



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday January 12, 2010, 6:30 PM

**MILWAUKIE CITY HALL
10722 SE MAIN STREET**

1.0 Call to Order - Procedural Matters

2.0 Planning Commission Minutes – Motion Needed

2.1 November 11, 2009

3.0 Information Items

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

5.0 Public Hearings – Public hearings will follow the procedure listed on reverse

5.1 Summary: CSU major modification of NCSD administrative offices. Hearing will be continued to February 9, 2010.

Applicant/Owner: Garry Kryszak/North Clackamas School District

Address: 4444 SE Lake Rd

File: CSU-09-11 *continued from 11/24/09*

Staff Person: Ryan Marquardt

5.2 Summary: Zone change from R-10 to R-7

Applicant/Owner: Tim Riley/Clunas Funding Group, Inc.

Address: SE Brae & SE Bowman

File: ZC-09-01 *continued from 11/24/09*

Staff Person: Li Alligood

5.3 Summary: Minor Land Partition

Applicant/Owner: Planning Resources, Inc./Garry Suazo

Address: 4033 SE Howe St.

File: MLP-08-02, TPR-08-03, VR-08-01

Staff Person: Brett Kelter

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

7.1 Planning Commission Notebook page updates

8.0 Planning Commission Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.

9.0 Forecast for Future Meetings:

January 26, 2010

1. Public Meeting: CSU-08-05 post-decision requirement to review Pond House parking and uses

2. Worksession: Planning Commission Bylaws

3. Worksession: Light Rail briefing Part 1

February 9, 2010

1. Public Hearing: CSU-09-11 NCSD administrative offices *cont'd from 1/12/10*

Milwaukie Planning Commission Statement

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

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

Public Hearing Procedure

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

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

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

Milwaukie Planning Commission:

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill
Chris Wilson

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Brett Kelter, Associate Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Alicia Stoutenburg, Administrative Specialist II
Paula Pinyerd, Hearings Reporter

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, November 10, 2009
6:30 PM

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Scott Churchill
Chris Wilson

STAFF PRESENT

Katie Mangle, Planning Director
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Teresa Bresaw
Paulette Qutub

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:37 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 September 8, 2009

Commissioner Batey moved to approve the September 8, 2009, Planning Commission minutes as presented. Vice Chair Newman seconded the motion, which passed 4 to 0 to 1 with Commissioner Churchill abstaining.

2.2 September 22, 2009

Commissioner Churchill noted his comment on 2.2 Page 5 Line 157 and clarified that the designation of the orchard at Waldorf School as a Title 13 protected zone was a flawed premise because the orchard was a manmade planting 5 years earlier. If a homeowner planted a tree in their yard, it was unreasonable to automatically designate it a Title 13 protected zone. He corrected Line 157 to state, "**Commissioner Churchill** noted that the aerial survey mapping and canopy-related methodology *was flawed. An example of that* was how the orchard planting at the Waldorf School showed up as a protected zone *and yet it was planted only 5 years earlier.*"

Commissioner Batey moved to approve the September 22, 2009, Planning Commission minutes with the correction as noted. Commissioner Churchill seconded the motion, which passed 4 to 0 to 1 with Vice Chair Newman

abstaining.

3.0 Information Items—None

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings—None

6.0 Worksession Items

6.1 Summary: Planning Commission Bylaws review

Staff Person: Katie Mangle

Katie Mangle, Planning Director, reminded that this was the Commission's second worksession to review the bylaws, which had not been updated since 1989.

Bill Monahan, City Attorney, reviewed the redline changes made to the Planning Commission Bylaws following recommendations made at the April 14, 2009, worksession that were presented in the meeting packet.

Key items of discussion were as follows:

- Attachment 1, 6.1A Page 7 Article V. A. Meetings.
 - As written, the bylaws allowed for one extension to 10:30 p.m. If the Commission was up against the 120-day land use clock and could not resolve an application by 10:30 p.m., there might be a problem with continuing another 2 weeks.
 - Only 2 extensions of a meeting should be allowed, so a majority vote could continue the meeting another 30 minutes to enable the Commission to close an issue if they were close to consensus. However, having more than 2 extensions was absurd, so the majority could then vote for a continuance.
 - Applicants should have the expectation that if the application was not completed by 10:30 p.m. they would need to agree to waive the 120-day clock to continue to another meeting.
 - Applicants did not have to agree to a continuance, in which case the Commission could be forced at 10:30 p.m. to deny an issue that they were within minutes of deciding.

- 77 • The idea was to end meetings by 10:30 p.m. if possible, but it was not good
- 78 to limit the Commission to just 1 extension. The Commission should have the
- 79 tools to allow for a majority vote rather than no options. Staying late was not
- 80 necessarily a problem.
- 81 • Meetings could be extended by 30 minutes and then further extended in 15-
- 82 minute intervals as necessary, but pressure should be on all meeting participants
- 83 to finish by 10:00 p.m. whenever possible.
- 84 • As long as a quorum was present, individual Commissioners could leave if
- 85 necessary if meetings were extended. It was not healthy for meetings to extend
- 86 beyond 10:00 p.m.
- 87 • **Mr. Monahan** suggested changing the last sentence to read, "~~One~~ **An** extension
- 88 to ~~no later than~~ 10:30 p.m. is allowed. If a meeting has not concluded at 10:30
- 89 p.m., the Commission ~~shall~~ **may** either vote on the Agenda item, **consider**
- 90 **another extension not to exceed 30 additional minutes**, or vote to continue
- 91 the item to the next available meeting."
- 92 • The Commissioners agreed with the proposed language changes.
- 93 • Attachment 1, 6.1A Page 8 Article V. B. Quorum.
- 94 • Current language in the bylaws left tie votes in limbo. The suggested language
- 95 gave the Commission flexibility to not have a denial. Allowing for a new motion
- 96 encouraged the Commission to consider what else might be done to make the
- 97 application approvable. Ultimately, there must be a vote one way or another. The
- 98 Commission could decide to continue in the case of a tie vote.
- 99 • Some municipalities defaulted to denial in the case of a tie vote.
- 100 Commissioners' absences due to personal circumstances could leave the
- 101 applicant at a disadvantage.
- 102 • Applications only go to City Council if appealed. It was best to resolve issues at
- 103 the Planning Commission level, rather than forcing applications into appeals at
- 104 the City Council level. The Code would need to be amended to have denied
- 105 applications automatically go up to Council.
- 106 • Allowing a new motion encouraged the Commission to consider what else might
- 107 be done to make the application approvable.
- 108 • The land use statute allowed a commission to deny, approve, or approve with
- 109 conditions. If the Commission believed an application could be approved with
- 110 conditions, but the denial criteria were not met, the Commission was

