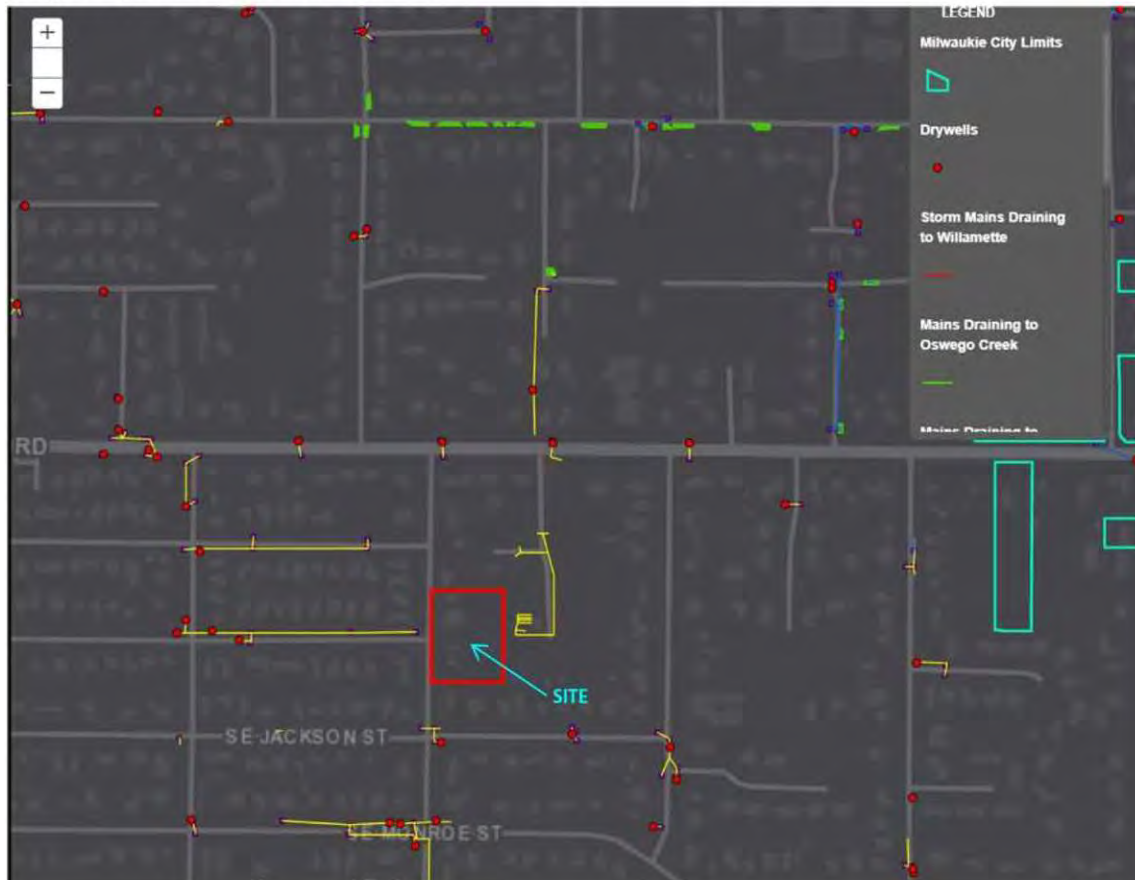
# Estimated Depth to Groundwater Information

Prepared in cooperation with the City of Portland, the City of Gresham, Clackamas County's Water Environment Services, Multnomah County, and the Oregon Department of Human Services under



Cursor coordinates: Longitude/Latitude: -122.612, 45.447 UTM: 530374.786, 5032673.308 meters Zone 10 State Plane: 7660244.621, 656116.687 feet

## City Drywells in the Area





**REQUEST TO RESERVE SUBDIVISION / CONDOMINIUM NAME**

Clackamas County Surveyor's Office  
150 Beaver Creek Road, #325  
Oregon City, OR 97045  
(503) 742-4475  
E-mail address: [surveyor@clackamas.us](mailto:surveyor@clackamas.us)

**PLAT NAME REQUESTED:**

"SHAH AND TRIPP ESTATES"

	<b>TWP/RANGE:</b>	<b>SECTION#:</b>	<b>TAX LOT#(s):</b>
<b>Location of Plat:</b>	12E31BA00700	+	12E30CD10100

I understand that if the above name plat is not pending or recorded within two years, the name will be removed from the reserved list.

