

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
FEBRUARY 19, 2013**

CALL TO ORDER

Mayor Ferguson called the 2144th meeting of the Milwaukie City Council to order at 7:04 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Dave Hedges, and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Interim Community Development Director Steve Butler, Senior Planner Ryan Marquardt, Associate Planner Kari Svanstrom, and Engineering Manager Jason Rice

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Student of the Month for February 2013

Mayor Ferguson and Councilors congratulated Heather Colvin on being selected as the Milwaukie High School Student of the Month for February 2013.

Mayor Ferguson welcomed Troop 376 to the meeting.

B. Portland Metropolitan Association of Realtors Ownership Information Program

Daryl Winand, Portland Metropolitan Association of Realtors (PMAR), introduced the organization's website that provided a multi-lingual database of home buying programs in Clackamas, Multnomah, and Washington Counties. The site, which guides consumers through the home buying process, is updated every two weeks. PMAR next plans to develop a site for those who wish to age in place. This was the trade association for realtors in the Portland metropolitan area and was not aligned with any particular agent.

C. Tacoma Station Area Plan Briefing #3

Mr. Marquardt briefed the City Council on the status of the Tacoma Station Area Plan (TSAP) which was scheduled for adoption hearings in June 2013. Briefing #3 focused on the proposed zoning code amendments that would implement the land uses and types of development. He was joined by **Matt Hastie**, Angelo Planning Group.

Mr. Hastie reported the draft Plan was posted on the City's website and described the primary recommendations for land use. The Plan area was divided into four subareas. Subarea 1, the Pendleton site, was recommended for a mix of small or commercial uses with possible upper story housing or offices. All or part of the Pendleton Building would be renovated. Subarea 2, on the west side of McLoughlin Boulevard straddled the Springwater Corridor and would be a mixed residential and employment use. Subarea 3, on the east side of McLoughlin Boulevard was recommended for mixed light industrial and office employment with supporting retail and commercial uses. Subarea 4, south of

Beta, would continue industrial uses and allow supporting commercial and retail. There was a concern that uses did not compete with downtown Milwaukie.

Council President Hedges asked what the future parking area was, and **Mr. Marquardt** explained it could be developed as parking for the Pendleton Building.

Mr. Hastie added the park-and-ride was being considered as a potential site for parking for this area. He reviewed the implementation strategies: Comprehensive Plan policy amendments, development code amendments, parking supply and management, public/private partnerships to fund infrastructure improvements, promote area as home for employment uses with higher job density, and market opportunity site B, the historic Oregon Department of Transportation (ODOT) building.

The Tacoma Station Area Plan would be adopted as an ancillary document to the Comprehensive Plan with some additional policies added. In the zoning code certain amendments would be proposed to the base Manufacturing (M) Zone. An overlay zone would be applied to the Planning Area. Allowed uses would vary by subarea and design standards applied with variation by use. There will potentially be parking ratio changes.

The overlay zone approach would apply to the entire area and include nonconforming uses, parking requirements, and a review process. The subareas had specific provisions related to boundary and description, intent and characteristics, permitted uses, and development and design standards. The Planning Commission generally supported the direction, and **Mr. Hastie** asked if the City Council had any significant concerns early in the process.

The M Zone amendments revised the list and more clearly described permitted uses. The larger portion of a site would be required to be a primary permitted use whereas the current requirement was 25%. Retail and office would be allowed as secondary uses, development standards revised, and new transition standards adopted for development near residential uses. Ultimately, the Planning Commission thought these amendments also made sense in other M Zone areas outside the Station Area and should be applied Citywide.

The group discussed outreach to the residential areas and the scope and cost of those services. **Mr. Marquardt** said most of the outreach would be done by City staff. There would be another round of technical and stakeholder committee meetings.

Types of residential uses that might be allowed in subareas 2 and 3 were discussed. **Councilor Churchill** suggested a symbiotic live/work situation. **Mr. Hastie** added subarea 2 would be the more traditional types of residential while subarea 3 would have a more limited set of uses and may be allowed as a conditional use. There was a concern about not setting up conflicts between residential and existing businesses.