- 111 obligated to construct a condition(s) to make the application approvable. The
112 provided language allowed the Commission time to do so.
- 113 • The applicant could appeal the condition(s) if desired, but the Commission
114 would at least be on record with a strong statement regarding what would
115 make the application right for the community. If approved with conditions, the
116 issue did not meet the denial criteria.
- 117 • The bylaws could require a specific percentage of the majority of members
118 present in order to pass, causing an issue to default to a denial when a tie vote
119 was reached.
- 120 • A specific number of votes based on the number of Commissioners could be
121 required, but this option could put the applicant at a disadvantage if too many
122 Commissioners had to be absent from a vote.
- 123 • A tie vote could automatically move an application to the City Council level.
- 124 • Stronger language seemed necessary to require the Commission to act in a
125 certain manner after a tie vote, such as crafting additional conditions of approval,
126 or swaying someone to vote for denial. The word "may" was not strong enough.
- 127 • Following discussion, the Commission changed the third sentence of Article V, B.
128 Quorum, to read, "In the case of a tie vote, the matter is not complete. ~~A new~~
129 ~~motion may be made~~ **New motion(s) shall be made until the matter is**
130 **resolved by a majority vote of those members present.**"
- 131 • The Commission changed the fifth sentence of Article V, B. Quorum, to read, "All
132 items scheduled for the meeting shall be automatically continued to ~~the next~~
133 ~~regularly scheduled~~ **a regularly scheduled** meeting **unless the Director**
134 **determines a special meeting is needed.**" This allowed for flexibility if a special
135 meeting was required, to ensure a quorum was available, if issues were time
136 sensitive, et cetera.
- 137 • One concern was that the language was subject to abuse by subsequent
138 Planning Directors. Ms. Mangle clarified that the Commission ultimately
139 determined the meeting schedule.
- 140 • The proposed language did not conflict with the remaining paragraph because
141 continuances did not specifically regard public hearings; worksession items did
142 not require a continuance. A special meeting could not be held the next week for
143 a public item because no time would exist for proper public notification. A public
144 hearing item could only be continued to the next regularly scheduled meeting.

- 145 • If no quorum was available for a meeting, the public hearing could be continued
- 146 without re-noticing by having available Commissioners attend the meeting and
- 147 additional Commissioners call in to participate merely to continue the meeting.
- 148 • Attachment 1, 6.1A Page 8. Article V. D. Voting.
- 149 • When altering the order of the Commissioners for voting, it seemed easier to
- 150 alternate one side of the room to the other instead of struggling to keep track of
- 151 mixing up the order with every vote.
- 152 • Abstentions usually occurred early in the evening and the abstaining
- 153 Commissioner sat in the audience, but not always. It was important for the
- 154 abstaining Commissioner to explain for the record why they were abstaining
- 155 because after deliberations, a Commissioner might realize he/she would not get
- 156 a desired condition and choose to abstain at that point, possibly killing the
- 157 quorum. At that point, the Chair should ask if more information could be obtained
- 158 to help that Commissioner so they could vote.
- 159 • After discussion, the Commission changed the fourth sentence of Article V. D. to
- 160 read, "The ~~meeting recorder~~ **staff** shall call the roll..."
- 161 • Attachment 1, 6.1A Page 8. Article V. E. Reconsideration of Actions Taken.
- 162 • Reconsideration was meant to allow Commissioners to reconsider their vote to
- 163 catch honest mistakes before the end of the same meeting. The bylaws did not
- 164 currently address reconsideration. If the Commission did not want to allow for
- 165 reconsideration, the bylaws needed to clarify that no such provision existed.
- 166 • Whether a "yes" vote was intended to approve or deny an application was usually
- 167 made clear during deliberation, but not always. The proposed provision would
- 168 allow for discussion about why a Commissioner wanted reconsideration.
- 169 Reconsideration would only be used if a Commissioner did not clearly
- 170 understand the motion, and a second was required. The Commission could
- 171 surmise from deliberations whether the person was confused and could decide
- 172 as a group if reconsideration was desired. Reconsideration was allowed only by
- 173 majority of the Commission.
- 174 • Reconfirmation of the vote would allow for clarifying the intent of the motion and
- 175 the vote, if necessary.
- 176 • The Chair, not staff, should poll the Commissioners to learn how they might be
- 177 leaning and whether they had any other questions. The Chair could also ask the

- 178 motion maker to clarify exactly what a yes or no vote meant regarding the
179 motion.
- 180 • That poll would be taken after each Commissioner participated during the
181 deliberations following the public hearing. If additional conditions were
182 considered, the City Attorney could interrupt and allow the applicant to
183 comment before the vote.
 - 184 • More open dialogue was preferred before Commissioners indicated whether they
185 would vote yes or no. Much of the Commission's deliberation and discussion was
186 done during the final round of staff questions, before official deliberation, when
187 the Commission often contemplated potential conditions, et cetera.
 - 188 • According to *Robert's Rules of Order*, a call for a vote could be made, cutting off
189 discussion and requiring a vote, if there was a motion and a second on the floor.
190 Continued discussion resulted in delay.
 - 191 • The Commission agreed that references to *Robert's Rules of Order* should be
192 removed to avoid confusion about the Commission's procedure for applicants
193 or new Commissioners.
 - 194 • Though reconsideration could allow a mean-spirited person to stall or cause
195 unnecessary delay, a majority was required for reconsideration to occur.
 - 196 • Following a brief discussion about whether, when, and how the Chair might
197 clarify the motion and Commissioners' votes, **Ms. Mangle** noted the Commission
198 could simply clarify motions as a best practice, since the Commission was not
199 experiencing such problems.
 - 200 • A reconsideration provision was needed because Commissioners did not have
201 standing to appeal a vote to the City Council if a mistake was made. Someone
202 else could appeal the vote by providing the City Council a copy of the decision, a
203 list of who voted, and perhaps an affidavit from a Commissioner stating the
204 motion was misunderstood.
 - 205 • Appeal fees were paid by the applicant, so it did not seem right for the
206 applicant to pay for a misunderstanding by Commissioners.
 - 207 • Perhaps wording could be added to clarify that only the vote would be
208 reconsidered. The whole application would not be reopened for discussion.
 - 209 • Further discussion regarded whether the Commissioner moving for
210 reconsideration should have voted with the majority, and how that might affect an
211 appeal.

- 212 • The language should qualify that any Commissioner who is confused about the
213 motion may move for reconsideration, whether they voted with the majority or
214 not. It was good to be on record accurately.
- 215 • **Mr. Monahan** clarified that the reason the member should be part of the majority
216 was so that someone in the minority did not automatically cause a do-over.
- 217 • **Ms. Mangle** noted confusion could come from the majority or minority. The
218 Favorite appeal was a classic case where the Commissioners questioned
219 whether a vote in favor was approval of the application or of the appeal.
- 220 • A minority voter asking for reconsideration was not reopening the issue for
221 deliberation. Reconsideration was just a confirmation of the vote, not tilting the
222 vote one way or the other, unless someone was really on the fence.
- 223 • Reconfirmation of the vote would be done after a vote was taken, but before the
224 Chair closed the hearing item. Any member could call for reconfirmation of the
225 vote and staff would take a roll call vote for clarification.
- 226 • The intent was to restate the issue one more time to clarify what a yes or no
227 vote meant. It was simpler to request a reconfirmation than to admit that a
228 Commissioner misunderstood the motion.
- 229 • Under current bylaws, once the vote was done and the gavel sounded, the
230 decision was made.
- 231 • The proposed reconsideration language would accomplish the purpose of
232 restating the motion and verifying that members voted on the motion as they
233 wished before the end of the meeting. Staff could restate the motion and a
234 Commissioner could move for a reconsideration if they had misunderstood. If the
235 motion was seconded, the Commission would vote again. That was the only way
236 a Commissioner could change their vote. Votes could not be changed during a
237 reconfirmation of the votes.
- 238 • Adding reconsideration to the bylaws would allow the Commission a tool to
239 address a misunderstanding of a motion, but was best used only in a worst-case
240 scenario.
- 241 • The Commission consented to retain the language as presented in Attachment 1.
- 242 • Reconsideration provided the opportunity to address any confusion, and the
243 Commission could address any concerns during Planning Commission
244 Discussion Items, although that might be too late since the applicant would be
245 gone.

