



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Kenny Asher, Community Development and Public Works Director

From: Susan Shanks, Senior Planner
Zach Weigel, Development Review Engineer

Date: August 19, 2008, for August 26, 2008 Public Hearing

Subject: Files: CU-07-02 Conditional Use, WQR-07-01 Water Quality Resource, TPR-07-12 Transportation Plan Review, VR-07-06 Variance, and TAR-07-01 Transition Area Review
Applicant: Frank Walker & Associates
Owner(s): Genevieve Holton Bentz and Hans Thygeson
Address: 5900 and 6011 SE Harmony Road
Legal ID: Map 1S2E 31D, TLID 1800, 1900, and 1990
NDA: Adjacent to Lake Rd NDA, Linwood NDA, and N. Clackamas Citizen Association

ACTION REQUESTED

Approve applications CU-07-02, WQR-07-02, TPR-07-12, VR-07-06, and TAR-07-01 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2.

This action would allow for the development of a mini-storage facility at 5900 and 6011 SE Harmony Rd (the site), consisting of two three-story buildings that would be adjacent to a multi-family residential development to the east. This action would also allow for the construction of a clear span bridge over Minthorn Creek, restoration of a portion of the Minthorn Creek water quality resource area, reduction in the minimum number of required parking spaces, and access and frontage improvements to Harmony Rd.

BACKGROUND INFORMATION

A. Site and Vicinity

The site is located at 5900 and 6011 SE Harmony Rd. It is currently adjacent to, but outside of, the city limits on Harmony Rd between Lake Rd and Railroad Ave. The applicant has initiated annexation proceedings (File A-07-02). The site is composed of two

properties on Harmony Rd. The smaller property is 0.17 acres in size, and the larger one is 2.79 acres in size. The 2.79-acre site is largely undeveloped. The existing uses are single-family residential. The site is bisected by Minthorn Creek, a designated water quality resource area, and is bounded to the north by railroad right-of-way and Railroad Ave and to the south by Harmony Rd. Access to the site is obtained through Harmony Rd.

The surrounding area consists of a single-family residential neighborhood to the north and a multi-family residential development to the east, which is currently in the process of expanding. Industrial uses extend to the west and south. The Site is within close proximity to two 3-legged intersections: 1) the Harmony Rd, Lake Rd, and International Way intersection and 2) the Harmony Rd, Linwood Ave, and Railroad Ave intersection.

B. Zoning Designation

The site's current County zoning designation is Light Industrial (I2). The proposed City zoning designation is Business Industrial (BI). Staff's analysis and recommendations assume that the site is annexed to the City and the proposed BI zoning is applied to the site upon annexation.

C. Comprehensive Plan Designation

The site's current County land use designation is General Industrial (GI). The proposed City land use designation is Industrial (I). Staff's analysis and recommendations assume that the site is annexed to the City and the proposed Industrial land use designation is applied to the site upon annexation.

D. Land Use History

The site is currently adjacent to, but outside of, the city limits on Harmony Rd between Lake Rd and Railroad Ave. The applicant has initiated annexation proceedings (File A-07-02). The Planning Commission recommended approval of the annexation to City Council on August 12, 2008, and the final hearing on the annexation before City Council is scheduled for September 2, 2008. If the Planning Commission approves the proposed development, the site must annex into the City in order for the development approval to be valid as required in the recommended conditions of approval.

E. Proposal

The applicant proposes to construct a 1049-unit mini-storage facility consisting of two three-story buildings on either side of Minthorn Creek. (See Attachment 3: Applicant's Narrative and Supporting Documentation for additional detail.)

- Buildings 1 and 2 would contain 76,575 and 46,190 square feet of gross floor area respectively, for a total of 122,765 square feet of gross floor area. Their combined footprint would total 41,725 square feet.
- Access to the northern portion of the site is not available from Railroad Ave due to the intervening railroad right-of-way. The applicant proposes to construct a clear span steel and wood bridge over the creek to access the northern portion of the site.
- The applicant proposes to restore the creek area to an equal or better condition upon completion of the bridge and proposes no other development in the water quality resource area.

The applicant proposes to provide the necessary right-of-way dedication for an 80-foot right-of-way width and to construct the following improvements on Harmony Rd to mitigate for the proposed development's transportation impacts.

- 10-foot wide setback sidewalk along the site's Harmony Rd frontage.
- 5-foot wide landscape strip along the site's Harmony Rd frontage.
- Center median extension to prevent left turning movements from the site's single shared access point.

The applicant proposes to continue to take site access from Harmony Rd.

- The applicant proposes to close the site's three existing driveways and to share access through a single driveway with the adjacent industrial properties to the west.
- The applicant proposes to restrict access onto Harmony Rd to right-in and right-out turning movements only.

Lastly, the applicant proposes to construct a private storm water treatment and management facility to accommodate all on-site storm runoff without exceeding pre-development flows within and to the water quality resource area.