**RESERVED BY:** MARK DANE

**DATE:**

12.29.21

**TELEPHONE:**

503-332-7167

**FAX:**

-----

**EMAIL ADDRESS:**

markdaneplanning@gmail.com

**PLAT SURVEYOR: #**

**NAME OF DEVELOPER:**

VICTORIA RYSTADT / STEPHAN TRIPP

**ADDRESS:**

10586 SE HOME AVE, MILWAUKEE, OR

**TELEPHONE:**

503-962-9653

**FAX:**

( ) -

**EMAIL ADDRESS:**

victoriarystadt@gmail.com

**APPROVED BY:**

**APPROVAL DATE:**

# Clackamas Fire District #1



February 8, 2022

To: Brett Kelter, Senior Planner, City of Milwaukie

RE: R-2021-004 at 10586 & 10610 SE Home Ave, Milwaukie Oregon

A land use plan review was conducted for the listed property. It has been determined that this property is in an area with public water supply, and there are no site conditions that would prevent the applicant from constructing the proper access. Fire department access and water supply are reviewed in accordance with the adopted edition of the Oregon Fire Code (OFC) at the time of application.

When submitting plans for fire department access and water supply approval please include the following information:

- Applicant/contact name, e-mail, and phone number
- Scope of project
- Size of structure
- Location of building envelope
- Hose pull distance from access roads
- Distance to nearest hydrant, and available fire flow
- Driveway width
- Driveway length
- Turnaround location (for dead end roads/driveways greater than 150 feet)
- Grade/slope of driveway

Access and water supply plans can be submitted to Clackamas Fire District #1 via e-mail to [alex.mcgladrey@clackamasfire.com](mailto:alex.mcgladrey@clackamasfire.com) (503)742-2662.

For design assistance we provide additional information including the Fire Code Application Guide, please visit our new construction website at <http://www.clackamasfire.com/fire-prevention/new-construction-resources/>

**Note: This review is to determine if the project can be designed and constructed to meet the requirements of the Oregon Fire Code, and should not be considered approval of the design as submitted.**

Alex McGladrey  
Clackamas Fire District #1  
Deputy Fire Marshal

## Brett Kelter

---

**From:** Lorence, Jeremy <Jeremy.Lorence@nwnatural.com>  
**Sent:** Thursday, March 10, 2022 10:42 AM  
**To:** Brett Kelter; schwarz@nclack.k12.or.us; detchonc@nclack.k12.or.us; corinn@chapeltheatremilwaukie.com; optisoo@gmail.com; doncourson@hotmail.com; robreynolds567@gmail.com; sararhianabee@gmail.com; waugh.eg@gmail.com; mypalvalmal@gmail.com; schwartz.meredith@gmail.com; zaharie@comcast.net  
**Subject:** RE: [External]RE: R-2021-004 Notice of Type III Land Use Proposal and Referral

This Message originated outside your organization.

---

NW Natural has no comment. Thank you,

### Jeremy Lorence

NW Natural – East Metro Engineer

Cell: 503.781.4467

Office: 503.610.7693

[Jeremy.Lorence@nwnatural.com](mailto:Jeremy.Lorence@nwnatural.com)

---

**From:** Brett Kelter <KelterB@milwaukieoregon.gov>  
**Sent:** Wednesday, March 9, 2022 5:00 PM  
**To:** schwarz@nclack.k12.or.us; detchonc@nclack.k12.or.us; Lorence, Jeremy <Jeremy.Lorence@nwnatural.com>; corinn@chapeltheatremilwaukie.com; optisoo@gmail.com; doncourson@hotmail.com; robreynolds567@gmail.com; sararhianabee@gmail.com; waugh.eg@gmail.com; mypalvalmal@gmail.com; schwartz.meredith@gmail.com; zaharie@comcast.net  
**Subject:** [External]RE: R-2021-004 Notice of Type III Land Use Proposal and Referral

**CAUTION:** This email originated outside NW Natural. Please DO NOT CLICK LINKS OR OPEN ATTACHMENTS unless you recognize the sender and know the content is safe.

Hello,

Apologies for not calling out sooner for any final comments on this 8-lot subdivision replat application, but if you have any comments to submit, now is the time.

This item will be going to a public hearing with the Planning Commission on March 22, with the staff report and recommended findings and conditions of approval being posted on Tuesday, March 15 (next week).

If you have any comments, please email them to me by Friday noon on March 11. Thank you,

### BRETT KELVER, AICP

Senior Planner

he • him • his

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**From:** Will First <[firstw@milwaukieoregon.gov](mailto:firstw@milwaukieoregon.gov)>  
**Sent:** Friday, February 4, 2022 1:56 PM  
**To:** Joseph Briglio <[BriglioJ@milwaukieoregon.gov](mailto:BriglioJ@milwaukieoregon.gov)>; Steve Adams <[AdamsS@milwaukieoregon.gov](mailto:AdamsS@milwaukieoregon.gov)>; Jennifer Backhaus

## Brett Kelter

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**From:** Sandy Conley <slconley@msn.com>  
**Sent:** Sunday, March 13, 2022 10:44 AM  
**To:** Brett Kelter  
**Subject:** Notice of Public Hearing - urgent

**This Message originated outside your organization.**

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Re: R-2021-004, VR-2021-019

To Whom it may concern,

We write to provide our concerns for consideration by the Planning Commission at the upcoming hearing scheduled for March 22, 2022.