- 246 • Attachment 1, 6.1A Page 9. Article V. H. Parliamentary Authority
247 • Parliamentary Authority as a title could be changed to Rules of Operation or
248 Conduct of Meeting to get away from *Robert's Rules of Order*.
249 • Attachment 1, 6.1A Page 11. Article VIII. A. Annual Goal Review
250 • **Chair Klein** noted the Commission had never reviewed City Council's goals and
251 objectives to establish Planning Commission goals. It seemed the Planning
252 Commission's goals became City Council goals because issues went through
253 staff.
254 • **Ms. Mangle** explained that a work program essentially set the Planning
255 Commission's goals.
256 • **Mr. Monahan** cited Milwaukie Municipal Code (MMC) 2.10.505(B) on 6.1A
257 page 21, and agreed if City Council did not set new goals or generate that
258 new vision, then the Planning Commission's obligation was relieved.
259 However, Council's expectation was to disseminate their goals and visions to
260 all boards and committees to know that they were understood and to
261 establish conforming work plans. He saw Article VIII.A as a harmless sort of
262 provision that indicated the Commission's bylaws acknowledged and
263 reflected City Council's direction.
264 • **Mr. Monahan** stated that Chapter 2.10.040, the Removal provision shown at the
265 bottom of 6.1A Page 20, was pretty open-ended. He hoped that if the Mayor or City
266 Council recognized that an individual, or an entire board or commission, was not in
267 harmony with the Council's goals, or taking the City's direction seriously, that the
268 matter would be discussed with the entire group, either through the Chair or during a
269 worksession.
270 • In order to vote an individual off of a board or commission, City Council would
271 have to take action at a public meeting, but a separate hearing was not
272 necessary. The City Council could not make a final decision in an Executive
273 Session. If notice was given regarding discussion of the performance of a public
274 official, that person had the right to request the discussion be held in an open
275 meeting.
276 • Attachment 1, 6.1A Page 7. Article III. E. Attendance
277 • Simply talking to the individual if lack of attendance becomes an issue, generally
278 resulted in that person stepping down.
279 • A Commissioner needing to take a leave of absence due to extenuating

- 280 circumstances did not necessarily mean that termination of the appointment
281 would be required. However, it was the responsibility of the Commissioner to
282 advise the Commission of a leave of absence.
- 283 • The Commission should have the opportunity to determine if a change was
284 needed if a Commissioner's leave of absence would harm the work of the
285 Commission, such as being unable to have a quorum.
 - 286 • Concern was expressed about some Commission decisions with regard to Chapter
287 2.16.010(4)d about solar radiation, shown on Attachment 5, 6.1A Page 22.
 - 288 • ****Ms. Mangle** responded that the solar access ordinance was adopted, but rarely
289 used.
 - 290 • **Chair Klein** explained that incident solar radiation referred to retaining access to
291 the sun by neighboring properties, which might prevent a large structure that
292 would block the sun from being built.
 - 293 • The Commission could review Chapter 2.16 and provide recommendations to
294 City Council for a Municipal Code rewrite. However, it was too late for the current
295 republication project.

296

297 **Ms. Mangle** concluded that staff would prepare a final draft for the Commission's vote of
298 acceptance. The bylaws would then be sent to City Council for adoption.

299

300 **7.0 Other Business/Updates from Staff**

301 **Ms. Mangle** announced the second of 2 site tours of properties affected by the Natural
302 Resources Overlay Project was scheduled for Saturday, November 14. Brett Kever,
303 Associate Planner, would provide details. It was important for the 25 advisory group
304 volunteers to consider how all the different sites would be affected for the upcoming
305 Code and mapping reviews.

306

307 **Commissioner Batey** added that last Sunday's site tour was interesting because it
308 involved a variety of residential, business, and industrial projects and highlighted the
309 different issues that come up under Title 13.

310

311 **Ms. Mangle** reported that last night the Design and Landmarks Committee (DLC)
312 forwarded a recommendation to the Planning Commission to approve the Design
313 Review application for Riverfront Park. No changes were made, but findings were added

for designers to consider as they developed the project.

8.0 Planning Commission Discussion Items

Commissioner Batey noted that the newspaper reported that 2 of the 3 permits were issued for the Kellogg Creek Wastewater Treatment Plant and asked what was happening with the third permit.

- **Ms. Mangle** replied the third permit was the request to replace the blowers. She sent several letters asking for more information about that specific project, but had received no responses. The City was basically waiting for more information about potential impacts. She guessed the request would require more than a building permit, but would trigger some type of land use review. The other 2 permits were issued after she was convinced that they were just electrical or replacement building permits, although she never received a response to inquiries about those either.
- **Mr. Monahan** understood that the permits for the compactor were picked up on October 12 and that the other permit was not needed because it was for replacing some pipes.

Chair Klein announced that Commissioner Wilson's daughter, Phoebe, was the October Student of the Month at Milwaukie High School. She also plays tennis and was Homecoming Queen, yearbook editor, and vice chair of the National Honor Society.

9.0 Forecast for Future Meetings:

November 24, 2009 1. Public Hearing: CSU-09-11 4444 SE Lake Rd NCSD

2. Public Hearing: ZC-09-01 Bowman St & Brae St

December 8, 2009 1. Public Hearing: MLP-09-08-02 et al Howe St partition

2. Public Hearing: DR-09-01 et al Riverfront Park *tentative*

Ms. Mangle noted the November 24th meeting agenda included a proposal from the North Clackamas School District for 1 modular buildings and an expanded parking lot on the Lake Rd administrative facility site. The school board meeting room would be moved into one of the modular buildings, and more offices would be created in the main building.

- She was unsure about the plans the school district had for selling the administrative building. Public opposition halted the project that the school district planned on Fuller Rd, so other small projects were being done to make do.
- The second item on the November 24th agenda was for a zone change from R-10 to

R-7, both low-density zones. The change would allow the creation of one additional lot through a subdivision.

Vice Chair Newman:

- Asked about his potential conflict of interest since he lived at the bottom of a flag lot adjacent to the applicant requesting the zone change. He also lived near the North Clackamas School District building.

- **Mr. Monahan** replied that he could have an actual or potential conflict of interest because the zone change could affect his property values. There could also be the perception that it would affect his property values. Commissioners had to decide whether they believed the conflict was actual or potential.

- Said he had no idea whether his property values would be affected, but it seemed that a no vote would cause the appearance of a conflict of interest.

- **Mr. Monahan** clarified that the actual and potential conflict of interest had to be considered, along with concern about the appearance of the decision made by the Commission. The conservative route was to take a position and not participate, but that was Vice Chair Newman's decision.