F. Land Use Applications

The applicant's mini-storage development proposal requires review and approval of the following five land use applications:

1. CU-07-02: The applicant proposes to construct a mini-storage facility. Mini-storage facilities are listed as conditional uses in the BI zone. All conditional use proposals require Planning Commission approval.
2. WQR-07-01: The site is bisected by Minthorn Creek, and the applicant proposes a creek crossing in the form of a clear span bridge in order to access and develop the northern portion of the site. Minthorn Creek is within a designated water quality resource area, and the proposed bridge will disturb this area. As a result, water quality resource review and mitigation is required.
3. TPR-07-12: The applicant proposes to construct a mini-storage facility. In order to evaluate and mitigate projected transportation impacts associated with this use, the proposal is subject to transportation plan review.
4. VR-07-06: The applicant proposes to provide less than the required number of parking spaces, which requires a variance request. Variance requests that vary more than ten percent from the standard require Planning Commission approval.
5. TAR-07-01: The applicant proposes to operate an industrial use adjacent to a multi-family development. In order to evaluate and mitigate anticipated impacts, the proposal is subject to transition area review.

G. Background Analysis

Due to the complexity of the development proposal, staff provides the following background analysis to provide context for the key issues analysis that follows.

As described above, the applicant has initiated annexation proceedings and requested that a BI zoning designation be applied to the site upon annexation. The Planning

Commission indicated its support for the applicant's zone change request when it reviewed and recommended approval of the annexation application on August 12, 2008.

One of the reasons why staff supports the applicant's BI zone request is because staff does not believe that a Manufacturing¹ zone designation is a viable zoning option for the site. In addition to the absence of any properties zoned Manufacturing in the area, the Manufacturing zone has an employment standard that requires 10 employees per acre. At almost three acres in size, this standard would require approximately 30 employees to be employed at this location, which would add a significant number of vehicle trips to Harmony Rd.

The site, however, is located in an area that does not have the capacity to absorb a significant number of new vehicle trips without extensive and off-site improvements to the Harmony Rd corridor. As a result, the applicant is proposing a conditional use that does not generate a significant number of vehicle trips. Given the site's size at almost three acres, this is fairly remarkable since most outright permitted uses in the BI zone would generate significantly more trips. One of the associated benefits of a low trip-generating use is low parking demand. Fewer parking spaces translate into less surface paving and storm water runoff, which potentially serves to lessen development impacts on the Minthorn Creek water quality resource area. As a result, staff believes that a low trip-generating use at this location is beneficial to the area as a whole.

However, the proposed use is not without its drawbacks. The proposed use generates a low number of trips, in part, because it does not employ a large number of people. Moreover, low trip generation does not translate into fewer on- and off-site development impacts. By its very nature, a mini-storage facility requires a relatively large site with relatively large buildings. The two proposed buildings are each three stories tall and have a combined footprint of 41,725 square feet. Consequently, the benefits of less surface paving for parking are offset by the amount of impervious area occupied by the two proposed buildings. Additionally, there are off-site visual impacts associated with buildings of this scale and mass.

To simplify the many variables in play, staff asserts that it is helpful to assume that Clackamas County would require the same access and frontage improvements² for any use at this location and that the City would apply the same development standards and require the same level of water quality resource protection for any use at this location. Using these assumptions, staff offers a summary table on the following page of the benefits and drawbacks of the proposed use at this location. This summary is meant as background information only and is not to be confused with staff's in-depth analysis of key issues that immediately follows this section.

¹ Per Table 1 of Milwaukie Municipal Code Chapter 19.1500 Boundary Changes, the City automatically assigns a City zoning and land use designation based on a property's existing zoning designation in the County for expedited annexations. The site's County zoning would have automatically resulted in a City zoning designation of Manufacturing if the annexation had been processed as an expedited annexation.

² The assumption is for frontage improvements only. A high trip-generating use would likely also trigger off-site improvements specifically related to its impacts.

SUMMARY OF BENEFITS AND DRAWBACKS	STAFF RESPONSE
<p>Benefit: Low trip-generating use results in fewer impacts to Harmony Rd and adjacent intersections.</p> <p>Drawback: Low trip-generating use results in few new employment opportunities.</p>	<p>Staff believes that the low trip-generating benefits of the proposed use outweigh its drawbacks given the challenging transportation issues along the Harmony Rd corridor. Additionally, job creation is not the only possible financial benefit. Site annexation and development will benefit the City and, by association, City residents by increasing the City’s tax base.</p>
<p>Benefit: Low parking demand results in less paving and storm water runoff.</p> <p>Drawback: Large buildings result in more impervious surface and storm water runoff.</p>	<p>Staff believes that the amount of impervious surface area proposed is less critical than the amount of pervious surface area provided in the form of vegetation. The applicant is proposing in excess of the required minimum vegetated area (39% instead of 15%) and will be required to design a storm water system to treat and manage storm water flows so that they do not exceed pre-development flows.</p>
<p>Benefit: “Clean” industrial use results in no nuisance impacts for neighbors.</p> <p>Drawback: Large buildings result in visual impacts for neighbors.</p>	<p>Staff believes that a “clean” industrial use benefits both neighbors and the Minthorn Creek water quality resource area and that the buildings’ visual impacts can be mitigated.</p>