We reside at 10434 SE 51<sup>st</sup> Ave., Milwaukie, OR 97222. We purchased our home even though it was priced \$100,000 over similar homes in the Hector-Campbell neighborhood, because it was situated on a dead-end street, off an otherwise extremely busy King St. The neighborhood has been quiet and a nice community to reside in. Although we live off King in Milwaukie, we feel secluded because of the dead-end streets in the development. When we purchased our house, it appeared any easement for access to Home from Harrison was vacated. We would not have paid this high a price for a home on a through street in our neighborhood, connecting to some homes in the area that are in various states of disrepair with significantly less value. We believe our development helps to improve the community. By connecting the street through to Harrison, this privacy and sense of community is lost, and we believe it reduces the marketability of our property. The homes in our community are valued in the \$700,000+ range and it is obvious that the limited community contributes towards that value.

Our developers created a turnaround on SE 51<sup>st</sup> to allow access for emergency vehicles. Hence, we do not need to connect through to Home for emergency services to successfully navigate our street. In fact, this community was a frequent practice area for firefighters before it was completed and fully occupied. A similar turnaround should be created in the new proposed development off 10586 and 10610 SE Home Ave. This proposal would not impact the existing neighborhood and 16 homeowners for the benefit of 4 potentially new homeowners.

Our street, SE 51<sup>st</sup> Ave., is a narrow road that is primarily a one-lane access. There is a limited amount of street parking available on one side of the road that is used by all 16 homes within the development. If opened Harrison is open through to 51st, there is a potential that new homeowners would use the only available parking spots for their vehicles and guests.

It is difficult to drive onto 51<sup>st</sup> Ave. from Home due to its 35 mph speed limit and the narrow access to 51st. When driving east on King, visibility to SE 51<sup>st</sup> Ave. is blocked by homes built close to the road. You cannot see if SE 51<sup>st</sup> Ave. is clear for access until you are upon the corner of the street. If a vehicle is exiting the development on SE 51<sup>st</sup> anyone turning onto that street must stop on King until the driver is able to create sufficient access for two vehicles or exit the street. This is currently not an issue most of the time as access is only for the home residents and traffic is extremely light. If traffic is connected through Harrison to Home,

there will be more traffic on SE 51<sup>st</sup> Ave., creating a traffic hazard and potential liability for the City. We are making the statement now that a hazard exists that will be made worse by opening Harrison [street.to](#) 51st. This proposal does not appear to benefit anyone other than the current property owners, who should be held to the same standard as our development and either create a turn-around lane in the proposed development or install bollards for emergency access.

The proposal does not open Harrison west to east through to 52<sup>nd</sup> Ave. The plan to return to previously plotted streets is not accomplished by opening this small stretch of Harrison. Opening Harrison does not allow for less congestion in the area or create connectivity. The connection of Harrison to 51st, if opened, creates a very sharp corner that is not easy to navigate and contains blind spots. Currently one family resides on Harrison off of 51<sup>st</sup> and they do not have to be concerned about quickly approaching oncoming traffic as they navigate a very sharp turn. If the street is open a hazardous road condition will be created.

Our neighborhood has been crime free since we moved in. We believe this is due to the dead-end street and the new open homes that can easily observe non-residents, allowing us to look out for each other. Since we moved into our home 3 babies were born, one is on the way, and a family with an infant moved into the neighborhood. Our street provides an area for children to ride their bicycles, play baseball, be children without the risk of being hit by vehicles driving through the neighborhood who are unfamiliar with the people living in the homes, their children, or their pets. The front yards in the entire development are close to the road, due to the small lots compared to the size of the homes. On numerous occasions, people have opened their doors only to have their pets run out into the street very quickly without sufficient time to catch them due to the proximity of the road. No children or pets have been hurt due to the light traffic from the dead-end street. People in the surrounding neighborhoods enjoy walking down the quiet dead-end street and it is frequented by many pedestrians in the neighborhood.