Chair Klein noted everyone in that neighborhood could have the same implication, including Commissioner Bresaw.

- **Ms. Mangle** suggested that it would be helpful to have a conversation about conflict of interest after the Commission had seen the proposal. The zone change did not allow for development that was much different from the existing zoning and so may not actually impact the neighborhood.

- **Mr. Monahan** clarified that proximity was a consideration because if a Commissioner lived close enough to a property that changed to R-10, it could open up development opportunities that were not available under the present zoning. It depended upon each Commissioner's own specific circumstances.

Ms. Mangle concluded that only one meeting was scheduled for December. She was not certain that there would be time for both public hearings. The Minor Land Partition was a 2008 application that triggered the old transportation Code and involved street improvements and variances to street standards. The Riverfront Park application involved Design Review, Water Quality Resources review, Willamette Greenway review,

382 and Transportation Facilities Review. The first phase of work was currently underway at
383 Riverfront Park.

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385 Meeting adjourned at 8:16 p.m.

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387

388 Respectfully submitted,

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393 Paula Pinyerd, ABC Transcription Services, Inc for
394 Alicia Stoutenburg, Administrative Specialist II

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399 _____
Jeff Klein, Chair



To: Planning Commission
Through: Katie Mangle, Planning Director
From: Ryan Marquardt, Associate Planner
Date: January 5, 2010 for January 12, 2010 Hearing
Subject: Land Use File #CSU-09-11 Continuation

ACTION REQUESTED

Open the public hearing on Land Use File #CSU-09-11 and continue the hearing until February 9, 2010.

BACKGROUND INFORMATION

On November 24, 2009, the Planning Commission held a hearing on the North Clackamas School District's (NCSD) application to expand the space on their property at 4444 SE Lake Road by adding two modular buildings. The Planning Commission moved to continue the hearing to January 12, 2010 to allow NCSD to prepare additional information for the application.

NCSD has requested that the hearing be continued to February 9, 2010 to allow them additional time to investigate design alternatives in response to the issues raised at the November 24, 2009 hearing. NCSD has also extended the waiver to the 120-day clock to allow adequate time for the February 9th Planning Commission hearing and an appeal to City Council if necessary.

Staff supports the applicant's request for additional time to respond to the issues discussed at the last hearing. Staff will prepare a new staff report, findings, and conditions based on the additional materials received from NCSD. The staff report and additional application materials will be distributed to the Planning Commission on February 3, 2010, and will also be available to the public on that date.

Notice of the continuation request has been sent to all parties that either submitted written comments or that signed in or testified at the November 24th hearing. Staff will post new notice signs at the site at least 10 days prior to the hearing.

ATTACHMENT

1. NCSD request for continuance and 120-day waiver, received December 14, 2009



Date: December 14, 2009

Attention: Ryan Marquardt, AICP
City of Milwaukie
6101 SE Johnson Creek Blvd
Milwaukie OR 97222

Re: Continuance and Waiver of 120-Day Processing Time for File #CSU 09-11

North Clackamas School District hereby requests a continuance of the public hearing for the above-referenced file. The matter had been continued from the initial Planning Commission hearing until January 12, 2010. We are investigating design alternatives to address issues raised at the initial hearing and request that the hearing be further continued until February 9, 2010. This request for a continuance may result in the review period exceeding the 120-day processing time for the application submitted as specified in Section 19.1002 of the City Zoning Ordinance. An extension of the 120-day rule to April 6, 2010 is hereby granted.

Sincerely,

Garry Kryszak, Capital Projects Manager, North Clackamas School District

cc: File # CSU 09-11

RECEIVED

DEC 14 2009

**CITY OF MILWAUKIE
PLANNING DEPARTMENT**



To: Planning Commission
Through: Katie Mangle, Planning Director
From: Li Alligood, Assistant Planner
Date: January 5, 2010 for January 12, 2010 Public Hearing
Subject: File: ZC-09-01, TFR-09-04
Applicant: Tim Riley, Clunas Funding Group, Inc.
Owner(s): Clunas Funding Group, Inc.
Address: Undeveloped lot at the northwest corner of Bowman St and Brae St
Legal Description (Map & Taxlot): 22E06BC03100
NDA: Lake Road

ACTION REQUESTED

Vote to forward a recommendation that City Council approve application ZC-09-01, TFR-09-04, and associated Findings in Support of Approval (Attachment 1 Exhibit A). City Council approval of these applications would result in a Zoning Map amendment and a zone change of the subject property from Residential zone R-10 to Residential zone R-7.

BACKGROUND INFORMATION

This proposal was first heard by the Planning Commission on November 24, 2009. Please see the Planning Commission packet from that hearing for the background information about this application.

ADDITIONAL INFORMATION

In response to the discussion at the November 24, 2009, hearing, the applicant has submitted a supplemental narrative regarding the appropriateness of the proposed zone change and subsequent development for the surrounding neighborhood (Attachment 2).

Several concerns were voiced at the hearing, including: the price point of future homes on the subject site; the City's future plans for the Where Else Lane right-of-way; financial motivation for the zone change application; and the impact of an additional home on the subject site on the properties to the south of the subject site. These concerns are addressed below.

A. Price point of future homes

Neighborhood residents and commissioners expressed concern about the price, quality, and desirability of the future homes to be built on the subject site. Although the discussion of these issues is important to neighbors, the decision of whether or not to recommend the zone change for approval will not impact the quality of the homes built on the site. Any homes built on the site will be subject to the City's single-family dwelling design standards and the development standards of the applicable zone.

B. City's future plans for the Where Else Lane right-of-way

There is a 15-ft public right-of-way extension of Where Else Lane to the west of the site. This portion of the Where Else Lane public right-of-way was deeded to the public by Henry and Mary Stimson in 1952; it is undeveloped and is not considered a viable route for vehicular access to the site.

The City's Transportation System Plan (TSP) does not identify Where Else Lane as a street for further development or automobile connectivity. However, if multiple sites adjacent to Where Else Lane develop in the future, public right-of-way dedication and improvements may be required. This process would be initiated by private property owners rather than the City.

C. Financial motivation for the zone change application

The criteria for granting a zone change does not include financial motivation. Though this may be a consideration, it cannot be the only reason for denial of the application.

The relevant criteria for a zone change are:

- Conformance to applicable comprehensive plan goals, policies, and objectives; and consistency with the provisions of city ordinances, Metro urban growth management functional plan, and applicable regional policies.
- The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors:
 - Site location and character of the area
 - The predominant land use pattern and density of the area
 - The potential for mitigation measures adequately addressing development effects
 - Any anticipated changes in the development pattern for the area
 - The need for uses allowed by the proposed zone amendment
 - The lack of suitable alternative sites already appropriately zoned for the intended use or uses
- The proposed amendment will meet or can be determined to reasonably meet application regional, state, or federal regulations.
- The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.
- The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system.

These criteria are addressed in detail in the Findings in Support of Approval (Attachment 1 Exhibit A).

D. Impact of an additional home on the subject site on the properties to the south of the subject site

The lots directly to the south of the subject site are zoned R-10. The homes on these lots are oriented away from the subject site, toward the west and the east. For this reason, staff believes that the visual impact of an additional home on the subject site to these properties would be insignificant.