KEY ISSUES

Summary

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

- A. Can the anticipated transportation impacts of the proposed development be adequately mitigated or avoided?
- B. Can the anticipated water quality resource impacts of the proposed development be adequately mitigated or avoided?
- C. Can the anticipated visual impacts of the proposed development be adequately mitigated or avoided?
- D. Has the applicant demonstrated that there is a need for the proposed use?
- E. Has the applicant met the variance criteria for reducing the number of required parking spaces?

Analysis

A. Can the anticipated transportation impacts of the proposed development be adequately mitigated or avoided?

As previously discussed, the proposed use is a low trip-generating use. Nonetheless, it will impact Harmony Rd if approved. The applicant's transportation impact study indicates that the proposed use will add 13 more trips/day to Harmony Rd during the PM peak hour than the existing uses. Since Harmony Rd is under the jurisdiction of Clackamas County, the applicant and City's traffic consultants coordinated their review of the proposed development's impacts with Clackamas County staff. Upon review of the applicant's transportation impact study, Clackamas County, the City's traffic consultant, and the applicant's traffic consultant all agreed that the proposed development's impacts were minimal and could be mitigated. Recommended mitigation includes:

- Frontage improvements in the form of a 10-foot setback sidewalk and 5-foot landscape strip.
- Access improvements in the form of a single shared driveway with the adjacent industrial properties to the west and an extension of the existing center median in Harmony Rd to prevent left turn movements into or out of the site's single access point.

Both traffic consultants also recommend a trip cap as a condition of approval that is equivalent to the proposed use's daily projected trips as reported in the applicant's transportation impact study as follows: 170 daily trips, 9 peak hour trips in the a.m., and 19 peak hour trips in the p.m.

B. Can the anticipated water quality resource impacts of the proposed development be adequately mitigated or avoided?

The site is bisected by Minthorn Creek, a designated water quality resource area, and the applicant proposes a bridge over the creek to access the northern portion of the site that will disturb this area. The northern portion of the site is not accessible by Railroad Ave to the north because of the intervening railroad right-of-way, and the Planning Commission cannot compel adjacent property owners to provide access through their property.

Milwaukie Municipal Code (MMC) Subsection 19.322.1.A states that the City's water quality resource regulations "seek to minimize additional adverse impacts and restore and improve resources where possible while balancing property rights and the development needs of the City." MMC Subsection 19.322.1.G goes on to further state that the City's water quality resource regulations shall "allow development in situations where adverse impacts can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of the property."

If a bridge crossing is not allowed, the northern portion of the property would be without access and would not be developable. The combined area of the northern portion of the site and the water quality resource area comprise approximately one-half of the site's area. Staff believes that limiting development to one-half of the site would constitute a denial of reasonable economic use of the property.

The applicant recognizes the sensitive nature of the water quality resource area and is not proposing any other development within its boundaries but for the proposed access bridge over the creek. If the development proposal is approved, the water quality resource area can and will be restored to a better condition by returning degraded plant communities to

good condition and ensuring successful establishment of the mitigation plantings through a long-term maintenance and monitoring program. Approximately three-quarters of the existing plant communities are in degraded condition due to low tree canopy and relatively low coverage by native species. The proposed mitigation plan (see Appendix 2 of Attachment 3) was prepared by the applicant's water quality resource consultant, Pacific Habitat Services, and includes invasive species removal and native tree and shrub plantings. The City had its own water quality resource consultant, John Gordon of ESA Adolfsen, evaluate the applicant's water quality resource report. The City's consultant indicated in his letter dated July 15, 2008 (see Attachment 4) that the proposed mitigation plan adequately mitigates for the development's impacts and that there are no notable gaps in the water quality resource report's analysis or findings.

However, based on comments from citizens and discussions with the City's consultant, staff asserts that more information from the applicant is needed to fully understand all potential development impacts to be able to effectively avoid or mitigate those impacts. If the Planning Commission approves the proposed development, staff recommends conditions of approval requiring the applicant to provide the following information at the time of building permit submission:

- Provide detailed bridge design specifications and a statement from a qualified water quality resource consultant analyzing the bridge's height and deck construction with respect to deep shade beneath the bridge that could result in bare soil conditions and potential future erosion beneath the bridge. Revise the bridge's design, if necessary, to prevent bare soil and the potential for erosion beneath the bridge.
- Provide detailed paint and sealant specifications demonstrating that all paint and sealants used on the bridge will not introduce heavy metals or contaminants into Minthorn Creek or associated wetlands.
- Provide a statement from the project's construction manager describing how the north side of Minthorn Creek will be accessed to construct the northern bridge support. Staff recommends that direct construction impacts to the creek should be avoided at all costs by gaining temporary access to the northern portion of the site through the adjacent property to the west and/or by keeping all heavy equipment to the south of Minthorn Creek and outside wetland areas.
- Provide a statement from a certified engineer and Clackamas County Fire District No. 1 indicating that the total bridge width, including railings, is the minimum width necessary to access the northern portion of the site.
- Include a statement with the site's landscape plan describing how landscape maintenance will not introduce harmful chemicals or contaminants into Minthorn Creek and associated wetlands. Staff recommends that the Planning Commission strongly suggest that the applicant consider planting native species in all landscaped areas to: (1) minimize the need for toxic herbicides and pesticides that could negatively impact the water quality resource area and, (2) prevent the introduction of non-native species into the water quality resource area.

In general, staff believes that the proposed location and type of bridge minimizes impacts to the water quality resource area to the greatest extent possible. The proposed bridge location along the western edge of the property avoids direct impacts to three jurisdictional wetlands delineated on the site. The proposed bridge type avoids direct impacts to Minthorn Creek due to its length. Unlike a culvert, the proposed steel and wood bridge will completely span the creek and some of the adjacent vegetated buffer because of its 60-

foot length. (The 4-foot supports at either end result in a net span length of 52 feet.) While the proposed bridge results in the construction of bridge supports and a roadway in the water quality resource area, it has fewer impacts than other types of creek crossings.

Staff believes that no practicable alternatives exist to the proposed access bridge; that development in the water quality resource area is limited to the area necessary to accommodate the proposed bridge; and that the water quality resource area can be restored to an equal or better condition. However, staff asserts that the 2-year monitoring program proposed by Pacific Habitat Services is insufficient and recommends extending the monitoring requirement one additional year, for a total of three years, to ensure that the water quality resource area is restored to an equal or better condition. Other than this one modification, staff believes that the proposed mitigation plan prepared by Pacific Habitat Services meets all relevant criteria and standards for water quality resource protection and mitigation.

C. Can the anticipated visual impacts of the proposed development be adequately mitigated or avoided?

The proposed development consists of two three-story buildings with a combined footprint of 41,725 square feet, which represents approximately one-third of the site's area. By comparison, residential properties in the R5 and R7 zones are allowed to build structures that cover 35% and 30% of their respectively zoned lots. The BI zone does not have a lot coverage standard that the proposed development is required to meet. It does, however, have a minimum vegetation standard that requires that 15% of the site remain vegetated. The applicant's proposal exceeds this standard by 14%.

In addition to the minimum vegetation standard, all new development in the BI zone is subject to building design standards. MMC Subsection 19.324.6.K.3 states that buildings should be designed "with shapes, colors, materials, textures, lines, and other architectural features which enhance the character of the business industrial district and complement the surrounding area and development." MMC Subsection 19.324.6.K.3.a further states that colors, materials, and architectural design should be used "to visually reduce the scale and impact of large buildings."

The south side of Building 1 and the north side of Building 2 are visible to the public from public rights-of-way. The east side of Building 1 is visible to the apartment dwellers to the east. The west side of Building 1 is visible to the customers and employees in the industrial buildings to the west. Their view is limited, however, given that the nearest neighboring building is oriented away from Building 1 and has few, if any, windows on the side facing Building 1.

The applicant proposes to use metal for roofing and a combination of metal, stucco, and concrete blocks painted in earth tones for siding. The south side of Building 1 contains a number of design elements that serve to minimize the building's mass, including variations in materials, vertical elements, horizontal offsets to the facade, a variable roof line, and a number of large windows. The east side of Building 1, which is approximately 220 feet long, contains almost no design elements that serve to reduce its scale or impact on the adjacent apartment dwellers, other than some accent bands and the occasional light sconce. Moreover, the applicant's materials do not adequately describe the proposed light sconces. The north side of Building 2 contains some design elements, the most significant of which are horizontal offsets to the façade and a number of large windows. However, Building 2's second story windows, as shown on the applicant's elevation drawings (see Sheet A5.1 of Attachment 3), do not correspond with the applicant's second story floor

plan (see Sheet A4.2 of Attachment 3). Other than a statement about using earth tone colors, it is unclear from the applicant's materials how color will be used to reduce the scale and impact of the proposed buildings.