Notice to this proposed change was not posted in our neighborhood until Sunday, March 6th, which left little time to respond and understand the proposal. Likewise, the City of Milwaukie's notice of public hearing was not received by us until March 5th. The wording was vague, stating "Extend Harrison Street from the East. This could be implied to mean East on the proposed development to Home, not East through to 51<sup>st</sup> Ave. We spoke to one of the homeowner's who is proposing the development while he was placing the Notices on March 5th. He said the city was not proposing opening Harrison for a through street, rather it would have bollards installed for emergency access only. When we called Brett Kelver, we were informed that is not the situation. Many neighbors were misled by the homeowner, whom we believe is Alec Shah. We mean no disrespect to Alec, he may also have been misinformed by the City. We bring this up as we feel the community has been misled by the homeowner(s) and the City in the wording of the proposed development. These misconceptions were recently corrected after speaking with Brett Kelver. We promptly notified other neighbors who were under the assumption the road would not be opened up. A decision on opening this street should not be made at the upcoming hearing as insufficient information and time have been provided to the neighbors impacted by the change. Homeowners were not provided opportunity to comment on this proposal prior to it being in its final stages.

We believe our development helps to improve the community. By connecting the street through to Harrison, this privacy and sense of community is lost. We have most definitely increased the tax revenues for the City by taking the chance to pay more than average home prices for a community that is now being threatened with more development. We ask that you consider the reason people are moving from Portland to Milwaukie. For us it is the smaller communities, less traffic, more trees and natural areas, and a way to get away from so much confusion and chaos. Pocket cul-de-sacs and dead-end streets maintain that sense of privacy that is refreshing after having resided in Portland for nearly 23 years, where current resident's

lifestyles are not taken into consideration. We ask that the City reconsider opening Harrison for limited access to 4 new homes. This will not benefit the community when there are other options available that have no impact on current homeowners and there is easy access from Home to the proposed development.

If the Milwaukie Planning Commission refuses to listen to the concerns of citizens and current residents and decides to open the street against the wishes of the current homeowners, we ask the developer be required to install two speed bumps on 51<sup>st</sup> to slow traffic down and keep our neighborhood safe. Thank you for your consideration of our neighborhood concerns.

Sandy and Tim Conley

## Brett Kelter

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**From:** Mark Dane <markdaneplanning@gmail.com>  
**Sent:** Monday, March 14, 2022 8:03 AM  
**To:** TAMARA WISSBAUM  
**Cc:** Brett Kelter; tom wissbaum; Slconley@msn.com  
**Subject:** Re: R-2021-004, VR-2021-019/Proposed SE 51st Ave & Harrison a thru St.

This Message originated outside your organization.

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I understand. Thank you for your response.



**MARK DANE PLANNING INC.**  
825 SE 32nd Avenue Portland OR 97214  
503-332-7167 [markdaneplanning@gmail.com](mailto:markdaneplanning@gmail.com)  
[MARKDANEPLANNING.COM](http://MARKDANEPLANNING.COM)

On Sun, Mar 13, 2022 at 3:49 PM TAMARA WISSBAUM <[wissbaumtam@comcast.net](mailto:wissbaumtam@comcast.net)> wrote:

Mr Dane:

We do not want the No Outlet sign removed, because we DO NOT want the street made into a through street, period.

There isn't anything you can say that will change our minds on that, sorry.

You will just have to come up with another solution.

Sincerely,  
Tom & Tamara Wissbaum  
10450 SE 51st Ave  
Milwaukie, OR 97222

Contact Info:  
Tom Wissbaum Email: [tom@wissbaum.com](mailto:tom@wissbaum.com)  
Tamara Wissbaum Email: [wissbaumtam@comcast.net](mailto:wissbaumtam@comcast.net)  
Tom Wissbaum Cell: (

On 03/13/2022 2:43 PM Mark Dane <[markdaneplanning@gmail.com](mailto:markdaneplanning@gmail.com)> wrote:

Hello Mr. and Mrs. Wissbaum. I am the land use planner working for the homeowners on this development. I wanted to email you to try and understand your position.

The address of the last house on the current street stub is 5048 SE Harrison Street. If there was to be no future extension the house would not have been given that street name. The current stub was never designed as a cul-de-sac. I was always designed a through the street. When you property was developed Harrison was shown as a future through the street.

You are correct the yellow sign on 51st and King does state 'no outlet'. When the street goes through the sign will be removed. We have narrowed the street down to 20 ft where it enters SE Home Avenue. This is to discourage through the street. However, for someone going from Home Avenue to SE King Road or vice versa, they have to make a single turn. To use Harrison to do the same thing would require three turns, and at a slower rate of speed. I don't know under what circumstances someone would choose to do that.

I would however be happy to talk with you about your concerns about the possibility of random traffic and the damage you envision.