Mr. Hastie reported on parking ratios. The area may require more parking than existing standards depending on the mix of uses allowed and built. Parking management would be key to the implementation strategy. A staff analysis of the existing parking supply indicated high utilization in certain areas. He discussed the development code options to address parking ratios. The Planning Commission favored consistency with regional standards by increasing selected minimums and maximums.

Next steps included meetings with the Technical Advisory Committee (TAC) and Stakeholders Advisory Group (SAG), a community wide meeting, an additional City Council briefing in late March, revised draft plan and ordinance in April followed by another round of hearings and work sessions April through June.

Councilor Churchill reinforced how important it was to get feedback from property owners in subareas 3 and 4 related to current parking problems. He felt it was important that the park-and-ride not be changed from its current function.

Mr. Hastie agreed. There was support for keeping the park-and-ride lot, and talks would continue with TriMet as the Plan moved forward.

Mayor Ferguson feared TriMet would want to use the park-and-ride for something else.

Mr. Marquardt added there was no call up under the local zoning ordinance and an appeal would have to be filed. He understood anecdotally that the parking ratio was below minimums, so subtracting the park-and-ride may have certain impacts.

Mr. Hastie noted that parking areas were being used for outdoor storage and on-street parking was not well defined. The group discussed the importance of getting TAC and SAG information back to the Planning Commission based on existing business needs and not relying on anecdotal information.

Councilor Miller asked how the parking ratio was established for warehouse uses.

Mr. Marquardt replied warehousing was a lower density use, so Planning staff would speak with building owners to come up with modifications.

Mr. Hastie added it would be difficult to regulate and should not be in the code if unenforceable. He discussed floor area ratios and noted that parts of this area were attractive to warehousing because of its proximity of regional rail.

Council President Hedges thought it was imperative that the park-and-ride stay.

Mr. Hastie said there had been talk of some kind of shuttle service.

CONSENT AGENDA

It was moved by Council President Hedges and seconded by Councilor Miller to approve the consent agenda as presented.

- A. **Resolution 07-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Directing Staff to Execute a Personal Services Agreement with Rhett Bernstein, Attorney at Law, for City Prosecutor Services; and**
- B. **Resolution 08-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of a Contract for the Construction of the 2013 – 2014 Clay Pipe Replacement Project;**
- C. **OLCC Application for Spring Creek Coffee House, 10600 SE McLoughlin Boulevard, change of ownership; and**
- D. **City Council Minutes**
 - 1. **January 15, 2013 Work Session;**
 - 2. **January 15, 2013 Regular Session; and**
 - 3. **January 22, 2013 Work Session.**

Motion passed with the following vote: Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting “aye.” [5:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

Supplemental Budget Adoption

Mayor Ferguson called the public hearing on the adoption of the 2013 / 2014 supplemental budget to order at 8:05 p.m.

The purpose of the hearing was to hear public comment on the adjustment of the 2013 / 2014 biennium budget by adopting a supplemental budget and revising appropriations.

Ms. Camors provided the staff report in which the City Council was requested to make supplemental budget adjustments allowed by Oregon Revised Statute (ORS) 294 when a condition arose that was not known at the time the budget was adopted. She summarized the significant conditions stated in the proposed resolution.

Correspondence: None.

Public Testimony: None

Mayor Ferguson closed the public testimony portion of the hearing on adoption of the supplemental budget for 2013 / 2014 biennium at 8:07 p.m.

Council President Hedges was concerned that one department had overspent its budget by about \$250,000. He was disappointed that department had not tried to recover that amount elsewhere in its budget.

It was moved by Councilor Churchill and seconded by Councilor Miller to adopt the resolution adjusting the budget for the 2013 / 2014 biennium by adopting this supplemental budget and revising appropriations. Motion passed with the following vote: Councilors Miller, Churchill, Hedges and Gamba and Mayor Ferguson voting "aye." [5:0]

RESOLUTION NO. 09-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADJUSTING THE BUDGET FOR THE 2013 / 2014 BIENNIUM BY ADOPTING THIS SUPPLEMENTAL BUDGET AND REVISING APPROPRIATIONS.

