



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday January 26, 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 24, 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 Public Meeting

Summary: Post-decision requirement to review Pond House parking and uses

Applicant/Owner: Joe Sandfort/City of Milwaukie

Address: 2215 SE Harrison St.

File: CSU-08-05

Staff Person: Li Alligood

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 1/12/10*

Staff Person: Li Alligood

6.0 Worksession Items

6.1 Summary: Light Rail project briefing Part 1

Staff Person: Katie Mangle

7.0 Planning Department Other Business/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:

February 9, 2010 1. Public Hearing: CSU-09-11 NCSD administrative offices *cont'd from 1/12/10*

2. Worksession: Planning Commission Bylaws review

February 23, 2010 1. Public Hearing: DR-09-01, TPR-09-03, WG-09-01, WQR-09-01 Riverfront Park *tentative*

2. Public Hearing: VR-10-01 Harmony Rd Ministorage substantial construction variance

3. Worksession: Natural Resources Overlay project update *tentative*

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 24, 2009
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

Katie Mangle, Planning Director
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Brad Albert, Civil Engineer
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Paulette Qutub
Chris Wilson

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:34 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 October 13, 2009

Commissioner Batey believed Lines 147 and 148 on 2.1 Page 5 cited the wrong intersection.

Ms. Mangle clarified that Washington St and 28th Ave was the right intersection, but amended Lines 147 and 148 for clarification as follows: "Milwaukie sites were close to bus lines, ~~especially some of~~, **for example**, the smaller storefront businesses at Washington St and 28th Ave."

Commissioner Bresaw moved to approve the October 13, 2009, Planning Commission meeting minutes as corrected. **Commissioner Batey** seconded the motion, which passed 4 to 0 to 1 with Commissioner Churchill 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.

42

43 **5.0 Public Hearings**

44 5.1 Summary: CSU major modification of NCSD administrative offices

45 Applicant/Owner: Garry Kryszak/North Clackamas School District

46 Address: 4444 SE Lake Rd

47 File: CSU-09-11, TFR-09-05

48 Staff Person: Ryan Marquardt

49 **Chair Klein** called the hearing to order and read the major quasi-judicial hearing format
50 into the record.

51

52 **Ryan Marquardt, Associate Planner**, cited the applicable approval criteria of the
53 Milwaukie Municipal Code (MMC) as found on 5.1 Page 8 of the packet, which was
54 entered into the record. Copies of the report were made available at the sign-in table.

55

56 **Chair Klein** asked if any Commissioners had any ex parte contacts to declare.

57

58 **Commissioner Bresaw** noted that she lived in the Lake Road neighborhood and that
59 Debbie Patten, Lake Road Neighborhood District Association (NDA) Chair, mentioned
60 that the hearing was coming up. The project was also discussed at the Lake Road NDA
61 meeting.

62

63 **Chair Klein** declared he was a member of the Community Advisory Commission (CAC)
64 for the oversight for the North Clackamas School Board, although he had missed the last
65 3 meetings in the past 9 months.

66

67 All the Commissioners had visited the site, but no Commissioner declared a conflict of
68 interest, bias, or conclusion from a site visit. No Commissioner's participation was
69 challenged by any member of the audience.

70

71 **Ryan Marquardt, Associate Planner**, presented the staff report via PowerPoint.

- 72 • He clarified where new parking would be installed and that the gray area on the
73 displayed map indicated the parking area to be repaved.

74

75 **Brad Albert, City Civil Engineer**, reviewed how the Applicant proposed to best solve

the site access spacing issue on Lake Rd.

- He believed that the lot near Lake Rd was open for public parking with most of the employee parking located in the area behind the building. He deferred to the Applicant to provide additional information.

Mr. Marquardt noted that written testimony received from Paul Hawkins of the Lake Road NDA was included in the packet. Mr. Hawkins asked about the rationale for placing modular buildings on the site and if the North Clackamas School District (District) had considered alternatives.

- Phone calls were also received from 3 surrounding property owners regarding the application. One call regarded the general placement of the 2 modular buildings on the site. Other concerns involved overflow parking on Freeman Rd during school district board meetings.
- He noted the expanded parking area would provide more parking on site and would hopefully alleviate some of that overflow parking. Additionally, posting "No Parking" signs could be considered on the Freeman Rd frontage because it was not wide enough to support 2-way travel as well as parking.

Staff responded to questions from the Commission as follows.

- **Mr. Marquardt** stated that Code did allow manufactured homes on single-family residential lots within the city.
- He also confirmed that 5.1 Page 3 noted 16 additional parking spaces would be installed, expanding the parking area from 63 to 79 parking spaces.
 - **Commissioner Batey** noted Page 8 of the findings, 5.1 Page 17 of the packet, showed calculations indicating that the application was definitely at the lower end of the off-street parking range required for the proposed use.
- **Mr. Albert** confirmed the applicant performed a preliminary stormwater analysis for all the runoff from the site and the site met the requirements for runoff. Any additional overflow from the site would connect into the existing stormwater drainage system.
 - Two stormwater infiltration facilities would be installed and any overflow would be directed to the existing stormwater facility that ran along Freeman Rd. All runoff from the new impervious area would be captured and directed into the catch basins. A small rain garden also existed as part of the Lake Rd improvements.
- He confirmed the catch basins did not currently exist and would be new to the

110 site.

- 111 • **Mr. Marquardt** explained that staff had not considered the relative heights of the
112 existing adjacent buildings. The Community Service Use (CSU) allows a maximum
113 building height of 50 ft, and the proposed buildings of 16-ft to 17-ft high, or even 22-ft
114 high given the site's elevation, were well below that maximum.
- 115 • Setback requirements also depended on building height, and the proposed setbacks
116 exceeded the minimum setback requirements for both a 17-ft and 22-ft high building.
117 He agreed that analysis would factor into the public benefits test.

118

119 **Chair Klein** confirmed that no other correspondence had been received regarding the
120 application and called for the Applicant's presentation.

121

122 **Ron Stewart, Assistant Superintendent, North Clackamas School District, 4444 SE**
123 **Lake Rd, Milwaukie, OR**, introduced his team and reviewed the history leading to the
124 proposed project, noting that the District had outgrown its administrative building, which
125 was built in 1967.

- 126 • An open house had been held. While the neighbors wanted to keep the grassy area,
127 they also wanted the District to stay because an apartment complex or
128 condominiums could be built if the District left since the parcel was zoned R-10.
- 129 • Regarding concerns about parking on Freeman Rd, District records showed that the
130 extent of the daytime parking involved 6 to 8 cars parked on Freeman Rd for a half-
131 a-day per month during the District Board meeting. Board meetings did not typically
132 cause parking overflow onto Freeman Rd, although the District was aware that 3
133 meetings had over the last year.
- 134 • Again, the proposal would add parking, which would minimize the parking
135 overflow concern. He believed that 18 (16 is referenced above on line 98?)
136 parking spaces were being added, and noted only 7 to 10 staff positions would
137 be added, some positions were temporary.
- 138 • Alternate building locations on the site were considered on the site as discussed
139 by staff. Existing underground utilities were also a factor.

140

141 **Rick Givens, Planning Consultant, 204 SE 10th Ave, Canby, OR 97013** stated staff
142 did a thorough job in their report. He reviewed the site plan drawing displayed before the
143 Commission **and entered into the record as Exhibit 1** with the following additional

144 comments:

- 145 • The parking expansion would require the removal of 2 trees, but all other existing
146 vegetation would remain untouched.
- 147 • The most westerly access to Lake Rd would be closed, with traffic rerouted to
148 allow for visitor parking above and staff parking below.
- 149 • One pedestrian access would be provided; an additional access was also
150 indicated that was not shown well on the rendering.
- 151 • The conditions of approval required one additional access point on Lake Rd,
152 which was a problem due to grade changes between the road and site. The
153 applicant would work with staff to determine if a stairway could be installed or an
154 access point provided at another location that had less grade change.
- 155 • The Code was not specific about requiring access for each frontage, but stated
156 "total frontage," so it was possible that 3 accesses would be required for the 628
157 ft of frontage on the site. Again, the applicant would work with staff to meet that
158 condition of approval as well.
- 159 • Significant improvements would be made to the site to ensure stormwater would
160 be managed as not to impact neighboring properties.
- 161 • Another display board, **entered into the record as Exhibit 2**, depicted the proposed
162 architectural changes as required in the conditions of approval. The primary change
163 was the addition of an eave around the perimeter of each new structure, matching
164 the architectural design of the existing building.
- 165 • The structures were not mobile homes, but structures built to full Uniform
166 Building Code (UBC) requirements that were manufactured elsewhere and
167 moved to the site.
- 168 • The elevations were revised to include horizontal siding elements. The applicant
169 was willing to address the 12% glazing on the front elevation.
- 170 • The existing arborvitae hedge would block the view of the building from the
171 adjoining property. The arborvitae was about 15 ft high and only about 5 ft of the
172 building would be seen above the hedge.
- 173 • A foundation structure would be built for the modular building and skirting was
174 proposed. The structure would be attractive once modifications and site
175 improvements were completed.
- 176 • Foundation footings would be constructed underneath to level where the ground
177 sloped several feet from front to rear and he assumed they would backfill against

178 those footings.

179

180 **Commissioner Batey:**

- 181 • Asked if modular buildings were proposed rather than an addition to the main
182 building because the District intended a limited duration at the site.
- 183 • **Mr. Givens** replied the District had a very limited budget to address a pressing
184 need for facilities' improvements. He assumed the District would love to have a
185 new facility as a long-range plan, but it was not possible at this time.
- 186 • Asked if the existing school board space in the existing building would be
187 reconfigured to create workspace for employees being added.
- 188 • **Mr. Stewart** responded the intent was to make the existing building less
189 cramped. Human Resources was located partly in a hallway and part of the
190 boardroom was utilized for a large copy machine. The existing boardroom would
191 be converted into the Human Resources office, opening other spaces in the
192 building. The intent was not to create a bigger boardroom, but to use the space
193 as a multi-functional room that combined the conference rooms and boardroom.
- 194 • The ideal, long-range solution was to build a new building that consolidated all
195 the business functions, which was not possible until the economy improved.
196 Adding onto the building was too expensive and might not be a good investment
197 as a temporary fix.

198

199 **Commissioner Bresaw:**

- 200 • Asked for the general cost expected for the proposed improvements.
- 201 • **Bill Weston, JJ Henri Co, Inc., 4554 Wildwood St, Lake Oswego, OR,** replied
202 that the cost to purchase and place the modular buildings was more than
203 \$200,000 and the proposed site modifications cost a little more than \$200,000.
204 The total cost for entire project was a bit more than \$1 million and included the
205 cost for the interior modifications of the existing building.
- 206 • Regarding the fill brought in to level the building footprint areas to a 115-ft
207 elevation, he explained that a pad would be constructed from the existing asphalt
208 grade and built up as the grade sloped, so the modulares would be accessed from
209 the existing grade.
- 210 • Requested information about the maintenance costs for the modulares since they
211 were considered temporary buildings and how long the applicant planned to keep

- 212 them on the site.
- 213 • **Mr. Stewart** responded the modular buildings were built to the same standards
- 214 as a house, so he anticipated less maintenance being required than for the
- 215 existing 30-year-old administration building.
- 216 • **Mr. Weston** stated the specifications were not finalized pending approval, but the
- 217 modulars' quality was comparable to conventional construction. The District did
- 218 not want to bring in typical modular buildings, so upgrades included additional
- 219 rooflines and higher quality materials to match the existing building.
- 220 • Asked what kind of warranty the manufacturer offered.
- 221 • **Mr. Stewart** suspected it was the same one-year warranty as a brand new
- 222 school building. Clackamas had modulars that were more than 20 years old;
- 223 other districts had some older than 30 years.
- 224
- 225 **Commissioner Batey** asked if the electrical access would be buried.
- 226 • **Mr. Weston** responded that all new electrical service would be underground. He was
- 227 uncertain about the one existing overhead line that fed the lights.
- 228
- 229 **Janelle Brannan, HHPR, 205 SE Spokane St., Ste. 300, Portland, OR 97202**
- 230 reviewed the site improvements using the site plan (Exhibit 1) displayed before the
- 231 Commission.
- 232 • Currently, stormwater flowed off into the grassy area; no piped private system
- 233 existed at this time. Infiltration basins were proposed to collect and manage
- 234 stormwater runoff to avoid saturating the entire grassy area, but only certain
- 235 designated areas.
- 236
- 237 **Chair Klein** commented that the area was open grassland and should be able to absorb
- 238 stormwater. However, it currently drained off the back of the property and with the
- 239 proposed improvements; it would simply drain off into a nicer area, and then drain off the
- 240 back again.
- 241 • **Ms. Brannan** explained that the infiltration basins were designed to have 18 in of
- 242 growing medium with 1 ft of rock below those plantings for storage. Water would go
- 243 through the growing medium and into the rock storage area if it did not infiltrate
- 244 quickly enough into the native soils. Infiltration tests completed on the site were
- 245 relatively good for the area. She was confident that the stormwater would drain.

246

247 **Commissioner Bresaw** asked if HHPR was also involved with the stormwater facility on
248 Lake Rd.

- 249 • **Ms. Brannan** stated the applicant was required to meet current stormwater
250 management requirements, which meant treating and detaining runoff from the new
251 impervious areas. A small infiltration planter was located onsite with any overflow
252 collected in a catch basin and routed to the public stormwater system across the
253 street. She was not certain how that infiltration basin fit into the Lake Rd frontage
254 improvements, but she was coordinating with the engineer on that project.

255

256 **Chair Klein** clarified that the stormwater runoff currently collected along the back of the
257 property line and ran into the natural ravine that extended past that area into the subject
258 property and across the Christmas tree farm and the vegetable farm.