Staff asserts that the physical design of the south side of Building 1 meets the portion of the BI zone design standard that relates to materials and architectural design. However, the design of the east side of Building 1 and the north side of Building 2 do not meet this portion of the standard. Staff also asserts that the absence of colored elevation drawings make it difficult to ascertain whether this standard is met in full for either building at this time. Staff believes, however, that both buildings can be conditioned to meet the building design standards of the BI zone at the time of building permit submission. If the Planning Commission approves the proposed development, staff recommends the following conditions of approval:

- Provide colored elevation drawings to the satisfaction of the Planning Director or designee. Exterior building colors should enhance the character of the district, be compatible with surrounding uses, and serve to reduce the scale and impact of the south and east sides of Building 1 and the north side of Building 2. Exterior building colors should not be overly bright, shiny, or reflective.
- Vary the roofline and utilize additional materials and/or textures to reduce the scale and impact of the north side of Building 2 to the satisfaction of the Planning Director or designee.
- Vary the roofline and utilize additional material, textures, and/or architectural design features to reduce the scale and impact of the east side of Building 1 to the satisfaction of the Planning Director or designee. In general, the revised design should minimize the length, blankness, and flatness of this side of the building and should complement the multi-family residential property to the east.

Since the applicant proposes a conditional use in the BI zone immediately adjacent to a multi-family residential development, the proposed development is subject to an additional level of review to ensure that it does not adversely impact outright allowed uses in the immediate and surrounding area. As previously discussed, the proposed use's transportation impacts are minimal and can be mitigated and mini-storage facilities, by their very nature, are "clean" industrial uses, which means that nuisance impacts are practically non-existent. However, the proposed buildings will visually impact adjacent properties, particularly those to the east and north, if approved.

Since building design has already been discussed in the preceding paragraphs, the remainder of this section will address the visual impacts associated with building lighting and massing.

Staff believes that the proposed development will impact the apartment dwellers to the east by erecting a light industrial building close to their residences. Because of the adjacency of the apartment development to the east, the development is subject to the setback standards of MMC Section 19.416 instead of the base zone setback standards. As a result, both Buildings 1 and 2 are required to be 20 feet from the site's eastern property line instead of 0 feet. The additional setback would place Building 1 30 feet (instead of 10 feet) from the nearest apartment building. Staff believes that the required additional setback reasonably mitigates for the proximity impacts of Building 1.

Staff believes that the proposed development will impact the apartment dwellers to the east by erecting a building that will affect their daytime views. The development proposes

to mitigate the apartment dwellers' daytime views by installing a 6-foot tall sight-obscuring fence and planting trees every 40 feet along the site's eastern perimeter. As previously described, the east side of Building 1, which is approximately 220 feet long, contains almost no design elements that serve to reduce its scale or impact. Staff believes that, in addition to the design improvements previously recommended, additional trees will serve to further mitigate the visual impacts of Building 1. Furthermore, staff recommends that the trees be primarily evergreen, of varying heights and species, and randomly yet closely spaced so as to create a natural looking vegetative screen to effectively mitigate the visual impacts of Building 1.

Staff believes that the proposed development will impact the apartment dwellers to the east by erecting a building that will affect their nighttime views. The development proposes to mitigate the apartment dwellers' nighttime views by installing glare shields on all wall mounted light fixtures that face the apartment development. However, it is unclear from the applicant's materials how much, if any, light trespass will occur. Staff believes that the proposed glare shields are sufficient to reduce glare but that a lighting study is necessary to ensure that no light trespass occurs onto the adjacent property to the east.

Staff believes that the proposed development will impact the residential properties to the north across Railroad Ave by erecting a building that will affect their daytime views. The elevation change between the residential properties to the north and Building 2 somewhat minimizes the building's height. If approved, approximately 2-1/2 stories or 30 feet of Building 2 will be visible to residential properties to the north as measured from the elevation at Railroad Ave. As previously described, the north side of Building 2, which is approximately 110 feet wide, contains a few design elements that serve to reduce its scale and visual impact. Staff believes that, in addition to the design improvements previously recommended, the addition of trees, strategically placed and a maximum of 40 feet apart, will serve to further mitigate the visual impacts of Building 2.

In summary, staff believes that the proposed development can be conditioned to effectively and reasonably mitigate its visual impacts on surrounding properties. If the Planning Commission approves the proposed development, staff recommends the following additional conditions of approval to mitigate the visual impacts of the proposed buildings:

- Submit a photometric study demonstrating zero foot-candle readings for the length of Building 1 on the site's eastern property line. Revise the site's lighting plan, if necessary, to achieve these results.
- Provide trees on the site's landscape plan spaced no further than 40 feet apart along the north side of Building 2 to mitigate the visual impacts of Building 2 on the residential properties to the north.
- Provide trees on the site's landscape plan that are primarily evergreen, of varying heights and species, and randomly yet closely spaced so as to create a natural looking vegetative screen on the site's eastern property line to mitigate the visual impacts of Building 1 on the residential property to the east.

D. Has the applicant demonstrated that there is a need for the proposed use?

One code criterion specific to conditional use proposals in the BI zone requires that the proposed use offer a needed service or product. Staff believes that the applicant has adequately, albeit not strongly, demonstrated that the proposed mini-storage facility is a needed service in the area.