OTHER BUSINESS

A. Downtown Code Amendments

Mr. Marquardt provided background on the previous City Council action.

It was moved by Council President Hedges and seconded by Councilor Miller for the second reading by title only and adoption of the ordinance amending Milwaukie Municipal Code Title 19, Zoning Ordinance regarding uses allowed in downtown zones and public facilities improvements required for certain types of development in the Downtown, File #ZA-12-02. Motion passed with the following vote: Councilors Miller, Churchill, and Hedges and Mayor Ferguson voting "aye" and Councilor Gamba voting "no." [4:1]

Mr. Monahan read the ordinance for the second time by title only.

Ms. DuVal polled the City Council: Councilors Miller, Churchill, and Hedges and Mayor Ferguson voting "aye" and Councilor Gamba voting "no." [4:1]

ORDINANCE NO. 2059:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AMEND MILWAUKIE MUNICIPAL CODE TITLE 19, ZONING ORDINANCE REGARDING USES ALLOWED IN DOWNTOWN ZONES AND PUBLIC FACILITY IMPROVEMENTS REQUIRED FOR CERTAIN TYPES OF DEVELOPMENT IN DOWNTOWN. (FILE #ZA-12-02)

Mayor Ferguson provided the Land Use Board of Appeals (LUBA) appeal information.

B. Expedited Annexation of 10025 SE Wichita Avenue File #A-12-06– Ordinance, 2nd Reading

Ms. Svanstrom provided background on the previous City Council action. She briefly reviewed the correspondence received regarding trees on the adjacent property.

Andrew Stamp, Attorney at Law, 4248 Galewood St, Lake Oswego, OR 97035, representing Tracy Taylor, owner of the subject property. Mr. Stamp reviewed the issues related to Mr. Ohman's concerns about potential root damage to two trees growing on his property when the sewer line is excavated. He added that similar digging was used in the 2010 waterline replacement on Ms. Taylor's property. In a formal bid, the contractor said he was confident the work could be done without damaging the trees if reasonable care were taken. Mr. Stamp provided his written legal analysis for the record in which he cited case law. Mr. Ohman had suggested the City would be liable if the Council were to approve the annexation request; however, Mr. Stamp did not agree. His client would use reasonable care but was concerned about conditioning the annexation and adding costs to the sewer project.

Councilor Gamba understood the applicant was concerned about a condition that would cost more money, and the opponent was concerned about who would pay for removal if the trees if they were damaged. He asked if there could be a condition that the trench be dug by hand.

Mr. Stamp said from a legal standpoint, the City was under no obligation to compensate the landowner for the trees. His client did not want to sign a written statement that she would be responsible for the health of the trees. If the trees were damaged and blew down at some time, the property owner and owner of the trees would be responsible for taking them down. He added that roots were considered a nuisance. Mr. Stamp did not have information on how deep the sewer lines would be under the roots, but he thought it would be fairly shallow and could be done by hand. There might be some opportunity to move away from the trees as much as possible.

Scott Ohman, the owner of the property adjacent to the subject site, clarified that he had never said the City would be liable in any way. Since the last meeting, he had spoken with legal counsel. Tree, canopy, and trunk were all one piece of the tree system. He quoted Milwaukie Municipal Code Chapter 16.32, Tree Cutting. If the root systems were damaged, the trees would not die immediately. He did not feel he was responsible because he had not grown the trees. The applicant knew it was a flag lot and the conditions under which utilities could be installed. He thought the hole would have to be approximately 12-feet deep. Building the fence made the road much smaller and created a danger, and he questioned if an emergency vehicle could access the site. He asked that the City stipulate that a registered arborist oversees the project.

Council President Hedges hoped the fire department would have hoses long enough to put out any fires if the driveway were too narrow.

Councilor Churchill understood Mr. Ohman had requested hydro boring and asked if that would be preferable over hand digging.

Mr. Ohman was concerned the ditch would be wider and negatively impact the livelihood of the trees.

Ms. Svanstrom had spoken with the Engineering Department and there were concerns that the force of the water could damage the roots.