259

260 **Commissioner Churchill:**

- 261 • Asked how the bioswales were designed and if they were intended to screen the
262 buildings. Trees and low growing native plantings in the bioswales could be utilized
263 to screen the site from neighboring properties.
- 264 • **Ms. Brannan** responded that the applicant was required to screen the parking lot
265 from the neighborhood's view. The bioswales located at the south end of the site
266 would be planted with attractive native plantings with some trees on the outskirts.
- 267 • A planting plan was in progress, but was not included in the packet.
- 268 • **Ms. Mangle** suggested that Commissioner Churchill look at the plan provided by
269 Ms. Brannan. **A copy of the plan would be entered into the record (Exhibit).**
- 270 • Stated that seeing the planting plan helped because it was drastically different than
271 what was presented on Exhibit 1.

272

273 **Vice Chair Newman** recalled that the District originally planned to sell the property and
274 asked if the applicant had proceeded to talk to anyone about buying the facility.

- 275 • **Mr. Stewart** replied that the District had hired Norris, Beggs & Simpson, commercial
276 real estate agent, who had completed an appraisal and talked with developers about
277 options for selling the site. The District did not have money to pay for a move unless
278 they leased a different building. There was a possibility the facility could be sold and
279 additional funds borrowed, but there still would not be enough money.

280

281 **Chair Klein:**

- 282 • Confirmed that Norris, Beggs & Simpson had looked at the viability of selling it as a
283 commercial site.
- 284 • **Mr. Stewart** added commercial was the highest and best use of the property.
- 285 • Stated if the modular buildings were installed and the economy improved in the
286 future, then potentially the modular buildings would be part of the commercial site.
- 287 • **Mr. Givens** responded that the underlying zoning was R-10 with a CSU overlay,
288 which allowed the school district facility. To approve the site for future
289 commercial use, the Comprehensive Plan and a zone change would have to be
290 approved. The current application before the Planning Commission made no
291 commitments regarding the possible future commercial use of the site.
- 292 • **Mr. Stewart** noted that potential buyers had discussed demolishing the buildings
293 and starting over, so he did not think a buyer would purchase the property for the
294 modular buildings.

295

296 **Commissioner Bresaw** requested a comparison between the costs of adding onto the
297 existing building versus installing a modular building.

- 298 • **Mr. Weston** responded that the District had considered several different options of
299 adding on, and it was not only cost, but the lot size was not adequate to allow
300 attaching an addition to the existing building. Additional trees would also have to be
301 removed. Building a new, separate building was not considered.
- 302 • Preliminary estimates indicated it would cost twice as much to build it new as it
303 would for the modulares. The square footage of the previously considered new
304 building was 30,000 sq ft, which was later reduced to 23,000 sq ft. The existing
305 building was 9,000 sq ft and 3,700 sq ft of modular buildings were proposed for a
306 total of less than 13,000 sq ft.
- 307 • The challenge was whether paying a higher price for a temporary plan was a good
308 investment since it was not a long-term solution.

309

310 **Chair Klein** understood many options were considered on the site, but the District
311 owned other sites. He asked why this particular site was proposed for the consolidation,
312 particularly since the District had considered selling it.

- 313 • **Mr. Stewart** responded that the Applicant looked at all the options, including new

construction and leasing. The site located 2 miles away was leased for \$25,000 per year, so purchasing a modular as proposed would save \$25,000 per year. With all the existing functions at the present site, it did not make sense to expand anywhere else.

- He clarified that the old Wichita Elementary School did not provide enough space because it was 40% filled with existing programs. The District had committed to that neighborhood to make the Wichita facility more of a community center, not an administrative center.
- The Wichita facility would also require remodeling the school into offices and updating the systems, which was extremely expensive due to the age of the building.

Commissioner Churchill explained that he wanted to understand the logic of placing a modular versus not adding onto the existing building. He clarified that the overall project would run about \$1 million, which included \$200,000 for site improvements and an additional \$200,000 for the Lake Rd frontage, leaving about \$600,000 for structures.

- **Mr. Weston** noted that site improvements, including onsite parking and infiltrations, would still be required even with a building addition.
- He assured the District would have added onto the building if it was the same price as the modular option.

Chair Klein called for public testimony in favor of, opposed, and neutral to the application.

Dedi Juhala, 12845 SE Where Else Ln, stated that a major concern was stormwater runoff. She had water problems because the developer built the houses on 3 ft of fill. Her property was located in the low part behind the District property. An underground creek flowed through the area and many people on Where Else Ln had sump pumps. She strongly urged that water drainage be addressed; otherwise houses behind the bioswales would have problems.

- She inquired how the oil from cars in the new parking area would be separated from the water runoff going into the bioswales.
- Regarding the bioswale and infiltration basin, the engineer stated that about 3 ft of gravel and planting medium would be used for storage, but the water table was only 2 ft at her house. She had a lake in her side yard all the time.

- She was also concerned about traffic because she already sat for 5 minutes each time she tried to get out onto Lake Rd. She had not been aware that a center turn lane was proposed and asked if it would extend to the east past Freeman Rd.

Mr. Albert clarified that the Applicant was building half the turn lane. The Lake Road Multimodal Improvements project had a center turn lane down Lake Rd from Where Else Ln to Oatfield Rd. The City would consider providing a turn lane all the way to Freeman Wy on the other right-of-way section across from the District property if the required street improvements were built by the Applicant. This should help with left turn lane movements on and off the side streets and driveway accesses along Lake Rd.

- He explained that the center turn lane would end at Freeman Rd. The Lake Road Multimodal Improvements project ended at Where Else Ln. If the application was approved, the Applicant would build the street improvements on their frontage to Freeman Rd before the Multimodal Improvements project began and was completed. Then the City would be able to connect from Where Else Ln to the District site and complete that block; only 90 ft of frontage would be left to complete to Freeman Rd.
- He confirmed that the center turn lane would not extend east of Freeman Rd, so cars traveling westbound on Lake Rd, turning left into Freeman Rd would not have a center lane to queue into, so the same stack up would occur east of Freeman Rd.
- The City's right-of-way jurisdiction ended approximately 200 ft east of Freeman Rd before Kuehn Rd. The Lake Road Multimodal Improvements project would no longer extend to Kuehn Rd, but would now stop at Where Else Ln because of funding issues.

Commissioner Churchill confirmed the left turn center lane feeding onto Freeman Rd would not help the westbound traffic from Lake Rd to Freeman Rd under the subject application. It would not solve the problem because it addressed traffic west of Freeman Rd and did not solve the left turn issue into the site.

Chair Klein agreed, adding the idea was that the applicant would pay for the extra 100 ft, since the Multimodal Improvements project was stopping at Where Else Ln.

Ms. Mangle noted that the rendering presented by the Applicant to address conditions in

the staff report was different from the proposal. She asked the Applicant to consider how to link the renderings to the staff report because it was not yet submitted into the record.

David Philips, 13230 SE Where Else Ln, stated he lived in the last house on the creek.

- He opposed having modulars on the site because they would degrade the nature of the neighborhood. Based on tonight's testimony, the modulars were on permanent foundations and were not temporary. The District would be better served building buildings on the site.
- Staff stated that having modulars buildings were possible on lots in the neighborhood, and he did not want people getting that idea in the neighborhood. It would have a horrible impact on the existing homes if modulars were moved in on the few remaining lots or any that were subdivided.
- He was concerned because the property dropped off fairly severely at what seemed to be more like an 8 to 10 ft drop and when the modulars were placed on the leveled ground it would be difficult to shield them from the neighborhood with landscaping.
- He was also concerned about stormwater drainage, which had been a problem since the Pennywood development was constructed. The stormwater issues had never been addressed over the years, and the stormwater problems, including sink holes, had gotten worse each year in his backyard.

Commissioner Churchill confirmed that the parking lot south of the existing building was at a 115 ft grade level and at Lot 4 the edge was about 100 ft at natural grade, resulting in a 15 ft difference from the parking level to the lot line.

Chair Klein noted a "North Clackamas School District Modular Building" drawing also indicated the topography, which at the end of the building was 107 ft, resulting in a drop of 7 ft to the back of the building, and about 109 ft to the back of the site.

Commissioner Churchill understood it was coming in at grade at the parking lot.

Chair Klein said he understood the concern.

Mr. Philips stated that if the grade was pulled back, the modular would be sitting at the top of the fence of the adjoining property, with everything going up from there.

416

417 **Linda Patterson, 4535 SE Pennywood Dr**, stated she lived south of the Christmas tree
418 farm. She agreed that the meetings took place once or twice per month.

419 • Her biggest concern was parking and construction if the application passed. She
420 noted that the picture did not indicate the elevation changes of Freeman Rd. When
421 traveling south on Freeman Rd, the road was on an incline and cars parked on the
422 side of the road made it difficult to see oncoming cars. Not everyone adhered to the
423 25 mph speed limit.

424 • She was new to the Pennywood neighborhood, which was a nice neighborhood and
425 she preferred not seeing modulars. She asked if the District planned to build other
426 schools. If so, more employees would have to be hired and she questioned whether
427 the proposed buildings were adequately sized for the future. She did not want the
428 District to spend \$1 million on a project that would be filled to over capacity in 3
429 years.

430 • She clarified that parking seemed a problem when 8 to 10 cars were parked once or
431 twice a month during school board meetings between 3:00 to 4:00 p.m. and
432 sometimes on into the night.

433 • She noted that she was employed and did not travel Freeman Rd at all hours.

434

435 **Diane Quick, 12694 SE Where Else Ln**, stated she lived adjacent to the site and that
436 the 15-ft high arborvitaes mentioned earlier were hers. She had attended the District
437 meeting last week and had looked at the drawings.

438 • She believed the District needed to reconsider what they were proposing. The
439 project would disrupt the neighborhood and the District did not know how long it
440 would be at the facility. The District had discussed selling the property.

441 • She questioned what the \$1 million project would accomplish. The adjacent
442 neighbors had severe stormwater problems, and no one was sure that those
443 problems would be addressed.

444 • The District needed to decide what they were going to do. Would they have the
445 building for the next 5 or 10 years, or not? It would be easier to add onto the building
446 and sell the property, or scale down the proposal and install a modular in the parking
447 lot at the end of the existing building where it would sit low and where an access
448 door already existed for their staff.

449 • This was the first time she had ever opposed the District, and it pained her to speak

450 against them, but she felt that this was wrong. Making temporary arrangements was
451 fine, but it was ludicrous to ask the community to live permanently with a temporary
452 fix while the District might not be there in another year or 2.

- 453 • It was interesting that staff said the modulares could not be placed near Lake Rd
454 because it was not aesthetically appropriate to those driving by. She agreed. The
455 modulares were not aesthetically appropriate for the people in the neighborhood
456 either.

457
458 **Mike Miller, 4206 SE Somewhere Dr**, stated his background was in horticulture and
459 plant science. He circulated a picture to the Commission showing 2 unique sweetgum
460 trees that the District wanted to remove for the proposed parking area.

- 461 • He was not opposed to District's efforts to get more space, though he was not certain
462 the proposal was the right approach to obtain it.
- 463 • The District's literature identified the 2 sweetgum trees as oak trees, which was false.
464 The rationale for removal was that the drip line was too big to be saved; however,
465 there were large trees preserved in parking lots all over the city with much larger
466 canopies than the impervious areas surrounding them.
- 467 • Sweetgum trees were unique in that they retain their fall colors longer than
468 deciduous trees, making them an asset to the community late into the fall. The
469 picture taken yesterday from Freeman Rd illustrated how the sweetgum trees
470 had retained their leaves while other trees had lost their leaves.
- 471 • He asked the Commission to condition the application to require saving the
472 sweetgum trees and reconfiguring the parking lot to protect and preserve them.
- 473 • He clarified that he chose not to speak about the modular buildings, although he did
474 understand the problem with them. Modulares were installed as temporary at schools
475 but became permanent. They had their use, but in a residential neighborhood he was
476 not sure they were an appropriate use.
- 477 • He confirmed that the proposed island surrounded by parking area did not contain
478 the 2 gum trees. His picture showed oak trees in the background, which he indicated
479 on Exhibit 1. He clarified that the remaining trees on Exhibit 1 shown on the east side
480 off Freeman Rd were all add-ons; no other trees actually existed because it was an
481 open space.

482
483 **Ms. Mangle** entered the photo submitted by Mr. Miller into the record as Exhibit F3.

484

485 **Vincent Alvarez, 12671 SE Where Else Ln**, stated he lived across the street from Ms.
486 Quick and owned the historical property shown as the crosshatched area on Exhibit 1.
487 He knew that neighbors further down had water issues, but he did not foresee such
488 problems on his property.

489 • He was working to restore the stone house to a presentable condition while retaining
490 the historical aspects of the property. He noted that the proposed modulars would be
491 visible from his property.

492 • The arborvitae across the street was mostly shorter and the taller ones closer to
493 Lake Rd were scheduled for removal because of storm damage. Most of the
494 arborvitae at the north edge of the property were in horrible condition. Ms.
495 Quick's arborvitae looked good.

496 • He suggested lowering the elevation of the modulars with a slightly sloped sidewalk
497 down to them from the parking lot.

498 • The 2 trees in front near the existing building looked terrible and he suggested
499 adding onto the building in that location rather than spending \$1 million on modular
500 buildings. A second story would significantly increase the square footage, and
501 extending it in this way was also an option. He understood it would cost more. Had
502 the District sought \$3 to \$4 million a few years ago to expand the facility, rather than
503 \$1 million, they probably would have got it.

504 • He did not want to see modulars on the site. He walked his dogs there often using an
505 existing walkway.

506 • Though other options might cost more, he noted that he had to abide by City
507 requirements when remodeling his house without consideration of expense. He did
508 not believe modulars were the best way to go for the neighborhood.

509

510 **Debbie Zecik, 13076 SE Pennywood Ct**, expressed concern about the parking issues
511 already mentioned and added that the only access to the neighborhood was Freeman
512 Rd. Employees and visitors would still park in the residential area even with a "No
513 Parking" sign added along the east side of Freeman Rd, and with the added parking
514 spaces since there will be additional employees and parking was not allowed on Lake
515 Rd.