The applicant's materials (see Attachment 3) include a study generated by the On-Line Demand Estimator of the Self-Storage Association (ODESSA), which is contained in Appendix 5 of the applicant's materials, and a brief market analysis in the form of a one-page letter from Kevin Howard, which is contained on Page 96 of the applicant's materials. Kevin Howard is described as a self-storage owner, operator, and analyst, and a summary of his qualifications are contained on Page 97 of the applicant's materials.

The ODESSA study evaluated self-storage need for a one-mile area surrounding the site using self-storage need trends and business and residential census data. In general, the study indicates that there is a need for self-storage in this area. It is not entirely clear, however, how much need exists due to the study's numerical inconsistencies. It states on one page that there are 542 potential residential renters and on another page that there are 655 potential residential renters within the same one-mile study area. A similar inconsistency occurs with the number of potential business renters.

The letter from Kevin Howard, along with a summary of his qualifications, generally bolsters the ODESSA study by stating that the site has all the necessary criteria for success because "it is on a high traffic arterial, on the path between home and business with good visibility and access." The applicant states that there is only one other semi-heated self-storage facility in the greater Milwaukie area, and, as such, the proposed development would fill a special need in the market place. However, the applicant did not provide the name and location of this semi-heated storage facility. Staff believes that the applicant's Competitive Trade Area Map in the ODESSA study accurately represents the locations of self-storage facilities in the immediate vicinity of the site.

E. Has the applicant met the variance criteria for reducing the number of required parking spaces?

The applicant requests a variance to reduce the number of required parking spaces from ninety to twenty five. In order for the Planning Commission to approve such a request, the applicant must demonstrate that all three variance criteria listed below are satisfied.

1. *The property in question has unusual conditions over which the applicant has no control. Such conditions may only relate to physical characteristics of the property, lot or boundary configurations, or prior legally existing structures.*

Staff believes that the site has two unusual conditions over which the applicant has no control that significantly limit the amount of area available for development. The site is bisected by Minthorn Creek, a designated water quality resources area, which requires protection in the form of a 50-foot vegetated buffer on both sides. This eliminates approximately 27,000 square feet of area from development. Additionally, the site is adjacent to a residential zone that requires buildings to be set back an additional 20 feet from the eastern property boundary than would normally be the case for a similarly zoned property. This eliminates an additional 8,400³ square feet of area from development, for a combined total of 35,400 square feet of site area that is not available for development.

While not related to the site's physical characteristics, staff asserts that it is important to note that the site's location has unique development challenges that are outside of the applicant's control that relate to Harmony Rd and the two intersections on Harmony Rd

³ This figure takes the overlap of areas between the 20-foot setback requirement and the water quality resource buffer into consideration.

nearest the proposed development. In consideration of the existing transportation conditions adjacent to the site, it was prudent for the applicant to propose a use that would have relatively low impacts on the transportation system. The applicant has proposed such a use. Not surprisingly, a use that generates few vehicle trips also has a low demand for parking facilities.

2. *There are no feasible alternatives to the variance and that the variance is the minimum variance necessary to allow the applicant the use of his or her property in a manner substantially the same as others in the surrounding area.*

Staff believes that there are no feasible alternatives to the variance that would allow the applicant to use the site in a manner substantially the same as others in the surrounding area. As described above, site characteristics and proximity to a residential zone prevent the applicant from developing approximately 35,400 square feet of the site's area. This undevelopable area would have easily accommodated the required number of parking spaces. Moreover, the applicant is requesting the minimum variance necessary, which is supported by the applicant's traffic study and the property owner's experience with mini-storage parking demand. Lastly, there are no other feasible alternatives that would also provide the requisite protection of Minthorn Creek and limit impacts to the transportation system.

3. *Adverse effects upon other properties that may be the result of this variance shall be mitigated to the extent feasible.*

Staff believes that the proposed number of parking spaces is adequate to meet the parking needs of the proposed use based on the applicant's transportation impact study and the property owner's experience with mini-storage parking demand. A mini-storage facility is a planned trip destination use not a spontaneous trip destination use. Passing motorists will not spontaneously stop at the site with the intention of obtaining storage services for the day. As a result, a mini-storage facility has fairly predictable parking needs. It also has fairly specific parking needs, which is why the applicant proposes a number of over-sized spaces to accommodate customer loading and unloading needs. In summary, staff believes that unmet parking demand will not occur and will not adversely impact adjacent properties or the surrounding area.

Moreover, staff asserts that approval will benefit on-site storm water filtration by not requiring the addition of more impervious surface. As currently proposed, the storm water facilities to the north of Building 1 could be relocated to the east of Building 1 and replaced with parking spaces.

Staff recommends that the Planning Commission approve the variance request upon finding that it meets all of the criteria listed above. Given that the number of parking spaces may need to be adjusted to meet other development standards related to parking area landscaping and water quality resource area protection, staff also recommends that the Planning Commission build some flexibility into its approval. Staff specifically recommends that that applicant be required to provide between 21 and 25 parking spaces, excluding required loading spaces. Twenty-one is the sum of the number of employees during the largest shift (2) and the number of spaces needed during peak hour parking demand (19), as reported in the applicant's transportation impact study.