Mayor Ferguson asked the parties if they had tried mediation, and both replied they had not.

Councilor Hedges asked Councilor Miller what he thought the root depth would be.

Councilor Miller replied the fir tree root system was probably about 6 feet. The cherry tree could penetrate farther than that. He spoke of a personal experience when building his house that if hand digging were done carefully it would likely not result in significant damage. Some kind of tree sealer could be used. His other recommendation was to stay as many feet from the tree as the arborist recommended.

Mr. Stamp understood why Mr. Ohman disagreed with his analysis, and he again cited case law and noted the Municipal Code applied only to trees in the public right-of-way. His client was not opposed to taking reasonable efforts, but technically there were no approval criteria for an annexation.

The Councilors discussed certain options. **Council President Hedges** felt there could be a condition that the line be hand dug with a neutral arborist inspecting the work at the opponent's cost.

Councilor Churchill thought it was a good neighbor duty to care for each other's properties, and it was common sense to avoid cutting tree roots if at all possible. He felt full documentation of the trench should be shared with both parties with photos going to the arborist.

Councilor Gamba agreed.

Councilor Miller encouraged caution when digging around trees to ensure both trees survived for beauty and the enjoyment of both parties.

Mayor Ferguson understood Ms. Taylor's interest in protecting the trees and was confident she would abide by the needs of care and precaution. He asked how the City Council might impose the condition.

The conditions identified were:

1. The sewer excavation to be hand dug in the areas of the Douglas Fir and cherry tree roots with reasonable care taken to avoid damage to the roots.
2. Any damage to the tree roots would be properly sealed in accordance with arborist standards.
3. If the neighbor at 12001 SE Wichita wished to have an arborist oversee the sewer construction, it would be done at his expense.
4. The arborist providing oversight would be neutral, certified, and have access to the site during excavation and installation. The arborist would not currently be known by either party, and both would select a mutually agreed upon person.
5. The excavation work would be reasonably documented by the applicant's contractor with photos showing the trench and tree roots and distributed to the property owner and Mr. Ohman.

It was moved by Council President Hedges and seconded by Councilor Churchill for the second reading by title only and adoption of the ordinance annexing a tract of land identified as 10025 SE Wichita Avenue into the City limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights subject to conditions imposed by this Council (File #A-12-06). Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0].

Mr. Monahan read the ordinance for the second time by title only.

Ms. DuVal polled the City Council: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

ORDINANCE NO. 2060:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 10025 SE WICHITA AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS (FILE #A-12-06).

D. Audit Committee Composition

Ms. Camors provided the staff report in which it was requested that the City Council adopt a resolution creating an Audit Committee as a subcommittee of the City Council with two citizen member positions with the existing preferential hierarchy. She discussed the composition and addition of one more member.

It was moved by Councilor Gamba and seconded by Councilor Miller to adopt the resolution creating an Audit Subcommittee of the Milwaukie City Council. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

RESOLUTION NO. 10-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING AN AUDIT SUBCOMMITTEE OF MILWAUKIE CITY COUNCIL.

E. Board, Commission, and Committee Appointments – Resolutions

Ms. Bankhead provided the staff report in which the City Council was requested to adopt resolutions making appointments to Boards, Commissions, and Committees.

It was moved by Councilor Miller and seconded by Council President Hedges to appoint Jesse Boumann to the Milwaukie Budget Committee, Greg Deane to the Citizens Utility Advisory Board, and Karen Baranick to the Park and Recreation Board. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

RESOLUTION NO. 11-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING JESSE BOUMANN TO THE MILWAUKIE BUDGET COMMITTEE.

RESOLUTION NO. 12-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING GREG DEANE TO THE CITIZENS UTILITY ADVISORY BOARD.

RESOLUTION NO. 13-2014:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING KAREN BARANICK TO THE PARK AND RECREATION BOARD.

C. City Council Goals Adoption

Ms. Bankhead provided the staff report in which the City Council was requested to adopt the resolution approving the 2013 Council Goals and direct staff to proceed with setting work plans. She outlined the process and the four areas on which the public had commented.