516 • She was also concerned because Freeman Rd was the only access she had out of
517 her neighborhood. If the northwestern parking access was closed, about 80 cars

518 would be exiting at one spot at quitting time to go up Freeman Rd.
519 • Others had addressed the unsightliness of the modular buildings. Though current
520 zoning allowed modulars on residential properties in the neighborhood, she also
521 noted that the neighborhood's strict covenants, conditions, and restrictions (CC&Rs)
522 would not allow modulars. She had purchased a home in Pennywood because of
523 such restrictions.

524

525 **Chair Klein** believed the CC&Rs applied only to the specific Pennywood area.

526

527 **Mr. Marquardt** clarified that the regulation regarding modular homes applied to the city
528 generally and any CC&Rs would override that and be specific to the subdivision

529

530 **Ms. Zecik** agreed that was her understanding of CC&Rs.

- 531 • She did not believe the modulars were compatible with the area.
- 532 • She was also concerned about the District's response in giving a generalization that
533 adding onto the building would cost more. She wanted the specific cost figures. The
534 District also said they had looked into selling the property with Norris, Beggs &
535 Simpson, but she had not heard that the property was actually put up for sale or that
536 the District had seriously considered selling the building.
- 537 • There did not seem to be a lot of guidelines as far as what the District was doing.
- 538 • The District owned numerous buildings, perhaps Board meetings could be
539 temporarily held in an auditorium, a cafeteria, or at numerous other sites to satisfy
540 the need for additional space.
- 541 • She added that numerous residents south of the Pennywood Dr cul de sac, near the
542 District site had sump pumps and she was concerned how the project would affect
543 drainage because it was one hill going all the way down and numerous houses in
544 that corridor had sump pumps.
- 545 • The area was all clay soil. She believed the water table might be less than 2 ft.

546

547 **Pam Michael, 13181 SE Pennywood Ct**, said she lived at the very end of Pennywood,
548 which could not be seen on the displayed map, and that she had one of the original
549 homes in the development.

- 550 • She had the same concerns as expressed by others. She appreciated the astute
551 questions asked by the Commission, but was concerned about words used such as,

"could," "possibly," "might," which were not definite terms. Timing, access, and other items were still very questionable.

- She was concerned that the slide presentation noted the project would allow more community use at the school district building, which would mean more traffic.
 - The neighborhood had tolerated the District's overflow parking on Freeman Rd. Each time she drove by, day or night, she was concerned about having 3 cars fit on the narrow Freeman Rd with the drop off onto the Christmas tree farm. She was surprised more accidents had not occurred.
- There were far more than 8 to 10 cars parking on Freeman Rd for the big meetings; they often came and parked clear down onto the Pennywood Dr. Adding 16 extra parking spaces would not help when extra employees were added.
 - She disagreed with the Assistant Superintendent who said there were only 3 instances in the last several years when cars parked on Freeman Rd, because it had easily happened 3 times in 3 months, if not more frequently.
- She was also concerned about stormwater runoff and did not understand what water sitting in 1 ft of storage would do, except to help it flood more quickly if it did overflow.
- She expressed concern about using Freeman Rd as the main ingress and egress into the District's administration buildings. Many people lived down behind Freeman Rd, and she did not feel a business access should be placed there.
- She was concerned about the modulares. She worked for a school district and temporary modulares do become permanent, which she believed would happen in this case.
- She confirmed that neighbors around her had sump pumps and no basements.

The Commission took a brief recess and reconvened at 8:32 p.m.

Chair Klein requested additional comments from staff.

Mr. Albert clarified that the infiltration swales were designed to capture all the stormwater runoff from the site as it was now as well as the entire new impervious surface area. Currently, the stormwater flowed over the grassy area, which was not really designed to infiltrate all the stormwater runoff from the site. The new facilities should be a significant improvement for capturing all the impervious surface area

stormwater from the site, which he did not believe was captured at this time. The improvements should only help the sites to the south of the District office.

- Regarding traffic, the traffic study looked at the intersection of Freeman Rd and Lake Rd. The increased traffic volume from the modular buildings was very small in comparison to the traffic currently generated from the site, presently operating at Level of Service (LOS) B, which was fully functional. The traffic study did not indicate that a left turn lane was needed onto Freeman Rd, which was operating at a high-level of efficiency.

Chair Klein asked about the legal ramifications regarding stormwater runoff, for example, from a parking lot.

- Bill Monahan, City Attorney** responded that it was the property owner's responsibility to take care of runoff created on their property and divert it into a system as opposed to diverting it onto another person's property. Developers were obligated to handle stormwater runoff. If they created a situation that caused more runoff onto adjacent properties, then there could be a cause for civil action between property owners

Commissioner Batey:

- Asked if a condition of approval could require future testing of how much water flowed from the catch basins with a requirement to upgrade if necessary.
- Mr. Albert** clarified that none of the overflow systems were designed for more than a 10-year event, but stormwater from the parking lot, existing building, and the new buildings would be directed to the infiltration basins with the overflow going into the public system on Freeman Wy. All runoff from the impervious area was captured and going into the new infiltration basins. The new parking areas would be contoured to collect all water in a single-point catch basin and piped to the infiltration swales. Currently, there was some collection ability on site, but some sheet flow also existed. With the improvements, there would be no more sheet flow off the site. Water would be directed to new water quality facilities.
- Ms. Mangle** added that it was part of Mr. Albert's job at the time a building permit was pulled to review the topography and design to ensure it met City standards. It was possible to require a future test to be sure the system was performing properly.

- 620 • **Mr. Albert** agreed that it might be possible to require a future test, but asked how
621 a baseline rain event for the year could be established to test in future years. It
622 was difficult to determine whether the test would indicate runoff from the site or
623 just groundwater from that year.
- 624 • Asked if anything could be done along the fence lines before construction begins to
625 measure rain fall between now and when construction begins.

626
627 **Commissioner Churchill** stated that although the site documents were not fully
628 engineered, the parking addition on the southeast corner showed topographic changes
629 proposed around it, but no topographic changes were noted around the pads of the 2
630 modular units. Full engineering was not available on the infiltration ponds, but the project
631 did appear to push the limit of the site, which was very close to residential. The slope of
632 the land would be increased, so it would be helpful to understand more before the
633 project could be supported.

634
635 **Chair Klein** clarified that he did not believe the site currently caused flooding in the
636 Pennywood area. The water issues were caused when the trout pond, which was the
637 natural retention area, was removed for construction of the Pennywood development. He
638 did not blame the District for having a building that had been there for more than 45
639 years when the development came in 15 years ago. He was concerned about the
640 immediate neighbors, who he believed would be impacted by the project.

641
642 **Mr. Marquardt** stated that part of the parking on Freeman Rd could be addressed. He
643 asked the Applicant to clarify whether board meetings could be held at times when
644 employees were not at the site, and how many cars would likely be parked during those
645 meetings. The increase of parking spaces onsite should hopefully alleviate the problem
646 of parking on Freeman Rd. Signage that prohibited parking where pavement was not
647 wide enough could also be required on Freeman Rd as part of the project if the
648 Commission believed it necessary.

- 649 • The Applicant could have an overflow parking agreement with the Christmas tree
650 farm. Based on the square footage and types of uses, the project fell within the
651 minimum required parking for the site, so based on the Parking Code, they would not
652 be required to find shared parking. However, if having such a contingency would help
653 with the approval, an agreement could be entered into with another private property

654 owner.

655

656 **Chair Klein** asked about the possibility of having street improvements on Freeman Rd,
657 considering the elevation differences.

- 658 • **Mr. Albert** responded that the District side was already improved to the full cross-
659 section. Any development on the Christmas tree farm site would require street
660 improvements along that frontage and any engineering features to accommodate the
661 slope. He did not foresee the City doing the street improvements. Any street
662 improvements would more than likely be upon development.

663

664 **Commissioner Churchill:**

- 665 • Asked about Sheet 1 NCS 04, the rendering of the modular buildings, which
666 indicated that from the parking lot into the 2 modular buildings would be straight in
667 off-grade with no drop in elevation. He was unable to confirm the elevation of the
668 finished floor level of the modular buildings.
- 669 • **Mr. Marquardt** deferred to the Applicant.
- 670 • Believed it was within 1 ft of the parking lot level adjacent at 115-ft grade, which was
671 what the renderings seemed to indicate.
- 672 • **Ms. Mangle** reminded the renderings were different than the plans originally
673 submitted.
- 674 • **Mr. Marquardt** stated that from his reading of the plans, it looked like the
675 northern portion of the buildings was essentially at grade with the parking area at
676 115 ft or 114 ft.
- 677 • Noted that topographic information around the edges of the modulares was not
678 available, only around the parking lot. The grade would drastically change along the
679 western edge of the modular. Some fill would fall at least 5 ft away toward the
680 adjoining residence.
- 681 • **Mr. Marquardt** replied that was illustrated on the recently submitted landscape
682 plan (**Exhibit**), which indicated some of the grading information, and again
683 deferred to the Applicant.
- 684 • **Ms. Mangle** explained the elevations in the original proposal showed the doors
685 elevated from the ground, which was different from the illustration presented
686 tonight. The intent was to address the concerns but because the revised
687 proposal was not available to review ahead of time, staff was not sure how the

688 two different plans were related.

- 689 • Raised the concern that while it was good the Applicant was responding to
690 comments from staff, the staff and the Commission had not had time to look at the
691 application prior to approval or denial.

692

693 **Mr. Marquardt** stated that if the Commission decided to move ahead with approval, the
694 staff wanted to modify the conditions as written to reflect what was shown on the
695 renderings shown on the display boards (**Exhibits 1 and 2**), which better addressed the
696 design intent staff was trying to achieve through the conditions of approval.

697

698 **Chair Klein** asked if the renderings showed a significant enough change from what was
699 submitted with the application that staff would be comfortable with a decision tonight, or
700 was more information needed.

- 701 • **Ms. Mangle** replied that was a decision for the Commission to make.

702

703 **Vice Chair Newman** asked for clarification regarding whether the detention ponds would
704 handle the necessary amount of stormwater.

- 705 • **Mr. Albert** replied that the water quality swales were required to hold runoff from the
706 increased impervious surface. Runoff from the site could not increase as a result of
707 the site's development. The swales were sized for the amount of impervious surface
708 and the runoff for rain events.
- 709 • He agreed the swales would handle the impervious surface, but did not address the
710 inherent groundwater table, which was a problem based on neighborhood testimony.
- 711 • He clarified the basic requirement was to address the increase in impervious surface.
712 The applicant's proposed stormwater plan indicated both basins would address all
713 the parking lot runoff area.

714

715 **Chair Klein:**

- 716 • Asked who could buy the District structure if the Commission dictated the type of
717 business that could be there under the CSU. Residential was allowed, but a new
718 owner would have to meet the CSU requirements for a commercial application.
- 719 • **Mr. Marquardt** replied any future commercial use would require a zoning
720 change, and the CSU would be a nonissue.
- 721 • **Ms. Mangle** agreed residential development was an outright allowed use of the

722 site. Any other use would require City approval through a new CSU, a new
723 conditional use, or a zone change. Otherwise, without Planning Commission and
724 possibly City Council approval, it would be a residential development and
725 probably not use the existing building.

726 • Said the logical conclusion was that the site would convert to residential use, if sold.

727 • **Mr. Monahan** clarified if a buyer wanted to speculate and purchase the property
728 with the condition that they could get a rezone to General Commercial, like the
729 property across the street, they would have to comply with the approval criteria or
730 a Comprehensive Plan amendment, which would take significant effort.

731 • Asked if the Commission had enough information to come to a decision tonight. He
732 believed many questions were still unanswered.

733 • **Mr. Monahan** stated one option was to identify the gaps in the application and
734 then ask the Applicant to provide additional information. The Commission could
735 continue the application or allow the Applicant the opportunity for rebuttal.

736 • He advised that the Commission proceed with asking questions, and then let the
737 Applicant decide if they wanted to address questions tonight or ask for a
738 continuance.

739

740 **Commissioner Churchill** said he was very concerned about “connecting the dots.” As
741 discussed, the proposed rendering was deceptive regarding elevation, though not
742 intentionally, and did not show the 10-ft drop in grade from one corner of the site to the
743 parking lot, or the drop off behind one modular structure. He requested more accurate
744 and detailed site and topographical information, particularly around the basins and the 2
745 modular structures, to understand the proposed grade changes.

746

747 **Commissioner Bresaw** understood that generally speaking it was less expensive to
748 install the 2 modular buildings, but asked the Applicant to consider just one modular.
749 She sought more facts and financial details about how the Applicant came to the current
750 decision. She was concerned about the future property value for the District. She also
751 wanted clarification about whether the sweetgum trees could be saved.

752

753 **Vice Chair Newman** stated that his questions had already been voiced.

754

755 **Commissioner Batey** asked if **16** new parking spaces were enough, because that was

at the lower end of the range required by Code. She also wanted to clarification about preserving the sweetgum trees.

Chair Klein questioned whether this was the best site in the District's portfolio for expansion. He requested rebuttal from the Applicant.

Mr. Stewart responded that with regard to parking concerns on Freeman Rd, the project would not increase parking demand. The Applicant proposed adding **18** additional parking spaces and only 8 to 10 employees during the workday. During the evening, employees were not there and the added parking spaces would relieve parking on Freeman Rd.

- Using Exhibit 1, he noted 5 stormwater drain pipes from neighboring properties that flowed from private property onto the District's property. The stormwater issue regarded water coming from the neighboring properties, not from the subject site.

Commissioner Churchill noted the Applicant was also building a boardroom with 64 seats and standing room, which should be factored into the parking calculations.

- **Mr. Stewart** replied he was not sure more people would come to board meetings because of the added seating space. The Applicant hoped the additional **18** parking spaces would help.