ANALYSIS

The supplemental narrative submitted by the applicant does not affect staff's analysis of the proposal.

Staff has concluded that the R-7 zone is appropriate for this location and does not constitute spot zoning. The subject site is contiguous to the R-7 zone to the north and the R-7 equivalent R-8.5 zone in the County to the east, within the City's Dual Interest Area (see Zoning Map, Attachment 3). The Comprehensive Plan designates both the R-10 and the R-7 zones as Low Density Residential (LD) uses, with an average development density of 4.0 to 6.2 units per net acre. Both zones allow single-family homes outright and allow single-family attached dwellings (i.e. duplexes) as conditional uses.

Staff believes a change in zone from R-10 to R-7 would not significantly impact the neighborhood and would allow for development that is consistent with neighborhood character. Visual impacts would be minimal; general setback and height requirements are the same in both zones and any difference would be visible primarily in the distance between the buildings. The City's traffic engineer has determined that any impacts to the transportation system would be negligible and would not require off-site improvements.

The character of the surrounding neighborhood is defined by low-density single-family residential development interspersed with land that has not yet been developed to full capacity. This portion of the neighborhood is in transition between large lots with a rural character to smaller lots with a suburban character. The zoning of the area supports development to a residential density that is greater than that which exists today. New housing has been developed incrementally.

Approval of the proposed zone change would allow for partitioning of the site into 3 parcels varying from 7,500 square feet to 8,643 square feet, and the future construction of 3 single-family homes. The proposed lot sizes are larger than the R-7 zone minimum lot size of 7,000 square feet. The subsequent development would be low density single-family residential uses and would be visually very similar to existing building patterns. The proposed density of 5.5 units per net acre would be comparable to that of the adjacent area, which is fully developed to densities from 4.51 to 5.11 units per net acre.

CONCLUSIONS

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

1. Approve the land use application for the Zoning Map amendment and application of the R-7 zone to the subject site. This will result in potential future partitioning of the site into up to 3 parcels and development of up to 3 single-family homes on the site.

2. Adopt the attached Findings of Approval.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- MMC Chapter 19.900 Amendments
- MMC Subsection 19.1011.4 Major Quasi-Judicial Review

The application is subject to major quasi-judicial review, which requires the Planning Commission to conduct a public hearing and either deny the application or recommend approval of the application to City Council based on compliance with all applicable code provisions and regulations listed above.

The Commission has 3 decision-making options as follows:

1. Vote to recommend that Council approve the application and adopt findings of approval as proposed by staff.
2. Vote to recommend that Council approve the application and adopt modified findings of approval. (Any modifications need to be read into the record.)
3. Vote to deny the application.

The final decision on these applications, which includes any appeals to the City Council, was originally due by January 20, 2010, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant has granted an extension of the decision period to **March 1, 2010**.

COMMENTS

Staff has not received any additional comments on the application since the November 24, 2009, hearing.

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Draft Ordinance
Exhibit A: Recommended Findings in Support of Approval (attached)
2. Applicant's supplemental narrative, dated December 21, 2009 (attached)
3. Existing Zoning Designations Map (attached)

Recommended Findings in Support of Approval

Casefile# ZC-09-01, TFR-09-04

Sections of the Milwaukie Municipal Code that are not addressed in these findings are found to not be applicable to the development proposal.

1. The applicant, Tim Clunas, on behalf of Clunas Funding Group, Inc, has applied for approval of a Zoning Map amendment to the property located at Bowman St and Brae St (Map 22E06BC; TLID 3100). The 0.69-acre site is currently zoned Residential zone R-10; the proposed zone is Residential zone R-7.
2. The applicant proposes a zone change from R-10, which is a designated low-density residential (LD) use in the City's Comprehensive Plan, to R-7, which is also a designated LD use. The proposed Zoning Map amendment does not require a Comprehensive Plan amendment. This zone change would allow the site to be divided into 3 parcels, which, in turn, would allow for the development of 3 single-family dwellings at this location.
3. A Zoning Map amendment is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - A. Chapter 19.900 Amendments
 - B. Subsection 19.1011.4 Major Quasi-Judicial Review
4. Public notice has been provided in accordance with MMC Subsection 19.1011.4 Major Quasi-Judicial Review. Notification was sent to property owners within 400 feet of the subject property at least 10 days in advance of the required public hearing. The Planning Commission held a public hearing on November 24, 2009, which was continued to January 12, 2010, and passed a motion recommending that the City Council approve the Zoning Map amendment.
5. MMC Chapter 19.900 Amendments sets out the procedures and requirements for Zoning Map amendments. The proposed Zoning Map amendment is consistent with this chapter as follows:
 - A. MMC 19.901 allows amendments to the zoning map to be initiated by the City Council, Planning Commission, or by the application of a property owner. The property owner has initiated the proposed amendment.
 - B. MMC 19.902 governs the procedures for processing amendments. The application is a zoning map amendment and has been processed in accordance with MMC 19.1011.4 Major Quasi-judicial Review. Notice was provided to the Oregon Department of Land Conservation and Development on October 12, 2009. Notice was provided to Metro on November 6, 2009, and a Functional Plan analysis was provided to Metro at least 15 days prior to the final hearing on the proposed change.
 - C. MMC 19.903 provides requirements for zoning map amendments. The applicant's submittal contains the information required by this subsection. See Attachment 2 for details.
 - D. MMC 19.904 establishes requirements for zoning text amendments. The proposed zoning map amendment does not include text amendments. This subsection is not applicable.
 - E. MMC 19.905 states the approval criteria for zoning map and text amendments. The proposed amendment complies with these criteria as follows:

- i. MMC 19.905.1.A requires the proposed amendment to conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan, and applicable regional policies.

(a) Milwaukie Comprehensive Plan

Relevant Comprehensive Plan goals, policies, and objectives are found in Chapter 4—Land Use.

Residential Use and Housing Element

(1) Objective #2—Residential Land use: Density and Location

This objective states that Milwaukie is and will continue to be composed primarily of single-family neighborhoods. Policy 1 identifies both zones R-10 and R-7 as Low Density residential zones, which allow up to 6.2 units per net acre and a typical density of 4.0 to 6.2 units per net acre. A net acre figure is obtained by subtracting 25% of the site area for public improvements. The subject property is 0.69 acres; after subtracting dedication for public area improvements, the net acreage of the site is 0.55 acres. Approval of the zone change request would allow the site to develop at a development density of 5.5 units per net acre, which is within the typical density range identified by the Comprehensive Plan.

The current and proposed zones encourage the provision of low-density single family development by requiring Planning Commission review for other uses.

(2) Objective #4—Neighborhood Conservation

The objective of this section is to maximize the opportunities to preserve, enhance, and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

Policy 4 encourages the rehabilitation of older housing in Low Density areas, and the construction of single family detached houses. The site is currently vacant, and Policy 4 is not applicable.

Policy 5 directs new projects to maintain a single family building bulk, scale and height when abutting existing single family areas. The proposal to rezone the site would not change the housing types (i.e. single-family detached homes) or uses (i.e. residential) allowed at this location. Since many of the R-10 and R-7 development standards that help to regulate bulk, scale, and height of single-family homes are the same (i.e. setbacks, height, and lot coverage standards), any future development would be compatible with the surrounding neighborhood.