Councilor Gamba proposed changing Goal #4 to read "remove Kellogg Dam, restore the uplands, and develop Kronberg Park." He also proposed Goal #6(c) to read "pursue construction of the Monroe Street Greenway."

Councilor Churchill did not wish to change item #4 at this time as he thought the language was appropriate for the 2013 Goals. There may be other ways to resolve the issue.

Council President Hedges adding #6(d) "carry out review of the Transportation System Plan."

Councilor Miller referred to Goal #4 and thought Wildlands would have accomplished a lot to have a feasibility study by the end of 2013. He liked the wording of Goal #6 but observed the bigger issue was Transportation System Plan (TSP) review.

Councilor Gamba explained "greenway" was the term used in the current transportation world and particularly in advanced cities. It was the more contemporary term for bike boulevards and served other kinds of transportation. Infrastructure change was small or none. In response to comments about what could be accomplished in 2013, the same could be said of Riverfront Park and the Library Expansion. He was concerned about the wording and what it might communicate to Wildlands. This City had made it clear the goal was to remove the Dam, and many of the public comments supported that.

Councilor Churchill asked if greenway meant autos would be diverted from Monroe St.

Councilor Gamba replied it depended on the amount of traffic and if a street should be calmed and vehicles diverted.

Councilor Churchill said if it included a diversionary practice, then he leaned toward going back and looking at the TSP.

Councilor Gamba explained both the greenway and bike boulevards were the concept of slowing a street so all could be safe and depended on the kind of traffic on that street. A greenway was the current concept.

Mayor Ferguson hoped the focus would be on the TSP to raise the importance of projects such as the bike boulevard and help find ways to fund improvements.

Councilor Gamba responded that was his point about going through a long public process and then putting the Plan back on the shelf. He thought it was time to start

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APPROVED MINUTES

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getting some things done and looking for grant opportunities. He agreed the City Council should look at the TSP annually during goal setting.

Council President Hedges felt there needed to be more conversations with those living west of Hwy 224 and particularly the Hector Campbell neighborhood where the bike boulevard was proposed. He understood Wildlands did not have a problem with the wording of the goal.

Councilor Miller said prior to changing Monroe St to a bike boulevard his first goal would be to go to the neighborhoods. He discussed cut through traffic and thought a vehicle count was important information.

Council President Hedges was concerned about the Linwood Ave / Monroe St intersection, and felt use of the word "consider" was appropriate in terms of the bike boulevard.

Councilor Churchill suggested in the interest of compromise "conduct further review and update including thorough NDA review when considering such components as bike boulevards." People believed the TSP was a living document that was updated periodically. He lived on Monroe St and was cautious about attaching terms he did not understand. For him, the devil was in the detail. Some parts of Clinton St, for example, were very successful. The NDAs should weigh in on what goes through their neighborhoods.

Councilor Gamba suggested adding 6(d) which would be the TSP review.

Mayor Ferguson recessed the regular session at 9:44 p.m. and reconvened it at 9:55 p.m.

Council President Hedges recommended that #4 read "complete the Kellogg for Coho project by negotiating with Wildlands a contract to remove the Kellogg Dam and restore the area of the Lake, the first part of which will be a study to ascertain the feasibility and viability of doing so for all parties. Further he recommended that Goal #6(d) be added, "carry out review of the Transportation System Plan."

It was moved by Council President Hedges and seconded by Councilor Gamba to adopt the resolution adopting the Council Goals for 2013 with amendments to items #4 and #6. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

RESOLUTION NO. 14-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING ITS COUNCIL GOALS FOR 2013.

F. Council Reports

Councilor Miller attended North Clackamas Parks and Recreation District meetings and NDA meetings.

Councilor Gamba attended the Water Providers Consortium meeting and heard a presentation regarding the water portion of what the world would look like after a major earthquake. He also attended the Metro Policy Advisory Committee (MPAC) meeting and NDA meetings.

Councilor Churchill reported the Library Expansion Task Force was close to announcing the preferred candidate for the needs assessment and programming plan for the Ledding Library. He participated in advisory board and commission interviews with Mayor Ferguson and attended NDA meetings.