Mr. Monahan asked if the Commission wanted to close the public hearing and pose questions for the Applicant to address at the next meeting during rebuttal. The public hearing would have to be reopened for comment on any new information submitted by the Applicant.

Mr. Givens said he was sure the Applicant would want to submit more information for the record and public comment should be allowed at the next meeting.

Mr. Monahan agreed it was good to be transparent and allow for public comment. He suggested that if the public hearing was left open, the Commission should allow for the introduction of new information at the beginning of the next meeting, public comment, and a full rebuttal from the Applicant. The Commission could either restrict public comment to the new information or allow any and all public comment, which would

790 include allowing people who did not participate tonight to testify.

791

792 **Chair Klein** wanted to restrict testimony to new material submitted for the record. Public
793 concerns regarding stormwater runoff and parking issues were understood.

794

795 **Commissioner Churchill** supported keeping the public hearing open for all public
796 comment. Combining comments in a group did not always indicate the depth of the
797 concern. Given the scale of concern in the neighborhood, he wanted to hear everyone's
798 comments.

799

800 **Mr. Marquardt** confirmed that the 120-day clock ended February 6, 2010, allowing time
801 for a continuation. However, not enough time was available to prepare for the December
802 8th meeting. January 12, 2010, was the next possible date for a continuance.

803

804 Following discussion about time restraints given the holiday schedule and time required
805 for any appeal and hearing at City Council, it was suggested that the 120-day land use
806 clock be extended to March 1, 2010.

807

808 **Mr. Givens** agreed to extend the 120-day land use clock to March 1, 2010.

809

810 **Ms. Mangle** noted that audience members who provided contact information would be
811 notified about the application.

812

813 **Commissioner Churchill moved to continue CSU-09-11; TFR-09-05 to January 12,**
814 **2010 date certain. Commissioner Batey seconded the motion, which passed**
815 **unanimously.**

816

817 5.2 Summary: Zone change from R-10 to R-7

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

819 Address: SE Brae & SE Bowman

820 File: ZC-09-01, TFR-09-04

821 Staff Person: Li Alligood

822

823 **Chair Klein** called the public hearing to order at 9:14 p.m. and read the major quasi-

824 judicial hearing format into the record.

825

826 **Li Alligood, Assistant Planner**, cited the applicable approval criteria of the Milwaukie
827 Municipal Code (MMC) as found on 5.2 Page 7 of the packet, which was entered into the
828 record. Copies of the report were made available at the sign-in table.

829

830 **Chair Klein** asked if any Commissioners had any ex parte contacts to declare.

831

832 **Vice Chair Newman** noted the subject property was adjacent to his own, but he was
833 uncertain if the proposed development could be profitable or harmful to his property. He
834 declared it was best to recuse himself from the hearing and left the dais at this time.

835

836 All Commissioners visited the site, but no Commissioner declared a conflict of interest,
837 bias, or conclusion from a site visit. No Commissioner's participation was challenged by
838 any member of the audience.

839

840 **Ms. Alligood** presented the staff report via PowerPoint.

- 841 • She clarified that the photographs displayed from the Lincoln Land Institute with
842 regard to density were intended as a broad illustration and that the photograph
843 selection was limited. It was noted that the photos were taken at different elevations
844 and the houses appeared larger. Larger houses were allowed in R-10 zone.

845

846 Staff responded to comments and questions from the Commission as follows:

- 847 • **Ms. Alligood** clarified that the condition requiring a sizable right-of-way dedication
848 was not part of the zone change, but would be required upon development of the site
849 regardless of the zone. The Applicant's proposed right-of-way was so narrow
850 because only a half-street improvement was required on Bowman St.
- 851 • **Ms. Mangle** reminded that Milwaukie had many strange configurations of streets
852 and lots that had occurred over time. This project was just one example.
- 853 • The gray area on the displayed site map indicated a 25-ft dedication for the required
854 half-street improvements.
- 855 • **Mr. Albert** explained that under MMC 19.1400, partitions of any kind were
856 required for right-of-way dedication and street improvements, and only half of the
857 right-of-way is deeded to the City. The City would gain the additional 25 ft for a

- 858 standard cross-section for street improvements through that area.
- 859 • **Ms. Alligood** explained that the dedication was needed because Where Else Ln was
- 860 a public right-of-way, but very narrow and unimproved. It currently functioned as a
- 861 walkway, providing driveway access to the 2 sites west of the property. No vehicular
- 862 access was actually provided to the subject site.
- 863 • **Ms. Mangle** clarified that while the impact of accessing the proposed lots via
- 864 Where Else Ln did not seem huge, widening Where Else Ln involved impacting
- 865 other properties, while widening Bowman St only affected the applicant's
- 866 property, which was an important consideration. Where Else Ln would remain
- 867 unchanged in the proposed application.
- 868 • **Ms. Alligood** noted that the street improvements would be addressed during the
- 869 building permit application and were somewhat unrelated to the number of
- 870 parcels on the site.
- 871
- 872 **Commissioner Batey** noted the City had just enacted the policy of having development
- 873 improve streets and provide sidewalks.
- 874
- 875 **Commissioner Churchill** believed the core of the application regarded economic
- 876 interest, creating 3 lots rather than 2, which could in theory have access from Where
- 877 Else Ln.
- 878 • **Ms. Alligood** clarified the question before the Commission was whether to approve
- 879 the lot partition. The street improvements were the one constant in the scenario.
- 880
- 881 **Commissioner Batey** asked about Page 7 of the findings on 5.2 Page16 of the packet
- 882 where a Metro Regional Land Information System (RLIS) report was quoted, "Of these 7
- 883 dividable sites, one is located in the Lake Road neighborhood."
- 884 • **Ms. Alligood** clarified that she was referring to the Applicant's property.
- 885 • **Ms. Mangle** added that Metro RLIS was the GIS mapping data provided by Metro
- 886 and not a separate report.
- 887
- 888 **Chair Klein** confirmed that no other correspondence had been received other than that
- 889 noted in staff's presentation. He called for the Applicant's comments.
- 890
- 891 **Tim Riley, Clunas Funding Group, Inc., 201 B Ave, Suite 270, Lake Oswego, OR,**

representing the Applicant stated he had no additional presentation materials. The staff report did a good job presenting the information. He responded to questions from the Commission as follows:

- If approved, construction would begin during the next building season, starting in May, but he was not sure how many homes could be built.
- The application targeted the selling price per house at about \$300,000. The applicants were not builders, but consulted with other builders who did not believe that higher prices would sell well today or in the foreseeable future.
- Based on feedback from developers, it would be more difficult to sell 2, more expensive houses on 2 lots. After researching the dedication and costs involved in dividing the lot into 2 parcels, they decided, after learning what was left over after dedication, that R-7 zoning would leave room for 3 lots. There were developers interested in working with 3 lots, but not 2 lots. The decision related to what selling price the area could support.
- While \$300,000 appeared to be on the lower end of the market for that area, recent experience showed that in the current market, prices had to be lowered 25% to 30% from 2-year-old comparable sales.
- The Applicant had talked to developers, but no commitment had been made yet. The feeling was that it would be difficult to continue with two lots, particularly with the cost of the public improvements.
- He explained that the property was taken back in deed in lieu of foreclosure in August 2008. They began working with staff about a year ago on possible options and subdividing the property.

Chair Klein called for public testimony in favor, opposed, and neutral to the application.

David Philips, 13230 Where Else Ln, stated he lived on the one-acre property west of the subject site. He indicated that most lots in the neighborhood were larger lots, and R-7 was not consistent with the nature of the neighborhood. R-7 lots were too small and would not fit in with existing lots in the area.

- The reasons given for the zone change request did not warrant the zone change. The Applicant's financial gain should be irrelevant.
- Houses in that neighborhood were valued far above \$300,000. His property was valued at \$500,000, as was one adjacent to him. Dick Newman's house was for sale

for more than \$600,000. The quality of homes in the neighborhood was much more than \$300,000, and approving the application would bring the neighborhood's home values down.

- R-7 lots were too small for families. Not enough space was available to provide a play area. His property was a liability. Being on a creek in a natural resources zone, he was unable to fence it and it was difficult keeping people, namely kids, out of his yard.

Chair Klein asked if Mr. Phillips objected to there being 2 lots as allowed by R-10 zoning, and if he would see impacts if the lots were accessed via Where Else Ln.

- **Mr. Philips** responded that he would love to see the lot developed. He would be impacted if access was provided via Where Else Ln.
- He noted the point at which Where Else Ln stopped, and where private property then extended. He accessed his property through an easement on an adjacent private lot, previously owned by the Oak Lodge Water District (Water District). It was not a public road at this time.

Debbie Zecik, 13076 Pennywood Ct, stated when she purchased her home, she was told the lot would not be developed because it belonged to the Water District; though circumstances had changed.

- She preferred seeing no houses on the lot, but if it was developed, keeping it to the minimum of 2 houses was desired. For the neighbors immediately north of the parcel, it was inconvenient to have it developed when they assumed it would remain vacant.
- As a realtor, she stated that the \$300,000 price range did not exist in that area because the minimum for a house on Pennywood Ct was \$400,000, even in this market.
- She was also concerned that building a lower cost house would not fit the architecture of the rest of the neighborhood.

Pam Michael, 13181 SE Pennywood Ct, stated when she bought her lot, the realtor assured her that the Water District property would never be developed.

- She believed building 3 houses on the lot would substantially change the makeup and privacy of the neighborhood. She understood that it had to be developed, but

asked that the R-10 zoning remain because R-7 was incompatible for the neighborhood.

- She was concerned about \$300,000 being the high base price for the homes when other homes were certainly higher in value and were beautiful homes. She was concerned about the quality of housing the Applicant wanted to build.
- She was also concerned about privacy. The setbacks due to the widening of Bowman St would push the houses closer to the Pennywood area. Children playing in the backyards would be quite close to her property.
- She asked the Commission to oppose the zoning change request.

Mike Miller, 4206 Somewhere Dr, opposed the zone change because the applicant knew the R-10 zone applied when they assumed the property through foreclosure.

- The property could be developed without change and remain consistent with the neighborhood. Variances and zone changes should be used as a last resort, not a first option. It appeared the change was only being requested to maximize profit, and zone changes and variances should not be used for this purpose.
- He expressed concern about a large cedar tree in the right-of-way of Bowman St.
- He was also concerned about connectivity between Where Else Ln and Bowman St.
- He confirmed that the property would not come before the Planning Commission again when it was developed.
- As an outright permitted development, it would go through the normal building permit process. This public hearing was the last opportunity for the neighborhood to provide input on the process.
- He urged the Commission to reject the application and allow 2 R-10 zoned lots on the Applicant's property.

Dedi Juhala, 12845 SE Where Else Ln, stated she had not heard about the project until this evening. She confirmed there would be no vehicular extension from Bowman St to Where Else Ln, only a pedestrian and bicycle sidewalk connection. She asked if the City had a long-term plan to make a connection from Bowman St through to Where Else Ln and Somewhere Dr.

Ms. Mangle stated a street connection was possible if all of the lots on the west side developed, but that connection was not shown as a connection the City was actively

seeking in the Transportation Systems Plan (TSP). Such a connection would not result from a City project, but it was possible if many of the lots were developed, for example into a subdivision, over time.

Chair Klein added that there were many substantial lots back there and any property owner could break their 50,000 sq ft lot into smaller lots, which was how the Pennywood neighborhood was developed.

Ms. Juhala said she knew properties could be condemned for the common good and remembered seeing a long-range, 40-yr or 50-yr plan that showed all those roads connected.

Ms. Alligood reiterated that it would require a great deal of development in the surrounding sites before that would happen.

Ms. Mangle assured that connection was not shown in the TSP.

Chair Klein called for additional comments from staff.

Staff made comments and answered questions as follows:

- Although Where Else Ln was undeveloped and very narrow, it was currently a public right-of-way. The City did not have plans to develop it at this time, but it is publicly owned.
- Where Else Ln continued to the elbow and officially ended at this property. It was not private property from the Applicant's property to the end.
- Properties west of the Applicant's site were sparsely developed, but were zoned for much higher development. Under the current zoning, there was potential for much denser development in the area. The larger R-7 lots were single-family sites, but were dividable and developable at much higher densities.
- **Ms. Alligood** did not know what the Water District used the property for or if the existing pump house south of the site was functioning. She did not know why the Pennywood subdivision was not able to use the property, which would have extended Pennywood Ct.
- **Commissioner Bresaw** recalled the Lake Road NDA wanted to make the Water

- 1028 District property into a park about 7 years ago, but it was sold to a private
1029 developer.
- 1030 • The public comment expressing concern that the zone change was being requested
1031 strictly for financial reasons was submitted anonymously. The commenter had
1032 appeared publicly to present his concern.
 - 1033 • Using Attachment 2B, staff explained that vehicles would access Parcel 3 from
1034 Bowman St, not from Where Else Ln due to the street improvements and narrow 15
1035 ft wide right-of-way on Where Else Ln, which was too small to allow for increased
1036 traffic. Improving the street to TSP standards would involve other properties as well
1037 as the Applicant's property.
 - 1038 • The shading on the slide titled Key Issue #1 was incorrect. At the corner, the new
1039 paving would end at Dick Newman's property.
 - 1040 • Staff clarified how the street would function as a typical 2-lane street section and
1041 verified the location of existing and new paving.
 - 1042 • Engineering and site improvement decisions were actually applied at the time of
1043 permit application, whether 2 or 3 homes were constructed.
 - 1044 • Three flag lots currently took access off the end of Bowman St.
 - 1045 • **Ms. Mangle** clarified that Where Else Ln did not exist for the purposes of the
1046 application and was essentially a gravel driveway. It was right-of-way, but met the
1047 standards for a bike path, not a street.
- 1048
- 1049 **Chair Klein** called for the Applicant's rebuttal.
- 1050
- 1051 **Mr. Riley** explained that the motivation for requesting the zone change was the degree
1052 of public improvement required to develop the site, which was more than anticipated or
1053 more than was typical for lot development. The Applicant was not motivated by money
1054 and decided to pursue a tighter zone change regardless.
- 1055 • The Applicant talked with staff about whether it was appropriate to change to R-7.
1056 The property to the north was R-7 and equivalent R-7 to the east, so it made sense
1057 that pursuing the zone change would not alter the character of the neighborhood.
 - 1058 • The approximate selling price was the Applicant's guess as to what they could sell a
1059 home for today.
 - 1060 • If development proceeded, building permits would be required and single-family
1061 design standards would have to be met, helping to ensure the project fit the

1062 neighborhood's character.