CONCLUSIONS

Staff believes the proposed mini-storage facility and associated five land use applications are approvable with conditions as follows:

CU-07-02: As described in more detail in recommended Findings 6 and 10, the proposed development meets or can be conditioned to meet all applicable standards and approval criteria. Key conditions of approval include modifying the design of both buildings to reduce their scale and impact and providing more vegetative screening along the site's northern and eastern boundaries.

WQR-07-01: As described in more detail in recommended Finding 7, the proposed development meets or can be conditioned to meet all applicable standards and approval criteria. Key conditions of approval include restoring and improving the water quality resource area per the approved mitigation plan, providing more detailed information about the bridge crossing, and demonstrating how impacts to the water quality resource area will be avoided during and after construction.

TPR-07-12: As described in more detail in recommended Finding 13, the proposed development meets or can be conditioned to meet all applicable standards and approval criteria. Since the proposed development fronts on Harmony Rd and Harmony Rd is under Clackamas County jurisdiction, the City defers to the County's improvement requirements with the exception of the condition to dedicate sufficient frontage for a 53-foot wide one-half right-of-way width to accommodate a future 5-lane cross section (see Condition 2 of Exhibit A). In lieu of this condition, staff recommends that the proposed development be required to dedicate sufficient frontage for a 40-foot one-half right-of-way width. Key conditions of approval include constructing a 10-foot setback sidewalk and 5-foot landscape strip along the site's frontage, extending the existing center median on Harmony Rd to prevent left turning movements into or out of the site, and sharing a single access with the adjacent industrial properties to the east.

VR-07-06: As described in more detail in recommended Finding 12, the proposed development meets or can be conditioned to meet all applicable standards and approval criteria.

TAR-07-01: As described in more detail in recommended Finding 8, the proposed development meets or can be conditioned to meet all applicable standards and approval criteria. A key condition of approval includes providing more vegetative screening along the site's eastern property boundary.

While approval would result in impacts to adjacent transportation facilities, the Minthorn Creek water quality resource area, and surrounding properties, staff believes that the proposed development has either avoided or mitigated development impacts or can be conditioned to avoid or mitigate development impacts. In summary, given the various tradeoffs associated within any development, staff believes that the low trip-generating benefits of the proposed use outweigh its drawbacks, given the challenging transportation issues along the Harmony Rd corridor, and that City and, by association, City residents would benefit by the increase to the City's tax base.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Section 19.324 Business Industrial Zone

- MMC Section 19.322 Water Quality Resource Regulations
- MMC Section 19.416 Transition Area Review
- MMC Chapter 19.500 Off Street Parking and Loading
- MMC Chapter 19.600 Conditional Uses
- MMC Chapter 19.700 Variances
- MMC Subsection 19.1011.3 Minor Quasi-Judicial Review
- MMC Chapter 19.1400 Transportation Regulations

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

The Commission has four decision-making options as follows:

- Approve the applications subject to the recommended Findings and Conditions of Approval.
- Approve the applications with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- Deny one, several, or all of the applications upon finding that they do not meet applicable approval criteria.
- Continue the hearing to a date certain. This option requires that the applicant provide a waiver to the 120-day clock. If the applicant is not willing to provide a waiver to the 120-day clock, the Planning Commission may need to deny the application.

The final decision on these applications, which includes any appeals to the City Council, must be made by October 24, 2008, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Information on the proposed development was given to the following agencies and persons:

Zach Weigel, City of Milwaukie Engineering Department
Tom Larsen, City of Milwaukie Building Department
Mace Childs, North Clackamas Fire District No. 1
Lake Road NDA Chair, Land Use Committee, and Staff Liaison
Linwood NDA Chair, Land Use Committee, and Staff Liaison
Pat Russell, North Clackamas Citizens Association
Chris Runyard (*only provided with the Applicant's Water Quality Resource Report*)
Clackamas County
ODOT
TriMet

The following is a summary of the comments received. See Attachment 7 for further details.

- Zach Weigel, City Engineer, provided findings and conditions that have been incorporated into the recommended findings and conditions of approval.

- Robert Hixson and Deana Mulder, Clackamas County Traffic Engineering and Development Review, provided findings and conditions related to Harmony Rd, an arterial road under County jurisdiction. County comments have been made part of the recommended findings and conditions by reference and are attached to this staff report as Exhibit A.
- Heather Boll, TriMet Planner, and Tom Larsen, City Building Official, had no comments or specific concerns about the proposed development.
- Paul Hawkins, Lake Rd NDA Land Use Committee Member, had concerns that the applicant's transportation impact study was not accurately capturing the existing conditions on Harmony Rd and adjacent intersections. He was, however, pleased that the proposed development was not adding a significant number of trips to Harmony Rd during the PM peak hour. He did not agree with the applicant's argument that a 3-story industrial building next to a 2-story residential building would result in energy savings to residents. Mr. Hawkins also submitted a scaled elevation drawing showing the proposed 3-story industrial building, the proposed six-foot tall fence, and the adjacent 2-story residential building.