Council President Hedges attended two Clackamas County Coordinating Committee (C4) meetings as well as a number of NDA meetings.

Mayor Ferguson encouraged the Councilors to participate in the March for Meals program on March 21 at the Milwaukie Center. He participated on board and commission interviews, attended the Library Cultural Forum, the Emergency Preparedness Forum, and a number of NDA meetings. He encouraged people to attend the Milwaukie High School instrumental music fundraiser, the Spaghetti Serenade.

ADJOURNMENT

It was moved by **Mayor Ferguson** and seconded by **Councilor Gamba** to adjourn the meeting. Motion passed with the following vote: **Councilors Miller, Churchill, Hedges, and Gamba** and **Mayor Ferguson** voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 10:12 p.m.

Respectfully submitted,



Pat DuVal, Recorder

REGULAR SESSION

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Date: 19 Feb 2013

I wish to address City Council on Agenda Item # 6B

Name: Andrew H. Stamp

Organization: Andrew H. Stamp, P.C.

Address: 

Phone: _____

E-mail: _____

- Speaking in support Speaking in opposition
 Providing neutral comments / or asking questions of clarification

Comments:

①

Date: 2/19/2013

I wish to address City Council on Agenda Item # 130 6. B

Expedited Annexation of 10025 SE Wichita St.

Name: Scott Ohman

Organization: Home owner @ [redacted]

Address: [redacted]

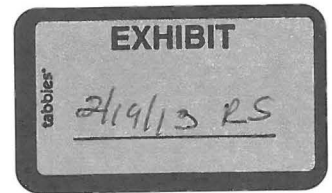
Phone: [redacted]

E-mail: [redacted]

- Speaking in support
- Speaking in opposition
- Providing neutral comments / or asking questions of clarification

Comments:

1. Attending 2nd reading of annexation
2. Seek support from council men to
safe healthy trees.
3. Safety Service concerns.



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FEBRUARY 19, 2013

VIA HAND DELIVERY

Milwaukie City Council
City Hall
10722 SE Main St.
Milwaukie, OR 97222

*Re: Expedited Annexation: 10025 SE Wichita Ave.
City File A-12-06*

Dear Honorable Mayor and Members of the City Council:

I represent Ms. Tracy Taylor, who owns property located at 10025 SE Wichita Ave., Milwaukie OR, 97222. Ms. Taylor filed an application seeking to be annexed into the City of Milwaukie. Her neighbor, Mr. Scott Ohman, has submitted a letter opposing that application. I am writing to explain why Mr. Ohman's letter provides no basis for denial of the annexation application.

I. Factual Background.

Mr. Ohman owns property located at 10021 SE Wichita Ave, Milwaukie, OR 97222. His property is the remainder parcel that was created at the same time as Ms. Taylor's flag lot. *See Clackamas County Case file No. 78-86-V, M (1986)*. There is a long history of property-related legal disputes between these two landowners, and although none of those issues are relevant to the annexation, they do perhaps set the tone and partially explain why Mr. Ohman opposes the application.

There are two trees that are growing on Mr. Ohman's property that could potentially be impacted by excavation work completed on the Taylor property. The first is a mature, 125 foot tall, 76 inch diameter Douglas Fir Tree, and the other is a 70 foot all Cherry tree. These trees contain root systems that extend out beyond the Ohman property and underlie the "pole" portion of Ms. Taylor's flag lot. Mr. Ohman is concerned that

these two trees will be damaged or destroyed when Ms. Taylor connects her home to the sewer system located in Wichita Ave. Mr. Ohman's primary concern seems to be that he will get stuck with the cost of removal and disposal of these two trees if they die as a result of sewer line installation. He states that if Ms. Taylor "agrees, in writing, to be responsible for the cost of these tree removals then I will by all means remove my opposition." See Ohman Letter dated January 22, 2013.