Neighborhood Element

(3) Objective #1—Neighborhood Character

The stated goal of this objective is to maintain the residential character of designated neighborhood areas. Policy 4 requires new residential development to be consistent in type, style, and density with that existing in the neighborhood area.

The current R-10 zoning would allow the construction of 2 single family homes on the site, resulting in a residential density of 3.7 units per acre; this density falls below the Low Density (LD) use of 4.0 to 6.2 units per net acre anticipated by the Comprehensive Plan. Approval of the proposed zone change would allow for the division of the site into 3 parcels varying from 7,500 square feet to 8,643 square feet, and the construction of 3 single-family homes on site. The proposed density of 5.5 units per net acre is comparable to the development densities of surrounding sites: 5.1 units per net acre in the R-7 Pennywood Subdivision to the north; 4.95 units per net acre in the R-8.5 Bowman Terrance Subdivision to the east; and 4.51 units per net acre in the R-10 Kellogg Crest Subdivision to the south. An exception is found among the R-10 lots directly to the west of the site, which have a development density of 2.2 units per net acre. This is well below the minimum density range identified by the Comprehensive Plan and is expected to increase in the future.

The building patterns of development in the R-7 Zone are very similar to the building patterns in the R-10 Zone and the development adjacent to the site; a difference would not be visible to the casual observer.

(4) Objective #2—Neighborhood Needs

This objective ensures the needs of neighborhood areas for public facilities and services are met. Policy 3 instructs the City to provide for an adequate level of public facilities, services, and the maintenance thereof, to all neighborhood areas.

The proposed zone change would not affect the City's requirements for public right-of-way dedication or public improvements. At the time of any future development of the subject site, the City will require public area improvements including: public dedication of land for half-street improvements to widen and extend Bowman St; installation of sidewalks and a parking strip; and dedication of land for and construction of a pedestrian and bicycle path connecting Bowman St to Where Else Ln (see Attachment 2B for details). These public facilities would increase connectivity within the neighborhood and would be required at the time of any development, whether under the current R-10 zoning or the proposed R-7 zoning.

Policy 6 encourages improved neighborhood circulation to reduce congestion. This section of the Lake Road neighborhood is fairly disconnected, with a number of cul-de-sacs and unimproved rights-of-way. According to the City traffic engineer's traffic impact study, the public area improvements required upon development of the site would improve neighborhood connectivity and would not cause congestion.

(5) Neighborhood Area 3

This area includes the Lake Road neighborhood. The predominant land use in this area is single family residential.

(i) Guideline #1—Single Family Character

The intention of this guideline is to maintain the predominately single family character of the neighborhood by encouraging the rehabilitation of

older and neglected structures, and by improving the quality of new housing development.

The proposed zone change would not alter the site's ability to comply with this guideline. There are no existing structures on the site. New single family housing development on the site would be required to comply with single-family residential design standards. Single-family homes are allowed outright in both the current R-10 Zone and the proposed R-7 Zone.

(b) City Ordinances

As described in Findings 5 and 6, the proposed Zoning Map amendment complies with all applicable City ordinances.

(c) Metro Functional Plan

- (1) Title 8: Compliance Procedures establishes the process for determining whether city or county comprehensive plans and land use regulations comply with the requirements of the Functional Plan. The City's comprehensive plan and land use regulations comply with these requirements.*
- (2) Title 12: Protection of Residential Neighborhoods helps implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services. The proposed zone change triggered a Transportation Impact Study, which concluded that any increase in traffic as a result of the zone change would be minimal and would not require mitigation. The proposed zone change and any future development will complement the existing neighborhood and will not affect air and water pollution or noise and crime.*

(d) Regional Policies

No regional policies are anticipated to apply to the proposed rezone of the parcel. Therefore, the proposed amendment complies with this criterion.

- ii. MMC 19.905.1.B requires that the anticipated development meet the intent of the proposed zone, taking into consideration the following factors: a) site location and character of the area; b) the predominant land use pattern and density of the area; c) the potential for mitigation measures adequately addressing development effects; d) any expected changes in the development pattern for the area; e) the need for uses allowed by the proposed zone amendment; and f) the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

(a) Site location and character of the area.

The site is located within the City's R-10 Zone, adjacent to the City's R-7 and R-10 Zones in the Lake Road neighborhood. The R-10 Zone is a low-density residential zone comprised primarily of single family residential uses. The Lake Road neighborhood is primarily residential, and the zoning in the subject area is a mix of R-7 and R-10. There is a variety of architectural styles in the Lake Road neighborhood and many newer homes; 34% of the homes within ¼ mile of the

site have been built since 1990 and 81% of the homes within ¼ mile of the site have been built since 1950.¹

- (b) The predominant land use pattern and density of the area.

The predominant land use pattern of the area is low-density residential. The immediate area consists of single family residential land uses with a smattering of undeveloped or minimally developed lots. As shown in Figure 1, the primary differences between the R-7 and R-10 Zones are the minimum lot sizes and dimensions, which affect the allowed development density.

Figure 1. Residential Zone R-7 and R-10 Development Standards

Standard	R-7	R-10
Outright Permitted Uses	Single family detached dwelling, residential home, agricultural or horticultural use	
Conditional Uses	Single family attached dwelling (duplex), senior and retirement housing, Type 2 ADUs	
Comp Plan Designation	Low Density Residential	
Minimum Lot Size	7,000 sq ft	10,000 sq ft
Minimum Lot Dimensions	60 ft x 80 ft	70 ft x 100 ft
Minimum Setbacks	20 feet (front, rear), 5/10 feet (side)	20 feet (front, rear), 10 feet (side)
Height Restriction	2½ stories or 35 feet	
Lot Coverage	30% max.	
Minimum Vegetation	35% min.	
Frontage	35 feet	
Density	5.0-6.2 units/net acre	3.5-4.4 units/net acre

In the R-10 Zone, the site could be developed with 2 single family dwellings; in the R-7 Zone, the lot could be development with 3 single family dwellings. The proposed density of 5.5 units per net acre (3 units on the subject site) is within the LD comprehensive plan density of 4.0 to 6.2 units per net acre, and is comparable to the development densities of surrounding sites: 5.1 units per net acre in the R-7 Pennywood Subdivision to the north; 4.95 units per net acre in the R-8.5 Bowman Terrance Subdivision to the east; and 4.51 units per net acre in the R-10 Kellogg Crest Subdivision to the south.

The existing density of developed sites within ¼ mile of the subject property ranges from 0.28 to 7.22 units per acre. This range reflects the number of large sites to the west of the site that have not yet been developed to capacity, as well as a number of denser subdivisions in the area.

¹ Source: Metro 2009 Regional Land Information System (RLIS) data.

Figure 2 shows the development densities possible on the site under the current and proposed zoning and the current site area.

Figure 2. Development Densities on Site before Dedication

Zone	Site Area	Lot Dimensions	Lot Area (sf)	Density Per Net Acre	# of Dwelling Units
R-10	0.62 ac	125 x 80 ft	10,000	4.4	3.0
R-7	0.62 ac	125 x 60 ft	7,500	5.8	4.0

Figure 3 shows the development densities possible on the site under the current and proposed zoning after required public right-of-way dedication.