- 1063 • The Applicant's intent was to move forward in developing the site, and the R-7 zone
1064 change appeared to make the most sense at this point.

1065

1066 **Commissioner Bresaw** asked if the Applicant would hire a developer to do the
1067 development, but still maintain control over the property until it was developed and built.

- 1068 • **Mr. Riley** replied that the Applicant was not successful in selling the vacant land, so
1069 was looking to maintain ownership while working with a developer to develop the
1070 vacant land that was otherwise not marketable at this time.

1071

1072 **Commissioner Churchill** asked if the property was purchased without the Applicant
1073 realizing the degree of public area improvements that would be required.

- 1074 • **Mr. Riley** answered yes, and clarified the Applicant actually got the property back in
1075 a foreclosure. In researching development options, they realized the extent of public
1076 area improvements and determined that a zone change was necessary to minimize
1077 their loss. R-7 would allow for 3 lots to balance the public area improvements costs
1078 against the sale price of the properties. No developers were interested in working on
1079 a 2-lot solution because of the public area improvements required up front, but there
1080 was interest in developing 3 lots.

1081

1082 **Chair Klein** closed the public testimony portion of ZC-09-01 and TFR-09-04. Since it
1083 was past 10:00 p.m., he confirmed the Commission could come to a conclusion and the
1084 meeting time was extended.

1085

1086 **Planning Commission Discussion**

1087

1088 **Commissioner Churchill** believed that the application request was financially
1089 motivated. As noted, the Commission expected the City to require public area
1090 improvements. He considered the Applicant's parcel as the gateway into the character of
1091 the neighborhood to the south. He did not support the zone change request and wanted
1092 to leave the site as R-10 with 2 parcels because of the neighborhood character and
1093 because the rezoning was only financially driven.

1094

1095 **Commissioner Bresaw** disagreed, although she loved large lots. She lived near the

subject property, which had been vacant for a long time, probably because of the economic climate. She preferred 2 houses on the lot, but wondered how long it would sit vacant. She believed 3 houses would work if done well.

Commissioner Churchill did not believe many developers would consider developing the property even with 3 lots. Sometimes one had to look past the immediate return and see what was good for the quality of a neighborhood.

Commissioner Bresaw reiterated that the lot had been vacant a long time and that she would like to see some improvement.

Commissioner Batey supported the application. It was a transitional area with varying sizes of homes and lots on all sides. She did not see a third house versus 2 houses as a significant burden on the road or the Pennywood neighborhood. Even if the zoning change request was financially driven, that should not be a reason to deny it.

Commissioner Churchill believed the premise and core issue was to not use financial motivation as a reason for a zoning change or variance.

Chair Klein noted, as mentioned by Mr. Miller, the Applicant's financial hardship should not necessarily play a part in the application. What was the point of having zoning if it was not enforced?

Commissioner Batey:

- Asked if the staff report included the Code language.
- **Ms. Mangle** replied the findings were in the staff report. She clarified the financial hardship criteria was part of the variance criteria, not the zoning criteria. While financial hardship certainly could be a factor and a possible reason for denial, it was not the only factor.
- **Ms. Alligood** cited MMC19.905.1.B, on 5.2 Page 13, which stated the requirement "that the anticipated development must meet the intent of the zone" and listed 5 subsections. It was not the only criteria listed.
- Stated the City was receiving a benefit from the street improvements and the improved pedestrian and bike connection between Bowman St and Where Else Ln.

1130 Although the public benefits would happen whether 2 or 3 lots were developed, if
1131 making 3 lots meant the development was more likely to occur, that was worth the
1132 rezoning.

1133

1134 **Chair Klein** noted the Applicant was looking to minimize their loss, but he preferred that
1135 they maximize their profit. It seemed the Applicant needed to sell the property to get it
1136 out of their portfolio. A \$300,000 home was not typical of the area, but would likely be
1137 constructed. He preferred the Applicant target the \$500,000 range, which would not
1138 happen on an R-7 lot.

- 1139 • He recalled previous applicants wanting to build a quality product, but that was not
1140 the final result.
- 1141 • Unfortunately, building designs were not available for zoning change requests;
1142 otherwise the Commission could confirm that the Applicant proposed a great project.
1143 However, the Commission was not looking at a great project, but rather how the
1144 property could be divided and then left at the mercy of the builder.
- 1145 • He noted the Commission still seemed to be at a tied vote.

1146

1147 **Mr. Monahan** stated a motion would be appropriate. If no majority of the Commission
1148 voted to approve or deny, the application could go to City Council with no
1149 recommendation from the Commission. If a majority decision was not possible, the
1150 meeting could be continued and one or both of the absent qualified members of the
1151 Commission would be expected to review the record and participate in another vote.

1152

1153 **Commissioner Batey** said that she would not be at the next meeting.

1154

1155 **Mr. Monahan** noted Commissioner Batey's absence was a consideration if the
1156 Commission continued the meeting.

1157

1158 **Commissioner Churchill moved to deny ZC-09-01 and TFR-09-04. Chair Klein**
1159 **seconded the motion. Chair Klein, Aye; Commissioner Churchill, Aye;**
1160 **Commissioner Bresaw, Nay; Commissioner Batey, Nay. Motion failed due to a tied**
1161 **vote.**

1162

1163 **Commissioner Bresaw** said the Commission could assume the owner would develop

the property nicely with 2 houses or the property could sit vacant for a long time.

Chair Klein stated he felt safer leaving the zoning as it was. .

Commissioner Churchill agreed that leaving the parcel as is was better than having the density of 3 houses with unknown designs. That risk was higher with 3 lots than 2, and would change the character of the immediate neighborhood to the south.

Chair Klein added that having 2 lots would force the Applicant to consider the significant street improvements and build a quality house that they could still profit from. There was a reason the parcel had not been developed for a very long time.

Commissioner Churchill believed the market would come back and support 2 higher quality homes.

Commissioner Batey noted the Code language on 5.2 Page 13, MMC 19.905.1.B stated, "taking into consideration the following factors:..." but did not provide much of an argument for denial of the application. Some could be argued either way. Given factor a) "the site location and character of the area," bigger houses and bigger lots were on one side of the parcel while the other side had comparable sizes of houses and lots to what is being discussed.

Chair Klein asked what the point was of having zoning on any property if those criteria could be used for this area. Would it not just come before the Planning Commission if someone wanted to build R-7 or R-10? They could decide not to build the lot for any reason.

Commissioner Batey believed that zoning designations should not be seen as the "Holy Grail" and irreversible. Zoning designations were reversed all the time, such as in the Gramor subdivision. She disagreed with Mr. Miller's comment that zoning designations should always be a last resort. She did agree with him about variances, however, because the variance language stated that no feasible alternatives could be available. That was not what the subject Code language stated.

1198 **Chair Klein** did not believe better quality houses, ones representative of the
1199 neighborhood, would be built by making the lots smaller.

1200

1201 **Commissioner Batey** pointed out that the Commissioners were not developers.

1202

1203 **Commissioner Churchill** said there was the issue of site location and character of the
1204 area. Increasing the density of parcels on a piece of land would change the character of
1205 that land.

1206

1207 **Commissioner Batey** agreed that in principle Commissioner Churchill was correct, but
1208 this parcel was between 2 different areas. It was not like an R-7 island was being built in
1209 a whole R-10 area.

1210

1211 **Commissioner Churchill** stated the parcel touched 2 pie-shaped lots in Pennywood to
1212 the north. There was enough density in adjacent neighborhoods, but not the Bowman St
1213 neighborhood, which the parcel was a part of.

1214

1215 **Commissioner Batey** agreed, but noted the length of Bowman St to the east must be
1216 considered, not just the density across Bowman St.

1217

1218 **Commissioner Churchill** said he viewed the creek side parcels as their own density
1219 and their own neighborhood character. Therefore, 2 lots respected the character of that
1220 neighborhood better than 3 lots.

1221

1222 **Chair Klein** agreed.

1223

1224 **Commissioner Bresaw** did not believe the Commissioners would change their votes.

1225

1226 **Chair Klein** agreed, adding that he did appreciate the discussion. He asked if the
1227 application should go to City Council since the vote appeared to remain tied.

1228

1229 **Mr. Monahan** replied that the Code did not specify sending it to City Council, although
1230 the Commission had that ability. The Commission could also continue the hearing to a
1231 date when the present Commissioners could attend along with one other member who

1232 was not currently present.

1233

1234 **Ms. Mangle** believed that the Commission had to recommend approval. She referenced
1235 MMC 19.1011.4.d, "Upon a recommendation of approval of the proposed amendment by
1236 the Planning Commission, a report recommending approval shall be provided to the City
1237 Council." She believed the Commission was at a deadlock.

1238

1239 **Mr. Monahan** said that the Commission had to make every effort to allow for a decision
1240 by the Planning Commission. If a tied vote resulted, even with the other members
1241 present, then alternatives had to be discussed. It was not a denial because there was
1242 not a consensus. He believed the Commission would then have to consider taking the
1243 application to City Council. He suggested the Commission determine available dates
1244 when the present Commissioners could attend, along with one or both of the other
1245 members, who could review the application and the record.

1246

1247 **Chair Klein** expressed concern about having a Commissioner make a decision when
1248 they were not present to see all the materials and hear all the testimony in person.

1249

1250 **Commissioner Bresaw** suggested the other Commissioners could listen to the tape.

1251

1252 **Chair Klein** agreed being present at the hearing said it all, and asked for opinions from
1253 the Commission. Noting the time, the meeting was extended another 15 minutes.

1254 **Commissioner Batey** stated if another Commissioner was willing to review the
1255 materials and the record, the Commission might be able to give a resolution to the City
1256 Council.

1257

1258 **Chair Klein** offered that if the Commission sent the application to City Council at this
1259 time, fresh ears would hear the issue.

1260

1261 **Commissioner Batey** understood that the application could not go to Council with a tie
1262 vote.

1263

1264 **Mr. Monahan** clarified that the Code language preferred that the decision be made by
1265 the Planning Commission. The opportunity existed for a decision because the 2 absent

Commissioners could provide a majority vote in one direction or another. He recommended the Commission make the effort to do that. The Code did not address a split decision being made, but the best alternative to no decision was to send it to City Council. Either way, an extension of the 120-day clock was needed from the Applicant.

Ms. Mangle explained that a decision tonight would go to City Council within the 120-day land use clock, which expired January 20, 2010. Continuing the hearing beyond tonight would require an extension of the 120-day land use clock by the Applicant; but that could not be required. If the Applicant chose not to waive the 120-day land use clock that would force the application to City Council.

Mr. Monahan added if the Applicant did not extend the 120-day land use clock, it could force the Commission to make a decision. Ms. Mangle's interpretation was that a denial would not get the application to City Council, unless there was an appeal.

Chair Klein surmised that the Commission needed to determine whether the absent Commissioners were interested in participating in a decision, and when all 4 of the Commissioners present would be available for a continued hearing.

Mr. Monahan responded that the Commission could not decide at this point whether one or both of the other Commissioners would be present. The best option was for the 4 Commissioners present to decide which meeting they all expected to attend. The application would be continued to that meeting and provide the information and direction to the other 2 Commissioners that it was up to them to get up to speed.

Ms. Mangle recommended continuing the application to January 12, 2010, which would require delaying the Riverfront Park hearing. The application could always be moved if needed.

Chair Klein said that because Commissioner Batey would not be present at the next meeting, an extension was needed from the Applicant. He asked the Applicant if they were willing to extend the 120-day clock to March 1, 2010.

Mr. Riley agreed to extend the 120-day land use clock to March 1, 2010.

1300

1301 **Commissioner Batey moved to continue ZC-09-01 and TFR-09-04 to a date certain**
1302 **of January 12, 2010. Commissioner Bresaw seconded the motion, which passed**
1303 **unanimously.**

1304

1305 **Mr. Monahan** explained that the Commission would pick up during the meeting with
1306 deliberations because the public hearing was closed. No additional testimony would be
1307 accepted. The Commissioners would be asked about any ex parte contacts, so he
1308 advised that the Commissioners present also refrain from such contacts.

1309

1310 **6.0 Worksession Items –None.**

1311

1312 **7.0 Planning Department Other Business/Updates-None.**

1313

1314 **8.0 Planning Commission Discussion Items**

1315 **Chair Klein** noted he had sent the Commissioners a memo about food carts, which was
1316 interesting. He had discussions with people who said food carts did not actually build
1317 value in the downtown area, and would actually hurt people investing in a downtown
1318 restaurant. The argument was sound and he would bring it up for discussion at a later
1319 date.

1320

1321 **Commissioner Batey** asked what was happening with the Lake Road Multimodal
1322 Improvements project. She thought it would be built by now. She understood the project
1323 was funded to Where Else Ln.

1324

1325 **Ms. Mangle** said that because of the federal funding, the project had to go through
1326 environmental review. The federal funding did not fund 100% of the original plan but did
1327 fund the stretch that Mr. Albert indicated earlier on the diagram.

1328

1329 **Mr. Albert** added that the project was at about 50% design and pushing forward to 70%
1330 design plans, which should be seen soon. Building would probably not begin this
1331 summer due to the acquisition of rights-of-way along Lake Rd. He believed the project
1332 was slated to begin in 2011.