Thank you

Mark Dane





**MARK DANE PLANNING INC.**  
825 SE 32nd Avenue Portland OR 97214  
503-332-7167 [markdaneplanning@gmail.com](mailto:markdaneplanning@gmail.com)  
[MARKDANEPLANNING.COM](http://MARKDANEPLANNING.COM)

On Sun, Mar 13, 2022 at 1:45 PM TAMARA WISSBAUM <[wissbaumtam@comcast.net](mailto:wissbaumtam@comcast.net)> wrote:

To Whom It May Concern:

We are homeowners, at the property 10450 SE 51st Ave, Milwaukie, OR 97222, located in the Hector Campbell area, Mission Park Development.

In regards to the above File #'s: R-2021-004, VR-2021-019, making SE 51st Ave & Harrison St. open and through to traffic, **we are STRONGLY OPPOSED.**

We were the first homeowners to purchase in this development, even while it was still under construction. We felt that the quality of the homes being built, the improvements to the neighborhood, and the fact that it was on a No Outlet/Dead End Street, this was going to be a very safe and highly desirable place to live.

We do not want Harrison opened up to Home Street, making 51st Ave & Harrison St. an open and through street for random traffic. The safety of our community, our neighbors, our children, our properties, our pets, our guests, etc., are of the utmost concern to us, if this road is opened.

As a compromise we wouldn't be as opposed to a walking path in that area, just not a through traffic street.

Our community helps to improve the property values in the surrounding areas of Milwaukie, 97222. Making 51st Ave and Harrison St. a through traffic area would then devalue our properties, and the surrounding area, by potentially causing damage, and harm to the homeowners, and would be a great detriment to the community.

Please reconsider your plans to open 51st Ave & Harrison St. to through traffic. There must be another solution.

Sincerely,  
Tom & Tamara Wissbaum  
10450 SE 51st Ave  
Milwaukie, OR 97222

Contact Info:

Tom Wissbaum Email: [tom@wissbaum.com](mailto:tom@wissbaum.com)  
Tamara Wissbaum Email: [wissbaumtam@comcast.net](mailto:wissbaumtam@comcast.net)

Tom Wissbaum Cell: (503) 799-9000  
Tamara Wissbaum Cell: (503) 936-2117

## Brett Kelter

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**From:** Kelsey Nealeigh <kelseynealeigh@gmail.com>  
**Sent:** Sunday, March 13, 2022 6:45 PM  
**To:** Brett Kelter  
**Subject:** Concerns: R-2021-004, VR-2021-019

**This Message originated outside your organization.**

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To Whom It May Concern,

We are the homeowners at 10458 SE 51st Ave, Milwaukie, OR 97222. We are writing to express our concerns in regards to the above file #'s: R-2021-004 & VR-2021-019. We STRONGLY OPPOSE making SE 51st Ave & Harrison St open to through traffic from Home Ave.

Our highest concern is safety. We have a 1 year old daughter and our #1 reason for purchasing this home was because of it's location on a dead-end street and our daughter being able to safely play outside - bike rides, ball tosses, playing with the dog, etc. There are many young children in our neighborhood and more on the way. Our children deserve to play in front of their homes without the fear of being hit by a vehicle that is unfamiliar with the family neighborhood. If it is absolutely necessary for these 5 new homes to be a part of our current neighborhood, we believe these new neighbors will respect driving cautiously by our home, knowing of the possibility our daughter and dog could be playing in the street. Neighbors are very different than strangers.

Here is a list of some of our safety concerns:

1. Navigation apps will show our neighborhood as a shortcut between King St & Home Ave, causing the high and unnecessary traffic of strangers
2. It is difficult to enter and exit from 51st Ave and King Rd due to it's 35 mph speed limit and the narrow access on 51st Ave and the blind spots, more traffic coming from SE 51st Ave would create a traffic hazard
3. The turn from Harrison St to 51st Ave is a 90 degree angle, with blind spots, making it very dangerous and causing high possibility of accidents
4. Due to the 90 degree turn directly in front of our home, it will be difficult backing out of our driveway on a blind corner, causing a much higher chance of accidents
5. The street is not wide enough for two cars, lot #5101 property is too far extended into the street
6. We do not have sidewalks on south side of our home where Harrison St & 51st Ave meet, lot #5101 property is too far extended into the street for a sidewalk to be built
7. By making 51st Ave & Harrison St open to traffic from Home Ave, we are subjecting ourselves to more opportunity for crime as there will be a quick outlet
  - Currently, many of us neighbors can observe non-residents allowing us to look out for each others safety and property

Another concern is the impact on the value of the homes in our neighborhood. By making 51st Ave and Harrison St open to Home Ave, our quiet community is no longer secluded and we do not want to lose our privacy and sense of close-knit community. Our unique neighborhood will also then be connected to homes that are in various states of disrepair with significantly less value which will reduce the marketability of our property. The homes in our neighborhood are valued in the \$700,000+ range and we are certain that the limited community contributes to that value.