Figure 3. Development Densities on Site after Dedication

Zone	Site Area	Lot Dimensions	Lot Area (sf)	Density Per Net Acre	# of Dwelling Units
R-10	0.55 ac	100 x 126 ft	12,600	3.6	2.0
R-7	0.55 ac	100 x 71 ft	7,100	5.5	3.0

As these figures show, the maximum number of parcels possible on this site with an R-7 zoning designation is 3; each of these parcels would exceed the minimum dimension requirements of the R-7 Zone and would, in fact, also meet the minimum dimension requirements of the R-10 Zone as shown in Figure 1.

- (c) The potential for mitigation measures adequately addressing development effects.

Per the City traffic engineer's analysis, the potential increase in traffic would not be significant enough to require mitigation. Any development of the site would require on site stormwater treatment, mitigating runoff into the public right-of-way.

- (d) Any expected changes in the development pattern for the area.

No changes in the development pattern for the area are expected. The area is zoned for low-density single family residential uses and is expected to continue to develop in this way. Many sites in the area are not developed to their full capacity and could be redeveloped at higher densities as allowed by current zoning.

- (e) The need for uses allowed by the proposed zone amendment.

The proposed use is single family residential, which is also a current permitted use. The proposed zoning map amendment would provide for the creation of 3 new lots and the construction of 3 single family dwellings rather than the 2 allowed by current zoning.

- (f) The lack of suitable alternative sites already appropriately zoned for the intended use or uses.

Milwaukie has very few vacant and buildable residential lots. According to Metro RLIS data, there are approximately 101 vacant R-7 properties in Milwaukie. Of

those properties, 34 are developable² and 7 are dividable. Of these 7 dividable sites, one is located in the Lake Road neighborhood. Although several sites to the west of the subject site are zoned R-7, the narrow lot configurations and lack of public access to the sites are significant development barriers.

The proposed zone change and development that may occur as a result meet the intent of the proposed zone. The zone will remain a Low-Density Residential land use and will permit the development of up to 3 single-family homes on the site.

- iii. MMC 19.905.1.C requires that the proposed amendment will meet or can be determined to reasonably meet applicable regional, state, or federal regulations.

No regional, state or federal regulations are anticipated to apply to the proposed rezone of the parcel from R-10 to R-7. Therefore, the proposed amendment complies with this criterion.

- iv. MMC 19.905.1.D requires that the proposed amendment demonstrate that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area. A transportation impact study may be required subject to the provisions of MMC Chapter 19.1400.

Since the proposed zone change would intensify the use on the site, a Transportation Impact Study (TIS) was required pursuant to MMC 19.1400. The TIS determined that existing public facilities and services can accommodate the anticipated development of the subject site without restricting potential development within the affected service area. Public transportation is available approximately 0.37 miles to the north of the site, at Lake Rd. Although there are no exclusive bicycle lanes along roads in the project vicinity and sidewalks are intermittent, the TIS concluded that, due to the residential nature of the surrounding neighborhood, the bicycle and pedestrian facilities would be adequate.

- v. MMC 19.905.1.E requires that the proposed amendment be consistent with the functional classification, capacity, and level of service of the transportation system.

The adjacent streets, Bowman St and Brae St, are classified as local streets in the City's Transportation System Plan. The TIS indicated that the proposed zone change would result in an increase of 10 daily trips, and concluded that the increase would be negligible and no meaningful impact to the functional classification of adjacent roadways was anticipated.

The Planning Commission finds that the criteria of MMC 19.900 are met.

- 6. Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Planning Building, Engineering, and Community Development Departments; Clackamas County Fire District #1; Lake Road Neighborhood District Association; and Metro. The following is a summary of the comments received by the City. See Attachment 5 for further details.

- **Paul Hawkins, Land Use Chair, Lake Road NDA:** Supports preservation of the tree within the Bowman St right-of-way. He also expressed concern about the property owners to the west of the site, who currently provides access to the property through their driveway.

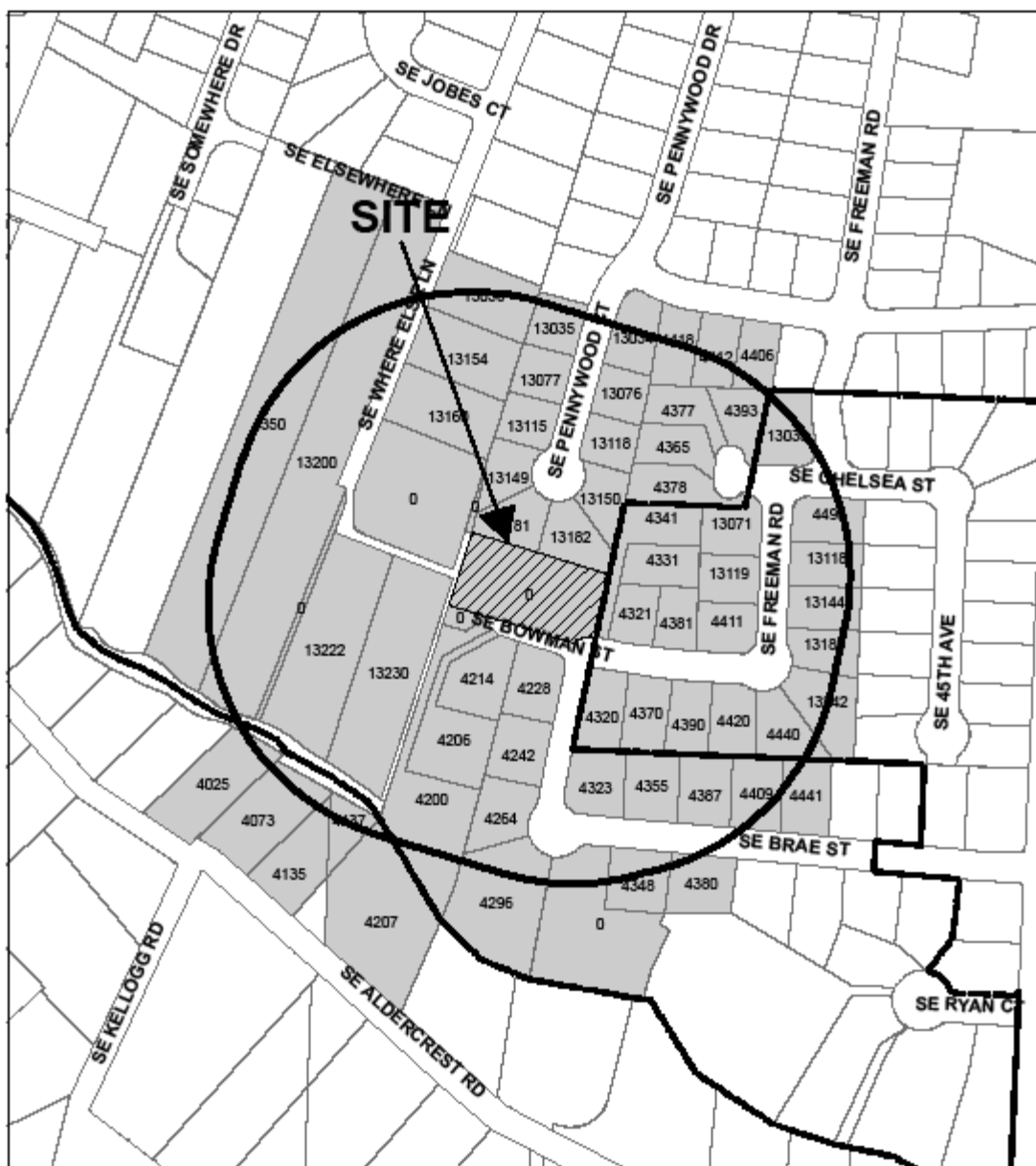
² For the purpose of this analysis, “developable properties” are defined as non-CSU properties, without environmental overlays or restrictions, of 7,000 square feet or larger, and with public site access.