1333

1334 **9.0 Forecast for Future Meetings:**

1335 December 8, 2009 1. Public Hearing: MLP-08-02 et al 4033 SE Howe St.
1336 partition

1337 January 12, 2010 1. Public Hearing: DR-09-01 Riverfront Park
1338 2. Public Hearing: A-09-03 ROW Annexation for NE Sewer
1339 Extension

1340

1341 Meeting adjourned at 10:45 p.m.

1342

1343

1344 Respectfully submitted,

1345

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1347

1348

1349

1350 Paula Pinyerd, ABC Transcription Services, Inc. for
1351 Alicia Stoutenburg, Administrative Specialist II

1352

1353

1354

1355

1356 _____
Jeff Klein, Chair



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Li Alligood, Assistant Planner

Date: January 19, 2010, for January 26, 2010, Public Meeting

Subject: File: CSU-08-05, TPR-08-05

Applicant: Joe Sandfort, Library Director, on behalf of the City of Milwaukie

Owner(s): City of Milwaukie

Address: 2215 SE Harrison Street, Milwaukie, OR 97222

Legal Description (Map & Taxlot): 1S 1E 25CC 00900

NDA: Historic Milwaukie

ACTION REQUESTED

None. Staff is seeking Planning Commission concurrence with the staff recommendation to continue the allowed uses and hours of operation at the Pond House as approved on January 27, 2009.

BACKGROUND INFORMATION

The Planning Commission heard and approved File # CSU-08-05, TPR-08-05 on January 27, 2009. This approval established a new Community Service Use at the Ledding Library "Pond House" ("Pond House") to allow retail and event activity at the site.

A. Conditions of Approval

The following conditions of approval were adopted at the January 27, 2009, hearing:

1. Prior to operation of the subject property as the proposed uses, the following shall be resolved:
 - A. Remove the existing driveway access on Harrison St. Replace with standard full height curb and sidewalk in accordance with Milwaukie Public Works Standards.

This condition has been met.

- B. Provide 2 bicycle parking spaces in the existing driveway on the Pond House site.

This condition has been met.

- C. Provide illumination for bicycle parking area at a level consistent with standard off-street parking areas.

This condition has been met.

- D. Submit a new change of use permit application in order to expand the use of the building. Any alteration of the building will require ADA upgrades in an amount equal to 25% of the remodeling budget.

No change of use or alteration of the building has taken place. Staff will require compliance when this condition is triggered.

- E. Allowable hours of use shall be as follows: daily from 8:00 am to 9:00 pm for the Pond House itself and daily during daylight hours for the grounds.

This condition has consistently been met.

2. Ongoing conditions of approval:

- A. Staff shall monitor the on-street parking conditions on 23rd Ave adjacent to the subject property. In the event staff determines that there is parking congestion on 23rd Ave or patrons/visitors of the subject property are not utilizing the Ledding Library parking lot, the applicant shall provide and implement a staff approved parking management plan.

Sarah Lander of Community Services has been monitoring the on-street parking conditions in the Ledding Library parking lot, in front of the Pond House, and on 23rd Ave adjacent to the Pond House. See Attachment 2 for her report.

3. By January 30, 2010, the City shall review the uses of and parking for the property and report to the Planning Commission on uses of and parking for the Pond House. At this time, the City may revise the allowed uses and times of operation. Notice shall be provided per MMC 19.1011.3 Minor Quasi-Judicial Review.

The public meeting for the purpose of reviewing the uses of and parking for the property is scheduled for Tuesday, January 26, 2010. Notice has been provided per MMC 19.1011.3 Minor Quasi-Judicial Review.

4. Applicant shall provide an enclosure to screen trash and recycling cans within one (1) year of date of approval.

Visual screening has been provided to block the view of trash and recycling cans from SE Harrison St.

CONCLUSIONS

The property has been used as proposed in the CSU application. Upon meeting the required conditions of approval of CSU-08-05, the Friends of the Ledding Library ("Friends") opened a retail book store in the Pond House. The proceeds of the sales from the book store support the operations of the Ledding Library. The Pond House Bookstore is currently open Saturday and Sunday from 11:00 AM to 4:00 PM. Visitors have generally complied with requests from library staff to park in the Ledding Library parking lot. See Attachment 3 for a memo from Joe Sandfort, Library Director.

Since the CSU approval, the Pond House has been the site of several poetry readings, community meetings, a plant sale, and a garage sale. No complaints have been received by Planning or Community Services staff about any of these activities.

Since the closure of the Pond House driveway and installation of the curb and sidewalk, staff has not received any complaints from neighborhood residents or visitors about parking issues at the Pond House or in the surrounding areas.

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

- No revision to the allowed uses and times of operation of the Pond House requested.

ATTACHMENTS

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

1. Final Notice of Decision for CSU-08-05, dated January 28, 2009 (attached)
2. Memo from Sarah Lander, Code Compliance Assistant, dated January 12, 2010
3. Memo from Joe Sandfort, Library Director, dated January 11, 2010
4. Notice sent to surrounding properties, dated January 6, 2010



January 28, 2009

File(s): CSU-08-05/TPR-08-05

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on January 27, 2009.

Applicant(s): Joe Sandfordt, Ledding Library Director, on behalf of the City of Milwaukie

Appellant (if applicable)

Location(s): 2215 SE Harrison St

Tax Lot(s): 1S1E25CC00900

Application Type(s): Major Modification of a Community Service Use

Decision: Approved, with conditions

Review Criteria: Milwaukie Zoning Ordinance:

- MMC 19.321 Community Service Use
- MMC 19.307 Residential-Business office-Commercial zone R-1-B
- MMC 19.500 Off-street Parking and Loading
- MMC 19.1400 Transportation Planning, Design Standards, and Procedures

Neighborhood(s): Historic Milwaukie

The Planning Commission's decision on this matter may be appealed to the Milwaukie City Council. An appeal of this action must be filed within 15 days of the date of this notice, as shown below.

Appeal period closes: 5:00 p.m., February 12, 2009

Appeals to the City Council must be accompanied by the appeal fee, be submitted in the proper format, address applicable criteria, and be made on forms provided by the Planning Department. Milwaukie Planning staff (503-786-7630) can provide information regarding forms, fees, and the appeal process.

COMMUNITY DEVELOPMENT
BUILDING • ECONOMIC DEVELOPMENT • ENGINEERING • PLANNING
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
P) 503 786 7600 / F) 503 774 8236
www.cityofmilwaukie.org

Findings in Support of Approval

1. The applicant, Joe Sandfort, on behalf of the City of Milwaukie, has applied for approval to allow the use of the Pond House, located at 2215 SE Harrison in Milwaukie, as an extension of the Ledding Library. This site is in the R-1-B zone. The land use application is CSU-08-05.
2. The applicant proposes to establish a new Community Service Use (CSU) to permit retail activities and hold sales and events at the Pond House, including a yearly plant sale and 5-6 garage sales per year. The establishment of a new CSU for retail activities is for the purpose of opening a book store to be run by the Friends of the Ledding Library. The "Booktique" is run by volunteers; proceeds from its sales support Ledding Library activities.
3. The establishment of a new Community Service Use is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.321 Community Service Uses
 - MMC 19.307 Residential-Business office-Commercial Zone (R-1-B)
 - MMC 19.500 Off-street Parking and Loading
 - MMC 19.1400 Transportation Planning, Design Standards, and Procedures
4. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this application.
5. Public notice has been provided in accordance with MMC Subsection 19.1011.3 Minor Quasi-Judicial Review. Notification was sent to property owners within 300 feet of the subject property at least 20 days in advance of the required public hearing. The Planning Commission held a public hearing on January 27, 2009, as required by law.
6. Section 19.321 Community Service Use

MMC 19.321.5.A establishes criteria for the approval of a community service use. The Pond House property is owned by the City of Milwaukie, a public agency, and it is proposed to be used as part of the Ledding Library campus. For both of these reasons, 19.321 applies to the Pond House facility, which the City maintains as an Institutional CSU. Table 1 describes the standards for Institutional CSUs and how they apply to this proposal.

Table 1. Applicability of CSU Standards

Standard	Required	Proposed	Staff Comment
1. Size and location of development	Requirements of the underlying zone must be met.	No alterations to building proposed.	Not applicable.
2. Specific standards for Institutions	Specific standards for Institutions.	See Table 2.	Complies with standard.
3. Hours of operation	Hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.	Hours between 8:00 AM to 9:00 PM for retail uses, scheduled meetings and events.	Complies with standard.

Notice of Decision for CSU-08-05/TPR-08-05

4. Public benefits	Public benefits are greater than negative impacts, if any, on the neighborhood.	See 6.C.	Complies with standard.
5. Location	Location is appropriate for type of use proposed.	Located within R-1-B zone.	Complies with standard.

The Planning Commission finds that the Pond House is a Community Service Use and that the applicable standards of MMC 19.321.5 are met.

A. MMC 19.321.5.A.2 requires that the specific standards for the proposed uses as found in Subsections MMC 19.321.10 through 19.321.14 are met. MMC 19.321.12 Specific Standards for Institutions applies to this application. Table 2 describes applicability of these standards:

Table 2. Community Service Use: Specific Standards for Institutions

Standard	Required	Proposed	Staff Comment
1. Public improvements	Utilities, streets, or other improvements necessary for the use shall be provided by the agency constructing the use.	No construction proposed.	Not applicable.
2. Access	When located in or adjacent to a residential zone, access should be located from a collector street.	No access.	Complies with standard.
3. Lot area	Setbacks equal to a minimum of 2/3 of the height of the principal structure.	No construction proposed.	Not applicable.
4. Height	Height limitation of a zone may be exceeded to a maximum height of 50 feet	No construction proposed.	Not applicable.
5. Noise	Noise-generating equipment shall be sound-buffered when adjacent to residential areas.	No noise-generating equipment proposed.	Not applicable.
6. Lighting	Lighting shall be designed to avoid glare on adjacent residential uses and public streets.	No additional lighting proposed.	Not applicable.
7. Hours of operation	Hours and level of operation shall be adjusted to make the use compatible with adjacent uses.	See 6.B.	Complies with standard.

8. Spires	Spire on religious institution may exceed the maximum height limitation.	Not a religious institution.	Not applicable.
9. Landscaping	Minimum landscaping for religious institutions.	Not a religious institution.	Not applicable.

The Planning Commission finds that the applicable standards of MMC 19.321.12 are met.

- B. MMC 19.321.5.A.3 requires the hours and levels of operation of the proposed use be reasonably compatible with surrounding uses. The proposed hours of operation are between 8:00 AM and 9:00 PM, which is compatible with surrounding institutional and commercial uses.

The Planning Commission finds that the standards of MMC 19.321.5.A.3, as conditioned, are met.

- C. MMC 19.321.5.A.4 requires that the public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.

The Planning Commission finds that the public benefits of the proposed use include:

- i. Expansion of the Ledding Library campus: This expansion would allow for additional community meeting space, cultural and artistic programming, and much needed office and storage space for the library and Friends of the Ledding Library.
- ii. Retail services in the Town Center: The Booktique would expand the ability of the Friends of the Ledding Library to support library activities. It would also provide a valuable retail service to downtown employees and residents.
- iii. Additional cultural and recreational amenities: The combination of the Ledding Library site and the Pond House site has created a large publicly-owned natural area, including Scott Park and Scott Lake. Together, the two sites provide a unique venue for outdoor music, cultural events, and neighborhood gatherings.
- iv. Public improvements on Harrison St: Although the impacts of the proposed Community Service Use are too minimal to trigger street improvement requirements, Ledding Library would voluntarily improve the intersection of Harrison St and 23rd Ave. These improvements would increase the safety of the intersection.

The Planning Commission finds that potential negative impacts of the proposed use include:

- i. Occasional evening activities: The Pond House's proximity to residential areas makes this a sensitive issue.
- ii. Increased number of visitors to the property: The establishment of the Booktique on the site and a potential increase in the number of meetings held at the site could negatively impact the Pond House neighbors.
- iii. Competition with Main Street retail development: Creation of a retail use on the grounds of a public facility could run counter to the City's goal to revitalize downtown by focusing retail activity along Main Street.

Although the potential negative impacts listed above are worthy of consideration, the Planning Commission does not believe that these potential negative impacts will rise to the level of actual negative impacts for the reasons discussed below:

- i. Occasional evening activities: Many factors mitigate this potential negative impact. The schedule of hours would not exceed 9:00 PM; the Pond House is separated from low-density residential uses by higher-density multi-family and office uses; and the Pond House is able to accommodate a limited number of people (45 per the Building Department) which would minimize disturbance.
- ii. Increased number of visitors to the property: The Traffic Impact Analysis (Exhibit B) shows that the proposed community, office and retail uses would generate fewer trips than the former use, a dentist's office. Additionally, Ledding Library staff would make every effort to inform visitors to the site that parking should occur in the main Library parking lot.
- iii. Competition with Main Street retail development: The Booktique is a non-profit used book store. Creation of a small nonprofit bookstore at the subject site would not preclude other bookstores from opening in the DS zone, but could help other businesses by drawing people to the downtown area.

The Planning Commission finds that the public benefits of the proposed use are greater than potential mitigated negative impacts, and that the standards of MMC 19.321.5.A.4 are met.

7. Section 19.307 Residential-Business office-Commercial Zone R-1-B

MMC Subsection 19.307.3 establishes development standards for the R-1-B zone. However, MMC Subsection 19.321.12 provides specific standards for institutions, including requirements for public improvements, vehicle access, setbacks, height, noise, lighting, hours of operation, and landscaping. Those specific points are addressed in Finding 6.A, above.

The remaining applicable R-1-B standards are addressed in Table 3 below:

Table 3. R-1-B Zone Development Standards

Standard	Required	Proposed	Staff Comment
1. Off-street parking and loading	As specified in Section 19.500.	Compliance with Section 19.500.	Addressed in Finding 8.
2. Transportation requirements and standards	As specified in Section 19.1400.	Compliance with Section 19.1400.	Addressed in Finding 9.