The developers of our neighborhood created a turnaround at the south side of SE 51st Ave to allow for access of emergency vehicles. Hence, we do not need to connect through to Home Ave for emergency services to successfully navigate our neighborhood. In fact, this community was a frequent practice area for firefighters before it was completely occupied. A similar turnaround should be created to the new proposed development off 10586 and 10610 SE

Home Ave. This proposal would not impact the existing neighborhood and the 16 homeowners for the benefit of 5 potential new homeowners.

The positing of the notice on March 5, 2022 left little time to fully understand the proposal and respond. "Extended Harrison Street from the east" could be implied to mean east on the proposed development to Home Ave, not east through to SE 51st Ave. We spoke Stephan Tripp, the homeowner of 10586 SE Home Ave, who is proposing this development. Stephan said he and the City of Milwaukie is not proposing to open Harrison St as a through street to Home Ave and that rather there would be bollards installed for emergency vehicle access only. When we called Brett Kolver, we were informed this is not accurate information. The current 16 homeowners of our neighborhood have had insufficient information up until last week and this has not provided enough time for every homeowner to have the opportunity to comment or express their concerns.

We are making statements in this email that hazards exist in opening up Harrison St & Home Ave to SE 51st Ave. This proposal does not appear to benefit the current 16 homeowners in our neighborhood or the City of Milwaukie. It only benefits the owners of 10586 SE Home Ave & 10610 SE Home Ave who are proposing this new development. They should be held to the same standards as the developers of our neighborhood and either create a turnaround lane in the proposed development or install bollards for emergency access. We ask that the City of Milwaukie reconsiders opening up Harrison St for limited access to 5 new homes. This will not benefit the community when there are other options available that have no impact on the 16 current homeowners.

Sincerely,

Kelsey Nealeigh & Jon O'Toole  
10458 SE 51st Ave, Milwaukie, OR 97222  
213.800.3285  
[kelseynealeigh@gmail.com](mailto:kelseynealeigh@gmail.com)

## Brett Kelter

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**From:** Allison McManus <mcmanusal@gmail.com>  
**Sent:** Sunday, March 13, 2022 8:55 PM  
**To:** Brett Kelter  
**Subject:** Opposition to R-2021-004 & VR-2021-019

**This Message originated outside your organization.**

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Hello,

I'm writing to oppose the development described in R-2021-004 & VR-2021-019. I live at 10449 SE 51st Ave, Milwaukie, OR 97222, which is on the corner of SE 51st Ave and SE Harrison. Insufficient information has been provided to residents within the immediate vicinity of the proposed development regarding safety and traffic. My main concern is in regards to the extension of SE Harrison Street through to Home Ave. I have been unable to locate any traffic studies performed regarding this extension. It is unclear if the extension is intended to be a two way street open to through traffic, an alley, a limited use fire lane or if there is no extension of Harrison street from the west and the extension is only intended from the east. What the plans are to facilitate traffic in and out of the new development needs to be expressly shared with all residents within the public notice boundary.

The developers of R-2021-004 & VR-2021-019 are asking for multiple zoning exceptions in order to turn two existing lots into eight. It is only fair for current residents to receive clear and transparent information about what the traffic plans are for the new development. I can't definitively comment on the development if complete information is not made available. A road expansion project with an anticipated 120% increase in traffic with no sidewalks is very different from proposing a limited access alley with barriers preventing through traffic to SE 51st Ave.

Please delay the permitting of this project until complete information is shared with residents. Once that is available, please hold an additional land use review meeting where affected individuals can comment on the development.

Thank you,  
Allison Kruse

## Brett Kelper

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**From:** Christopher McKillop <cjmckillop5@gmail.com>  
**Sent:** Sunday, March 13, 2022 9:30 PM  
**To:** Brett Kelper  
**Subject:** Shah & Tripp Estates application R-2021-004, VR-2021-019  
**Attachments:** We sent you safe versions of your files; Shah and Tripp Estates.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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**This Message originated outside your organization.**

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Brett,

Please see the attached letter regarding the subject application. Also, when we received the notice March 4 and went to the project website that night I did not see a preliminary plat; there was perhaps one drawing. Were new materials added to the application since the notice was mailed?

Best regards,

Chris and Diane McKillop  
5101 SE Jackson St, Milwaukie

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*Board Member, [Birch Community Services](#): providing a community where people can be responsible and accountable for meeting their basic needs, and to equip them with tools to overcome financial difficulty.*

City of Milwaukie Planning Department  
6101 SE Johnson Creek Blvd  
Milwaukie, OR 97222

Attention: Brett Kelter, Senior Planner

Subject: File Numbers R-2021-004 and VR-2021-019

We welcome development on these lots but wish to express a few concerns about the proposal and a major safety concern.