Staff Response: The applicant's transportation impact study was reviewed by the City's traffic consultant. No obvious data omissions or irregularities were noted but for the time of year (summer) during which the traffic counts were taken. Although new data was collected by the applicant's traffic consultant in the summer of 2007, the consultant actually used previously collected data from April 2006, which they modified to account for growth. This data more accurately reflects the conditions at the Harmony/Linwood intersection than the summer data and agrees with City data that was collected at the same location during the Transportation System Plan update. With regard to the impacts of the proposed 3-story building on the adjacent 2-story building, conditions of approval are recommended to reduce the scale and impact of the proposed industrial building on the adjacent residential development to the east.

- Gail Curtis, ODOT Development Review Planner, determined that the proposed development would not significantly impact state highway facilities.
- Pat Russell, President-Secretary of the North Clackamas Citizens Association (NCCA), had numerous concerns about impacts to the Minthorn Creek water quality resource area by the proposed development.

Staff Response: Conditions of approval are recommended to effectively mitigate the proposed development's impacts on the Minthorn Creek water quality resource area to the greatest extent possible under the City's existing water quality resource regulations. Unfortunately, the City cannot compel the adjacent industrial property owner(s) to provide access to the northern portion of the proposed development site. Also, the City cannot subject a land use application to regulations not yet in effect, such as those that the City will adopt to comply with Metro's Title 13 in the near future. To address some of NCCA's more specific concerns and comments, the City's water quality resource consultant reviewed the letter and provided a detailed response, which is attached as Attachment 5.

- Susan Shawn, Friends of North Clackamas Parks Board Member, also expressed concern about impacts to the Minthorn Creek water quality resource area by the proposed development.

- Deborah Barnes, City Councilor, had general concerns about the proposed development's impact on Harmony Rd and a specific concern about the time of year that the applicant's traffic consultant collected trip data.

Staff Response: Although new data was collected by the applicant's traffic consultant in the summer of 2007, the consultant actually used previously collected data from April 2006, which they modified to account for growth. This data more accurately reflects the conditions at the Harmony/Linwood intersection than the summer data and agrees with City data that was collected at the same location during the Transportation System Plan update.

- Chris Runyard also expressed concern about impacts to the Minthorn Creek water quality resource area by the proposed development and made two specific recommendations regarding storm water runoff management and use of an existing creek crossing on an adjacent property. Mr. Runyard also confirmed that the proposed mitigation plantings are true native species.

Staff Response: Regarding the storm water management suggestion, the City will evaluate the feasibility of such an approach and its authority to require the applicant to design such a system. Regarding the applicant's use of an existing creek crossing on an adjacent property, the City, unfortunately, cannot compel the adjacent industrial property owner(s) to provide access to the northern portion of the proposed development site.

- Mr. Call had concerns about downstream flooding as a result of the proposed development.

Staff Response: None of the water quality resource consultants involved in the assessment of the proposed development's impacts on the water quality resource area raised this as a concern. It appears from the applicant's site plan that the proposed bridge supports are outside of the creek's ordinary high water line.

ATTACHMENTS

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

1. City of Milwaukie Recommended Findings in Support of Approval (attached)
2. City of Milwaukie Recommended Conditions of Approval (attached)
(Exhibit A is made part of the Attachments 1 and 2 by reference. Exhibit A is entitled Clackamas County Recommended Findings and Conditions and is attached to this document following Attachments 1 and 2.)
3. Applicant's Narrative and Supporting Documentation, dated June 26, 2008.
4. Assessment of Applicant's Water Quality Resource Report by John Gordon of ESA Adolfson, dated July 15, 2008 (attached)
5. Evaluation of North Clackamas Citizens Association Water Quality Resource Concerns by John Gordon of ESA Adolfson, dated August 12, 2008 (attached)
6. Acceptance of Applicant's Water Quality Resource Delineation Report from Lynne McAllister of Department of State Lands, dated November 21, 2007 (attached)

7. Comments from the following agencies and individuals are presented in date order received:

Heather Boll, TriMet (July 1, 2008)

Tom Larsen, City of Milwaukie Building Official (July 3, 2008)

Paul Hawkins, Lake Rd Neighborhood District Association (July 7, 2008)

Gail Curtis, ODOT (July 8, 2008)

Pat Russell, North Clackamas Citizens Association (July 22, 2008)

Susan Shawn, Friends of North Clackamas Parks (July 22, 2008)

Deborah Barnes, City Councilor (August 6, 2008)

Chris Runyard (August 6, 2008)

Bill Call (August 11, 2008)