Staff Response: Preservation of the tree will be considered upon receipt of a building permit application. A portion of the driveway of the property owners to the west is located within unimproved Where Else Ln, which is public right-of-way.

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7

“Neighborhood Appropriateness”

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Site Map
SE Bowman and SE Brae
(22E06BC03100)
File #ZC-09-01, TFR-09-04



ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Aerial View of Surrounding Neighborhoods

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Most Likely Construction with R7 Zoning
(similar to 13115-13035 SE Pennywood Ct)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



Most Likely Construction with R10 Zoning
(similar to 4228-4242 SE Brae St)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7



R7



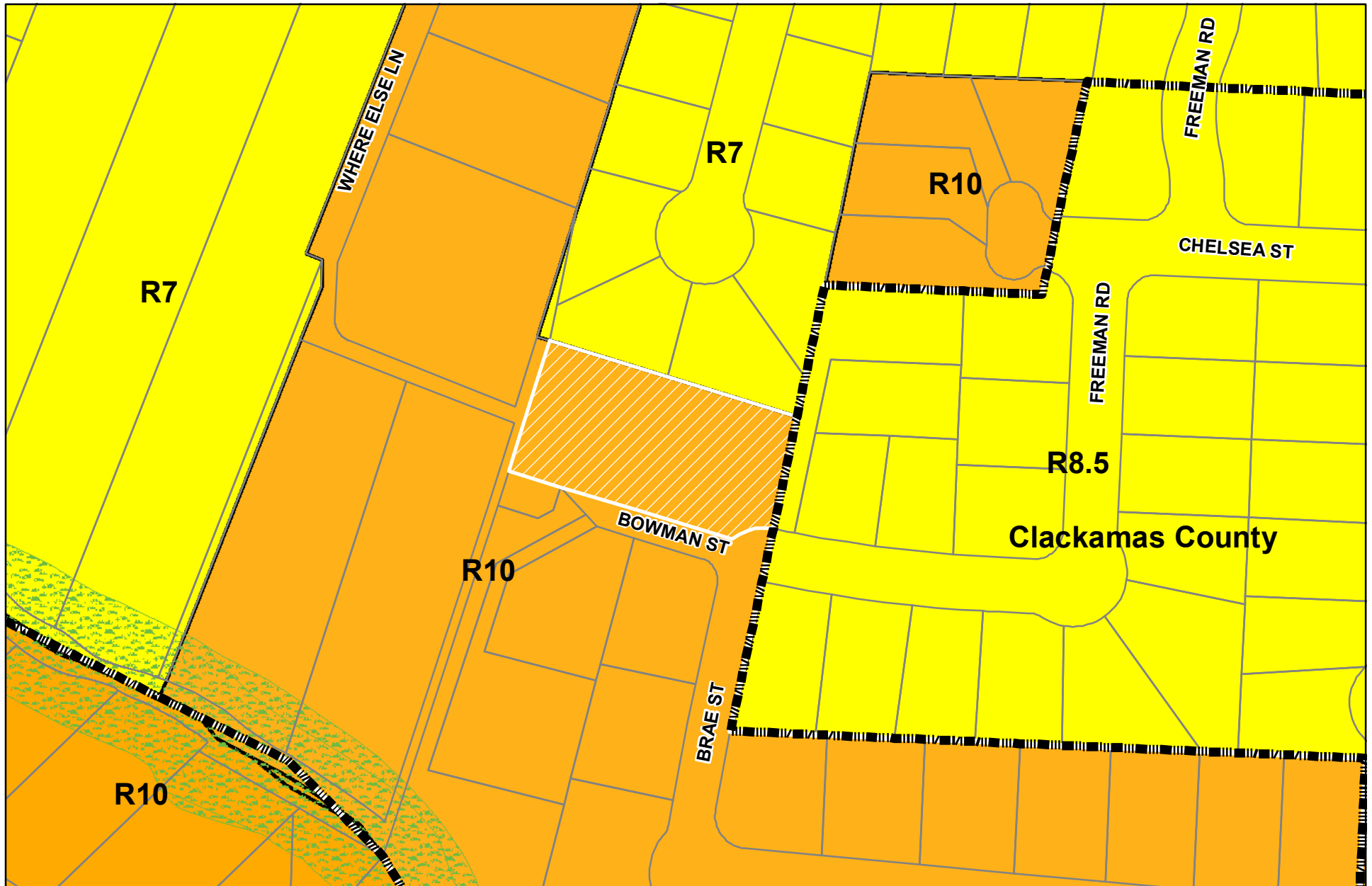
R10

Most Likely Construction R7 vs. R10 Zoning
(Visual impact comparison)

ZC-09-01 and TFR-09-04
SE Bowman/SE Brae Zoning Change to R7

Is R7 zoning of the subject site appropriate for the neighborhood?

- The subject site is adjacent to three residential neighborhoods (Pennywood, Bowman Terrace and Kellogg Crest).
- With an R7 zoning classification, the most likely construction on the site would be very similar to that of the Pennywood neighborhood.
- The construction would be of better quality and larger, in terms of square footage, than that of the Bowman Terrace neighborhood.
- The construction would be of similar quality and square footage to the homes in Kellogg Crest closest to the site.
- The same public area improvements will be required whether one, two or three homes are built on the site.
- The applicant believes the density of the construction would not be significantly different, in terms of visual impact, to what would most likely be built with an R10 zoning classification.
- **The applicant believes R7 zoning of the subject site is appropriate for the neighborhood(s).**



Existing Zoning



1 inch equals 125 feet

0 62.5 125 250 Feet

Author: City of Milwaukie Planning Department, December 2009
 Source: City of Milwaukie GIS, Clackamas County GIS,
 Metro Data Resource Center
 All data depicted is approximate.
 Not suitable for building or engineering purposes.



MILWAUKIE
Dogwood City of the West



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Brett Kelter, Associate Planner

Date: January 5, 2010, for January 12, 2010, Public Hearing

Subject: **Files:** MLP-08-02, TPR-08-03, VR-08-01
Applicant: Planning Resources Inc.
Owner: Gary Suazo
Address: 4033 SE Howe St
Legal Description (Map & Taxlot): 1S1E25DA00900
NDA: Ardenwald-Johnson Creek

ACTION REQUESTED

None. Please refer to the staff report previously provided in the Planning Commission packet for the December 8, 2009, hearing.