1. Trees.

A goal of Milwaukie's Urban Forest Management Plan is to "achieve 40% canopy coverage by 2040 and sustain that level through time (in alignment with Milwaukie's Climate Action Plan)." There are a number of large evergreens on the existing lots that would more likely be removed if there are 8 lots rather than 7. These mature trees take decades to grow. How will we reach our goals if we keep destroying trees like these? The photo below is taken from the sidewalk in front of 5048 SE Harrison and shows a cluster of large trees on proposed Lot 4.



2. Safety.

This extension of Harrison will be crowded with the "pinch" point being the two existing houses on Home Avenue straddling the new street.

- a. Safety issue with speed of downhill traffic heading south on Home from King Road. As proposed, this new street creates a new safety issue with cars crossing what at times is a busy street. The new Harrison is at the bottom of a hill, where motorists tend to have gained speed.
- b. People living in the Mission Park development have to walk out to King Road if they want to walk outside the neighborhood. The sidewalks on King Road are not wide enough for two baby strollers to pass and clearly are not built and maintained to current standards. The photo below is taken on the south side of King, just east of 51<sup>st</sup> Avenue and shows a “single file” sidewalk.



To access the new sidewalk being constructed by the city on Home Avenue residents in this neighborhood will have to navigate the termination of the narrow King Road sidewalk shown below. Good luck with that stroller and forget about a wheelchair. Disabled citizens don't currently have an easy way out of Mission Park without a car.





- c. Livability in this neighborhood will be greatly improved, and people will be more likely to get out of their cars and walk to Safeway if they do not have to endure the King Road experience. But this project appears to not have sidewalks extending to Home Avenue (application page 10). This is surprising and is bound to lead to problems with people, pets and strollers attempting to walk to Home Avenue as it will be the more direct route to downtown Milwaukie, the Milwaukie Marketplace on Oak Street and the Safeway. There will undoubtedly be pedestrian traffic on this new narrow connector road, both from residents in the neighborhood to the west of Mission Park and from Mission Park. They will be walking in the street since there is no provision in the plans otherwise.
- d. Proposed lots 5, 6, 7 and 8 are being required to build sidewalks, but do we really expect the new residents in those homes will use those sidewalks to walk anywhere? They and the other residents at the south end of Mission Park will take the shortest path to the west. The house at 5048 SE Harrison and proposed lots 5 and 6 will have sidewalks that lead to nowhere.
- e. Cut through traffic is to be expected if Harrison Street is connected to Home Avenue as proposed. Pedestrians trying to use the sidewalk next to either of the existing houses at the “pinch point” near Home Avenue will have that “King Road” experience. This does not improve the neighborhood. A proper sidewalk running the full length on at least one side of this street is critical to safety. With only a 3.6 foot right of way off the north wall of the home on Lot 3, this is a big problem. Harrison is a busy street, leading to Safeway and is used as an alternate to King Road via Home Avenue. You can see how tight this junction is in the photo below. Note the Chimney of the house on Lot 2 on the left.



- f. Solution: A foot path with a fire access gate or bollards or chains in lieu of connecting the Harrison Street extension with Home Avenue. Emergency vehicles could easily service these new lots from Home Avenue via a wide pedestrian/bicycle path. There is a fire hydrant right in front of the home situated on Lot 3.

It seems strange that we would cram more cars, houses and people into this development and not allow for safer, more accessible pedestrian usage. These new homes on Lots 5-8 will be highly desirable even if SE Harrison on the east side of Home Avenue does not connect to Home Avenue.

We strongly encourage the Planning Commission to consider the livability and character of the neighborhood served by this proposed street extension and NOT require or approve connection of SE Harrison to Home Avenue. Instead, a footpath between Lots 2 and 3 in lieu of the street would be far safer and serve both the new and existing homes in the neighborhood. If the residents in Mission Park do not want Harrison to connect through to Home, and new buyers don't care about it connecting (because they will buy these homes knowing it's a dead-end street) then why would the City insist on making the connection? Emergency service access issues can be addressed without allowing vehicular traffic.

Thank you for your consideration.

Chris and Diane McKillop

## Brett Kelter

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**From:** axis espinosa <axisrn13@gmail.com>  
**Sent:** Sunday, March 13, 2022 11:18 PM  
**To:** Brett Kelter  
**Subject:** File R-2021-004, VR-2021-019  
**Attachments:** We sent you safe versions of your files; Public Hearing Letter.docx

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Hello Mr. Kelter,

Attached is a letter explaining me and my husbands position on the above file.