8. Chapter 19.500 Off-street Parking and Loading

MMC 19.307.3.F specifies that uses in the R-1-B zone comply with the off-street parking and loading standards specified in MMC Chapter 19.500. MMC 19.500 establishes standards for off-street parking and loading.

MMC 19.503 Off-street parking standards

- i. MMC 19.503.1 establishes general provisions for off-street parking.
 - (1) 19.503.1.A requires off-street parking in all districts except the Downtown Storefront (DS) zone and the portion of the Downtown Office (DO) zone located

to the north of Washington Street and east of McLoughlin Blvd. The Pond House site is located in the R-1-B zone, and must provide off-street parking.

This requirement is addressed in Finding 8.A.ii.

- (2) MMC 19.503.1.B requires off-street parking to be provided when there is an increase in density or intensity. This proposal would increase the intensity of uses at the Pond House.

This requirement is addressed in Finding 8.A.ii.

- (3) MMC 19.503.1.C requires the provision of off-street parking on site unless joint use or shared parking is approved and located within three hundred feet of the principal structure or use. This proposal would provide off-street shared parking within three hundred feet of the principal structure or use, further described in Finding 8.A.ii.

The Planning Commission finds that this proposal, as conditioned, meets the standard of MMC 19.503.1.C.

- (4) MMC 19.503.1.D requires the property owner to comply with the regulations of MMC 19.500 and to maintain the parking area. The Pond House property will comply with the regulations of MMC 19.500 as described in Finding 8, and the Ledding Library will continue to maintain the parking area.

The Planning Commission finds that the standard of MMC 19.503.1.D is met.

- (5) MMC 19.503.1.E requires parking areas to be available for the parking of operable vehicles of residents, customers and employees and shall not be used for the storage of vehicles or materials. The Ledding Library parking lot will be available for the parking of operable vehicles of customers and employees of the Ledding Library and Friends of Ledding Library. The lot shall not be used for vehicle or materials storage.

The Planning Commission finds that the standard of MMC 19.503.1.E is met.

- ii. MMC 19.503.2 establishes criteria for shared parking. Shared parking shall be permitted for two or more uses when there is no conflict in operating hours. Parking spaces shall be no more than 300 feet from the principal structure or use. The Pond House proposes to share parking with the Ledding Library; though they are part of the same site, the parking will serve as shared parking. The Ledding Library parking lot is located within 150 feet from the Pond House (see site plan on page 3 of the application).

There will be no conflict between Ledding Library and Pond House uses. To our knowledge, the establishment of the Ledding Library CSO did not include a minimum parking provision; because the Ledding Library is located within the Downtown Storefront (DS) zone, no off-street parking is required under current zoning. Therefore, none of the 40 spaces in the existing off-street parking lot are required for the Ledding Library or other functions on the Library site. Additionally, because both the Pond House and Ledding Library are owned by the City of Milwaukie, there is no need for a shared parking agreement to be recorded.

The Planning Commission finds that this proposal, as conditioned, meets the standard of MMC 19.503.2.

- iii. MMC 19.503.3 and 19.503.5 establish minimum required and maximum allowable parking spaces. These requirements will be determined per MMC 19.503.9. The site is in Zone A as defined in MMC 19.503.5.

This requirement is addressed in Finding 8.A.iv.

- iv. MMC 19.503.9 establishes criteria for minimum to maximum off-street parking requirements by use and zone. The Pond House houses several uses. The minimum required and maximum allowable parking spaces for the proposed use are calculated in Table 4 below:

Table 4. Minimum Allowable and Maximum Allowed Parking Ratios

Use from Table 19.503.9	Minimum Required Ratio	Maximum Allowed Ratio	Pond House	Min. /Max.
D.1 – Meeting Room	1 space per 60 sf	1 space per 45 sf	~500 sf	9/11
G.7 – Professional Services	1 space per 370 sf	1 space per 295 sf	~400 sf	2/2
F.4 – Apparel and Department Stores	3 spaces per 1,000 sf	4 spaces per 1,000 sf	~1,700 sf	6/6
Total				17/19

The 40 spaces in the Ledding Library parking lot can accommodate the minimum required parking spaces for uses in the Pond House. The maximum number allowed is not applicable due to the fact that the Ledding Library parking lot is an existing approved parking area. See page 39 of the application for an illustration of the existing Ledding Library parking area.

The Planning Commission finds that the standards of MMC 19.503.9 are met.

- v. MMC 19.503.10 establishes dimensions for off-street parking spaces. A minimum of 50% of spaces shall be regular-sized spaces and a maximum of 50% can be compact spaces. As shown in the application, the parking spaces and drive aisle dimensions conform to the required dimensions in Table 19.503.10. Twenty (50%) of the spaces have compact dimensions, and 20 (50%) have regular space dimensions.

The Planning Commission finds that the standards of MMC 19.503.10 are met.

- vi. MMC 19.503.11 requires paving and striping for all maneuvering and standing areas in the off street parking area. The Ledding Library off street parking area is paved and striped appropriately.

The Planning Commission finds that the standards of MMC 19.503.11 are met.

- vii. MMC 19.503.12 requires the minimum number of curb cuts necessary to provide access to off street parking areas. No additional curb cuts are proposed for the Ledding Library off street parking area; the existing driveway and curb cut at the Pond House site onto Harrison Street will be closed.

The Planning Commission finds that this proposal, as conditioned, meets the standards of MMC 19.503.12.

- viii. MMC 19.503.13 requires aisles in off street parking areas greater than 3 spaces. Parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner. Aisles have been provided in the Ledding Library off street parking area, and all traffic exits the parking area in a forward direction.

The Planning Commission finds that the standards of MMC 19.503.13 are met.

- ix. MMC 19.503.14 requires connection between parking areas on adjacent sites to eliminate the use of the street for cross movements. There are no parking areas adjacent to the Ledding Library off street parking area.

The Planning Commission finds that the standards of MMC 19.503.14 are met.

- x. MMC 19.503.15 requires lighting of parking areas. This lighting shall be designed to enhance safe access for vehicles and pedestrians on the site, and shall be situated to avoid glare and be deflected so as not to shine on adjacent property. The Ledding Library off street parking area has lighting fixtures on the Library building and 2 fixtures on the east side of the parking area. These lights provide safe and adequate lighting and are shielded to avoid glare onto other property.

The Planning Commission finds that the standards of MMC 19.503.15 are met.

- xi. MMC 19.503.16 requires all areas used for circulation and parking to meet City standards for surface water runoff. The Ledding Library off-street parking area was expanded in 2006 and met City standards for stormwater runoff management at the time of construction. No changes are proposed at this time.

The Planning Commission finds that the standards of MMC 19.503.16 are not applicable.

- xii. MMC 19.503.17 requires pedestrian access through parking areas that is attractive, separated from vehicular circulation and parking, lighted, and provides direct access. Walkways shall be required in parking areas over 20 spaces and shall be buffered by landscaping or a curb, per subsection 19.1410.3.E. The Ledding Library parking area has walkways protected by a curb on the north, east and west sides that provide direct access to the Library building and the sidewalk on Harrison St, which leads to the Pond House.

The Planning Commission finds that the standards of MMC 19.503.17 are met.

- xiii. MMC 19.503.18 encourages the creation of park-and-ride facilities along transit routes, as long as the days and hours do not conflict with the weekday use of the facility. The Ledding Library has hours every day of the week and its parking area is in use every day. It does not have operation hours that are amenable to the creation of a park-and-ride facility on the site.

The Planning Commission finds that the standards of MMC 19.503.18 are met.

- xiv. MMC 19.503.19 requires parking area landscaping in all districts and for all uses other than single-family detached and single-family attached residences. Landscaping is based on the standards outlined in MMC 19.503.19.

As illustrated in the application, the Ledding Library off street parking area has interior and perimeter landscaping in place. The parking area was constructed in 2006 and received Planning Department approval on June 30, 2006. It was constructed under the current parking lot landscaping standards and meets the standards of this subsection.

The Planning Commission finds that the standards of MMC 19.503.19 are met.

- xv. MMC 19.503.20 requires a parking plan. The parking plan shall be drawn to scale and shall accompany development permit applications for all developments, excluding single-family and two-dwelling structures. The plan shall show that all elements related to MMC 19.500 are met, and shall include items outlined in MMC 19.503.20.

The application contains the information specified in this subsection. The Planning Commission finds that the standards of MMC 19.503.20 are met.

B. MMC 19.504 establishes off-street loading standards.

- i. MMC 19.504.1 requires off-street loading for commercial, industrial, public, and semi-public uses, as appropriate, for the receipt and distribution of merchandise by vehicles. Such uses shall have 1 or more spaces for standing, loading, and unloading of vehicles. Off-street loading is not required in the Downtown Storefront (DS) and Downtown Office (DO) zones. The Pond House requires only limited parking and loading. The building size is less than 5,000 square feet, and does not require an off-street loading space per MMC 19.504.2.

The Applicant has requested the addition of a new on-street parking and loading space where the driveway access to the Pond House is currently located, or that an existing on-street parking space be designated for loading during certain times of the day. Sarah Lander, the City's downtown parking management staff prefers the option of adding a new on-street parking and loading space where the driveway access to the Pond House is currently located. The signage of on street parking spaces will be determined according to the City's established parking management policies.

The Planning Commission finds that the standards of MMC 19.504 are met, and that the addition of a new on-street parking and loading space will not affect the standards of MMC 19.504.

C. Subsection MMC 19.505 establishes bicycle parking requirements.

- i. 19.505.1 requires bicycle parking spaces for all new Commercial, Business Industrial (BI), Community Service Use (CSU), and multifamily development. This section is applicable.
- ii. MMC 19.505.2 requires a number of bicycle parking spaces of at least 10 percent of the minimum required automobile parking for the use. The required minimum parking for the Pond House is 17 spaces. Ten percent of this figure is 1.7 bicycle parking spaces, which rounds up to 2 spaces. Two bicycle parking spaces will be provided on the Pond House site in existing paved areas.

The Planning Commission finds that this proposal, as conditioned, meets the standards of MMC 19.505.2.

- iii. MMC 19.505.3 establishes standards for bicycle parking space dimensions. The dimension of each parking space shall be a minimum of 2.5 by 6 ft. A 5-ft-wide access aisle must be provided. If spaces are covered, 7 ft of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and one (1) wheel to be locked to a rack using a high security, U-shaped shackle lock. The Applicant proposes to place the required bicycle parking spaces in the existing driveway area on the site, which meets the dimensional standards of this subsection.

The Planning Commission finds that this proposal, as conditioned, meets the standards of MMC 19.505.3.

- iv. MMC 19.505.4 establishes standards for the location of bicycle parking, summarized in Table 5:

Table 5. Bicycle Parking Location Standards

Standard from 19.505.4	Required	Proposed	Staff Comment
1. Location	Within 50 ft of main building entrance.	Within 15 ft of main building entrance.	Complies with standard
2. Entrance	Closer than the nearest automobile parking space.	135 ft closer than nearest automobile parking space.	Complies with standard
3. ROW access	Provide direct access to public ROW.	Adjacent to Harrison St sidewalk.	Complies with standard
4. Dispersal	Dispersed for multiple entrances.	Single entrance.	Complies with standard.
5. Visibility	Location is visible to building occupants.	Visible to building occupants.	Complies with standard.
6. Pedestrians	Designed not to impede pedestrians along sidewalks or ROW.	Will not be located on sidewalk or ROW.	Complies with standard.
7. Separation	Separated from vehicle parking areas.	Not adjacent to vehicle parking areas.	Complies with standard.

- v. MMC 19.505.5 requires the provision of covered or enclosed bicycle parking when 10% or more of automobile parking is covered. If more than 10 bicycle parking spaces are required, then a minimum of 50% of the bicycle spaces shall be covered and/or enclosed. Two bicycle parking spaces are required and no automobile parking is covered.

The Planning Commission finds that the standards of MMC 19.505.5 are not applicable.

- vi. MMC 19.505.6 requires the provision of lighting in bicycle parking areas to illuminate facilities at least as well as automobile parking areas. The area where the bicycle parking spaces are located will be illuminated at a level consistent with standard off-street parking areas.

The Planning Commission finds that this proposal, as conditioned, meets the standards of MMC 19.505.6.

- D. MMC 19.506 establishes standards for carpool and vanpool parking for new industrial, institutional, and commercial development with 50 or more employees. The Pond House will not have more than 50 employees; therefore, carpool and vanpool parking is not required.

The Planning Commission finds that the standards of MMC 19.506 are not applicable.

- E. MMC 19.507 specifies standards for structured parking. Structured parking is not proposed in this application.

The Planning Commission finds that the standards of MMC 19.507 are not applicable.

9. MMC Chapter 19.1400 Transportation Planning, Design Standards, and Procedures

- A. The Planning Commission finds that the following complies with applicable criteria of MMC 19.1400. MMC 19.1400 applies to partitions, subdivisions, and new construction, except as limited by MMC Subsection 19.1403.1 Limitations. MMC 19.1400 is not limited by MMC 19.1403.1 when a Transportation Impact Analysis (TIA) is required. A TIA is required for the proposed development.

The Planning Commission finds that MMC 19.1400 applies to the proposed development.

- B. MMC Subsection 19.1405.5 Approval Criteria establishes approval criteria for transportation review applications and ensures impacts are mitigated.

The Planning Commission finds that the proposed development, as conditioned, meets the approval criteria of MMC 19.1405.5 for decisions made under MMC 19.1400.

- C. MMC Section 19.1406 Neighborhood Through-trip Study requires the applicant to provide an assessment and recommendation for mitigation of local street impacts when any non-residential development adds more than 25 through vehicles per day to an adjacent residential Local Street.