Sincerely,  
Axis Espinosa and Raju Reddy

March 13, 2022

Axis Espinosa  
Raju Reddy  
5025 SE Llewellyn St., Milwaukie, OR 97222  
704-912-7260  
[Axisrn13@gmail.com](mailto:Axisrn13@gmail.com)

To Whom it may concern,

This letter is for the public hearing meeting by the Milwaukie Planning Commission taking place on March 22, 2022 in relation to file number R-2021-004, VR-2021-019

The main reason we moved from Portland was the lack of safety felt by my family. We chose to spend a little more than planned for this perfect location which is now being threatened with through traffic. Fifty-first street was not built for through traffic, the safety of the children in our small community will be compromised and the lack of visibility going onto King poses a danger.

Fifty-first street is too small to be a through street. It physically measures 23 feet wide. The narrowest part of Harrison Street is 18.5 feet. According to VEHQ, a headquarter for car information, the average width of a car in the US is five feet and ten inches. This leaves approximately 17 feet for through traffic; And only 12.5 feet on the corner of Harrison and 51st ST. Home Avenue measures 35 feet in width. In addition to this width, all homes have land in front of their houses that some have designated as a place to park their cars outside of the 35 feet of road. This gives homeowners comfort and ample space for through traffic on Home Avenue. The Width of 51st street is halted by cement embarkments, leaving the residents obligation to use part of the 25 feet as parking.

Visibility lacks where 51st St. and King intersect. When looking left, ones' view is obstructed by the Adult Home business on the corner. King has an uphill climb that ends abruptly when looking right from the same corner. One is unsure if a car is coming from behind the hill or not when considering crossing. Home street on the other hand is lower down the hill, giving one a clear view and time in decision making when driving across the street. The houses on the corner of Home and King are far back enough from the street that they do not obscure the view of traffic. It is much safer to take King Road from Home St. than it would be from 51st. The homeowners in my neighborhood take pride in safety as one does when they are part of something that belongs to them. Would drivers whom are simply trying to beat traffic be as careful at the intersection of King and 51st? Should the city of Milwaukie risk this hazard?

Our neighborhood has a few young families. Creating a through street would take away from children being able to play in front of our houses as people often do when they live in a closed street. It would also put them at risk for injuries. According to the World Health Organization, 0.9 million children died in 2018 from traffic injuries. This number is predicted to be up to 9.8 million between 2019 and 2030. A study done by Wesley Marshall and Norman Garrick found that increasing street connectivity correlated with more crashes. Please don't put our families at a higher risk for injuries and take away our chance for building community in our communal gathering areas.

As described above, opening 51st Street to Home Avenue could have fatal consequences. It would take away all safety, making our perfect environment inhabitable and reminding us of why we left Portland. We want to build roots and have a forever home; But creating a home comes with the need to feel safe. We found safety when we moved into this small, cherished neighborhood. Please don't take that away from us.

Sincerely,  
Axis Espinosa and Raju Reddy

## Brett Kelter

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**From:** Rolanne Stafford <rolanne.stafford@gmail.com>  
**Sent:** Monday, March 14, 2022 11:10 AM  
**To:** Brett Kelter  
**Subject:** Development R2021-004,VR2021-019

**This Message originated outside your organization.**

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Good afternoon,

I am writing to voice my opposition to the proposed development File Number R2021-004, VR2021-019. Location 10586 and 10610 SE Home Ave.

1. Why hasn't a traffic study been done on the proposed Harrison St. extension?
2. It appears the original Harrison St. easement had been vacated. What process has taken place to enable the extension to be considered with no active easement?
3. In the introduction of the application, it states Lot 3 will not meet current set back standards and wishes for a variance based on chapter 19.5. Does Chapter 19.5 allow for the new proposed Harrison extension with no sidewalks or ADA ramps at Lot 3 on the corner of Harrison and Home Ave?
4. Does no sidewalk on Lot 3 meet ADA standards? I am very concerned that the impact no sidewalk on one side will have on anyone who has limited mobility.
5. In most municipalities intersecting public streets, misalignment is usually avoided so that traffic flows smoothly from one street to the next. The narrowing of the proposed Harrison St. extension to 20' does not conform to standard design development.

In conclusion, I am in full support of high-efficiency new residential homes and street improvements but the approach this developer is taking is not in the benefit of our community.

The city is putting a lot of money into sidewalks, ADA compliance, and curb-cut improvements. The proposed Harrison extension and the elimination of a sidewalk along Lot 3 are not in keeping with the work being done in the area. The developer should put bollards at the end of the new development and create a bike & pedestrian path.

Thank you,

**Rolanne Stafford**

[rolanne.stafford@gmail.com](mailto:rolanne.stafford@gmail.com)

503-849-4285

5017 SE Llewellyn St.

Milwaukie, Or 97222