The proposed development does not add more than 25 through vehicles per day to an adjacent residential Local Street. As a result, a neighborhood through-trip study is not required for the proposed development.

The Planning Commission finds that the requirements of MMC 19.1406 do not apply to the proposed development.

- D. MMC Section 19.1407 Adequate Transportation Facility Requirement requires streets, sidewalks, and transportation facilities to be safe, convenient, and adequate to accommodate the impacts of new development. The transportation facility improvements fronting the proposed development do not meet adequacy requirements. However, as stated in Section 9.E.ii of this report, the proposed development will result in a decrease in traffic volume from the previous known use. Although there is no increase in traffic volume resulting from the proposed development, there are minimal transportation impacts due to the nature of the change to such a disparate use.

The portion of Harrison St fronting the development property is subject to the Milwaukie Downtown and Riverfront Plan - Public Area Requirements. The public area improvements necessary to comply with adequacy requirements include undergrounding overhead utilities, street lighting, pavement widening, curb and gutter, sidewalk, street trees, and street furniture. Due to the minimal impacts of the proposed development, the scale of such a street improvement project is not proportional to the impacts of the development.

The applicant shall remove the existing subject property driveway access on Harrison St. The driveway approach shall be replaced with standard height curb and sidewalk in accordance with Milwaukie Public Works Standards. The access improvements shall be the applicant's proportional share of the required transportation facility improvements.

The Planning Commission finds that the proposed development, as conditioned, will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.

E. MMC Section 19.1408 Transportation Impact Analysis requires submission of a TIA documenting impacts and mitigation of impacts of the development.

- i. MMC Subsections 19.1408.1 Intent and 19.1408.2 Applicability require submission of a TIA documenting the development impacts on the surrounding transportation system.

The proposed development scores over the 100 points necessary to require transportation impact analysis in accordance with the Milwaukie Transportation Design Manual. The applicant's traffic consultant, DKS Associates, submitted a transportation impact analysis with the land use application in accordance with MMC 19.1408.

The Planning Commission finds that the applicant's transportation impact study adequately complies with MMC 19.1408.1 and 19.1408.2.

- ii. MMC Sections 19.1408.3 Rough Proportionality and 19.1408.4 Mitigation require that transportation impacts of the development be mitigated and that the mitigation be roughly proportional to the impacts of the development.

The applicant's TIA states that the proposed development will result in a decrease in traffic volume from the previous known use. Although there is no increase in traffic volume resulting from the proposed development, there are minimal transportation impacts due to the nature of the change to such a disparate use. The applicant's TIA recommends the following improvements to mitigate the impacts of the proposed development:

- (1) The existing subject property access on Harrison St does not meet the Arterial Road access spacing standards of MMC Table 19.1413.1 Access Spacing Targets. Parking for the proposed development will be provided at the existing Ledding Library parking lot. The existing subject property driveway access shall be removed and replaced with standard height curb and sidewalk in accordance with Milwaukie Public Works Standards. Removal of the existing access is a minor safety and transportation facility improvement and is proportional to the impacts of the proposed development.
- (2) The existing intersection of Harrison St and 23rd Ave is not aligned at a 90° angle, reducing visibility and safety. The applicant's TIA recommends intersection safety improvements to align the intersection closer to a 90° angle. The improvements include curb extension, striping, and sidewalk at the northwest corner of the Harrison St and 23rd Ave intersection as diagrammed in Figure 1 of the Ledding Library Pond House Traffic Impact Analysis (Exhibit B). However, installing the street improvements needed to realign the intersection is a large enough project that it is not proportional to the impacts of the proposed development. As a result, the recommended Harrison St and 23rd Ave intersection improvements are recognized as needed transportation safety improvements, but are not required as part of the proposed development.
- (3) Staff shall monitor the on-street parking conditions on 23rd Ave adjacent to the subject property. In the event staff determines that there is parking congestion on 23rd Ave and patrons/visitors of the subject property are not utilizing the Ledding Library parking lot, the applicant shall provide and implement a parking management plan at the direction of staff.

The Planning Commission finds that the impacts of the proposed development, as conditioned, are mitigated and are roughly proportional to the impacts.

- F. MMC Section 19.1409 Street requirements and design standards establishes standards for street design and improvement. The portion of Harrison St. fronting the development property is subject to the Milwaukie Downtown and Riverfront Plan Public Area Requirements. The downtown street improvements necessary to meet the requirements of MMC 19.1409 include street lighting, pavement widening, new curb and gutter, and new wider sidewalk. However, as stated in Section 9.E.ii of this report, the proposed development will result in a decrease in traffic volume from the previous known use. Due to the minimal impacts of the proposed development, the scale of such a street improvement project is not proportional to the impacts of the development.

The Planning Commission finds that the requirements of MMC 19.1409 are not proportional to the impacts of the proposed development. As a result, MMC 19.1409 is not applicable to the proposed development.

- G. MMC Section 19.1410 Pedestrian requirements and standards establishes standards for pedestrian facilities. The portion of Harrison St. fronting the development property is subject to the Milwaukie Downtown and Riverfront Plan Public Area Requirements. The downtown street improvements necessary to meet the requirements of MMC 19.1410 include new curb and gutter and new wider sidewalk. However, as stated in Section 9.E.ii of this report, the proposed development will result in a decrease in traffic volume from the previous known use. Due to the minimal impacts of the proposed development, the scale of such a pedestrian improvement project is not proportional to the impacts of the development.

The Planning Commission finds that the requirements of MMC 19.1410 are not proportional to the impacts of the proposed development. As a result, MMC 19.1410 is not applicable to the proposed development.

- H. MMC Section 19.1411 Bicycle requirements and standards establishes standards for bicycle facilities. The portion of Harrison St. fronting the development property is subject to the Milwaukie Downtown and Riverfront Plan Public Area Requirements. The downtown street improvements include bicycle facilities on Harrison St fronting the subject property. Installation of the required bicycle facilities includes street widening, new curb and gutter, and new sidewalk. However, as stated in Section 9.E.ii of this report, the proposed development will result in a decrease in traffic volume from the previous known use. Due to the minimal impacts of the proposed development, the scale of such a bicycle facility improvement project is not proportional to the impacts of the development.

The Planning Commission finds that the requirements of MMC 19.1411 are not proportional to the impacts of the proposed development. As a result, MMC 19.1411 is not applicable to the proposed development.

- I. MMC Section 19.1412 Transit requirements and standards establishes standards for transit facilities. The portion of Harrison St fronting the proposed development is classified as a transit route in the Milwaukie Transportation System Plan. The development proposal has been referred to TriMet for comment. TriMet does not recommend any transit facility improvements as part of the proposed development.

The Planning Commission finds that the proposed development is consistent with MMC 19.1412.

- J. MMC Section 19.1413 Access management standards establishes standards for access management. According to MMC Table 19.1413.1, the required access spacing for an Arterial Road, such as Harrison St, is 600 feet. The existing subject property driveway

access on Harrison St does not meet access spacing standards. Access spacing is important to the safety of major streets, such as Harrison St, by reducing the number of vehicle conflict points.

According to MMC 19.1413.2.D, vehicles backing into the right-of-way are prohibited. All vehicle backing movements shall be contained on-site. The existing driveway cannot be modified to accommodate all vehicle backing movements on-site due to existing site constraints. Also, the existing driveway access is located directly at the northwest corner of the Harrison St and 23rd Ave intersection. In addition to safety issues caused by the reduced access spacing, the driveway location creates vision problems and unexpected vehicle movements on Harrison St and 23rd Ave.

Parking for the proposed development will be provided at the existing Ledding Library parking lot. As a result, there is less need for a separate driveway access at the subject property.

The TIA submitted by the applicant recommends the subject property driveway access on Harrison St be removed and replaced with full height curb and standard sidewalk. The replacement curb and sidewalk shall be designed and constructed in accordance with the Milwaukie Public Works Standards.

The applicant's TIA states that the proposed development will result in a decrease in traffic volume from the previous known use. Although there is no increase in traffic volume resulting from the proposed development, there are minimal transportation impacts due to the nature of the change to a collection of disparate uses. Removal of the existing access is a minor safety and transportation facility improvement and is proportional to the impacts of the proposed development.

The Planning Commission finds that the proposed development, as conditioned, is consistent with MMC 19.1413.

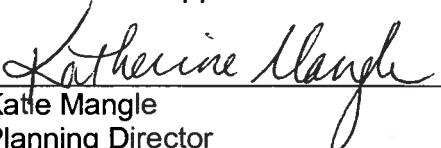
10. The application was referred to the following department and agencies on December 17, 2008: Milwaukie Building Department, Milwaukie Engineering Department, Clackamas County Fire District #1, Historic Milwaukie Neighborhood District Association Chairperson and Land Use Committee, Metro, Clackamas County, and Tri-Met. The comments received are summarized as follows:
 - Tom Larsen, Building Official: The building obtained a change of use permit in 2006, approving the existing use with some restrictions (see Exhibit G). Applicant will need to submit a new change of use permit application in order to expand the use of the building. Any alteration of the building will require ADA upgrades in an amount equal to 25% of the remodeling budget.
 - Heather Boll, TriMet: Thank you for sending us the Land Use Application information for the Pond House. Although we have four bus lines that travel along Harrison in the vicinity of the property, we do not have any bus stops in the area and have no comment on the project at this time.

Conditions of Approval

1. Final uses shall be in substantial conformance with the proposal approved by this action—except as otherwise modified by these conditions—which are the application submission materials stamped received December 2, 2008 by the Milwaukie Planning Department.
2. The Community Service Use (CSU) approval applies to the Ledding Library Pond House (“Pond House”) and allows it to operate in the manner prescribed by this approval. Deviation from the prescribed operation is permitted for the Pond House or other future occupant of the site only if the appropriate minor or major modification of a CSU is approved, per

Milwaukie Municipal Code (MMC) Section 19.321.6 Procedures for Reviewing a Community Service Use. Future occupants under this approval must submit a trip generation study. Trip generation greater than that of this approval shall be subject to modification of a CSU.

3. Prior to operation of the subject property as the proposed uses, the following shall be resolved:
 - A. Remove the existing subject property driveway access on Harrison St. Replace with standard full height curb and sidewalk in accordance with Milwaukie Public Works Standards.
 - B. Provide 2 bicycle parking spaces in the existing driveway on the Pond House site.
 - C. Provide illumination for bicycle parking area at a level consistent with standard off-street parking areas.
 - D. Submit a new change of use permit application in order to expand the use of the building. Any alteration of the building will require ADA upgrades in an amount equal to 25% of the remodeling budget.
4. Allowable hours of use shall be as follows: daily from 8:00 am to 9:00 pm for the Pond House itself and daily during daylight hours for the grounds.
5. Ongoing conditions of approval:
 - A. Staff shall monitor the on-street parking conditions on 23rd Ave adjacent to the subject property. In the event staff determines that there is parking congestion on 23rd Ave or patrons/visitors of the subject property are not utilizing the Ledding Library parking lot, the applicant shall provide and implement a staff approved parking management plan.
6. By January 30, 2010, the City shall review the uses of and parking for the property and report to the Planning Commission on uses of and parking for the Pond House. At this time, the City may revise the allowed uses and times of operation. Notice shall be provided per MMC 19.1011.3 Minor Quasi-Judicial Review.
7. Applicant shall provide an enclosure to screen trash and recycling cans within one (1) year of date of approval.


 Katie Mangle
 Planning Director

cc: Applicant
 Planning Commission
 Kenny Asher, Community Development/Public Works Director
 Gary Parkin, Engineering Director
 Zach Weigel, Civil Engineer
 Tom Larsen, Building Official
 Bonnie Lanz, Permit Specialist
 Doug Whiteley, Lieutenant Deputy Fire Marshal
 NDA(s): Historic Milwaukie
 Interested Persons
 File(s): CSU-08-05/TPR-08-05



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Li Alligood, Assistant Planner

Date: January 19, 2010 for January 26, 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, and continued to January 12, 2010. Please see the Planning Commission packets from those hearings for the background information about this application.

ADDITIONAL INFORMATION

At the January 12, 2010, hearing of the Planning Commission, commissioners voted to extend the public comment period to 5:00 PM on Tuesday, January 19, in order to allow public comment on new information submitted at that hearing.

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 **April 1, 2010**.

COMMENTS

The following is a summary of the comments received by the City as of January 14, 2010. Additional comments received during the 7-day comment period will be available as a supplemental packet on January 20, 2010. See Attachment 2 for further details.

- **Mike Miller, 4206 SE Somewhere Dr, Milwaukie, OR 97222:** Opposes the application. Photos provided with the applicant's supplemental narrative were not useful and did not accurately represent the proposed housing density of the subject site or distance between proposed homes, due to additional setbacks required for end lots.

Staff Response: The zoning ordinance does not consider any of the proposed lots on the site a "corner lot," which is defined as "a lot abutting on 2 or more streets, other than an alley, at their intersection," and none of the proposed lots would be subject to additional side yard requirements.

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. Comments Received as of January 14, 2010

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 January 26, 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.
 - 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. 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.



To: Planning Commission
From: Katie Mangle, Planning Director
Date: January 19, 2010 for January 26, 2010
Subject: Light Rail Project Briefing Worksession

ACTION REQUESTED

None. This is a discussion item only.

Portland-to-Milwaukie Light Rail project briefing

The Portland-to-Milwaukie Light Rail project will include a new set of tracks, several street crossings, one station, and a new bridge in downtown. The project is approaching 25% design, and staff has been working hard to ensure that the project is designed to Milwaukie's high standards. One of the ways the City will ensure this outcome is to take some aspects of the project through Design Review with the DLC, and other permit reviews by the Planning Commission. During this meeting, Kenny Asher, Community Development and Public Works Director, and I will come to talk informally with the committee about the project, key aspects of its design, and the Commission's role in its review. In March 2010 staff will organize a joint meeting of the DLC and Planning Commission to begin preparing for permitting the project.