As discussed below, we do not believe that Mr. Ohman's objection is meritorious. Nonetheless, Ms. Taylor has expressed a desire to preserve and protect the trees on Mr. Ohman's property by hand digging around major roots. Her excavator, Greg Schroeder, lives on Wichita Street and has experience with the Taylor property. He previously took steps to avoid damage to Mr. Ohman's trees when he replaced her water line in 2010. Photographs of that work are reproduced below:



In a formal bid provided to Ms. Taylor on February 11, 2013, Mr. Schroeder expresses the opinion that “[d]igging through [the] area where there are two large trees on either side will slow things down a bit but I am confident that we will do [the work] without damaging trees.” Exhibit 1.

II. Legal Analysis.

There is no specific approval criterion for an annexation that relates specifically to tree preservation. For this reason, Mr. Ohman’s concerns over his trees provide no basis for denial. Nonetheless, as discussed below, Mr. Ohman overstates his rights to be compensated for any damage that might potentially result to his trees as a result of excavation occurring on Ms. Taylor’s property.

A. Tree Roots Invading a Neighboring Property are Generally Treated as a Nuisance.

Oregon law is not well developed with regard to the legal rights and responsibilities that landowners have with regard to encroaching tree roots from neighboring properties. Certainly, Oregon has not recognized a property right in tree roots that extend beyond property boundaries, as Mr. Ohman seems to suggest in his two letters.

In fact, in most cases the law gives greater rights to the neighbor on whose property the offending tree roots are growing. Many states analyze encroaching tree roots under nuisance law, which is to say that the landowner who owns the trees can be held liable in tort if roots from those trees obstruct the free use and enjoyment of a neighbor’s property. *See e.g., Holmberg v. Bergin*, 172 N.w.2d 739 (Minn 1969); *Crance v Hems* (1189 4th App Ct 1936). *See also* cases collected at 65 ALR4th 603. Other states allow a property owner to exercise self-help and chop off encroaching roots from neighbor’s trees at the property line.¹

If asked to address the issue, Oregon courts would, depending on the facts of the case, likely follow one of these two approaches, and would likely allow Ms. Taylor to use self-help remedy for encroaching tree roots. Conversely, it would not likely find Mr. Ohman liable to Ms. Taylor for the offending tree roots because the tree is natural and not a product of Mr. Ohman’s intentional husbandry of the property. In *Carvalho v. Wolfe*, 207 Or. App. 175; 140 P.3d 1161 (2006), the court of appeals emphasized that liability

¹*See, e.g., Harndon v Stultz*, 124 Iowa 440, 100 NW 329 (1904); *Scott v. McCarty*, 41 So. 3d 989 (Fla. Dist. Ct. App. 4th Dist. 2010); *Gallo v. Heller*, 512 So. 2d 215 (Fla. Dist. Ct. App. 3d Dist. 1987); *Melnick v C.S.X. Corp*, 312 Md 511, 540 A2d 1133 (1988); *Fancher v. Fagella*, 650 S.E.2d 519 (Va. 2007); *Sterling v Weinstein*, 75 A2d 144 (Col Mun Ct App Dist 1950); *Michalson v Nutting*, 275 Mass 232, 175 NE 490 (1931); *Hasapopoulos v Murphy*, 689 SW2d 118 (1985). *See also* 1 Corpus Juris, pg 1233, §94.

for an unintentional intrusion only when it arises out of negligence or an ultrahazardous activity. The court stated that a landowner "might be liable for intentional trespass or nuisance if they knew or should have known that their caring for the trees would result in the tree roots damaging plaintiffs' house."

California has, via case law, created a duty to avoid "unnecessary injury" to a neighbor's tree when cutting encroaching tree roots is *See Booska v. Patel*, 24 Cal App 4th 1786, 30 Cal Rptr 2d 241 (1994). Steven Booska owned property next door to R.B. Patel's property. Booska's land contained a 30 to 40-year-old Monterey pine tree. The roots of the pine tree extended into Patel's yard, and the roots were cracking Patel's walkway. Patel hired a contractor to excavate along the length of his yard three feet deep. This excavation severed the roots of Booska's tree. Booska filed a lawsuit against Patel, alleging that Patel's actions caused the tree to become unsafe, a nuisance, and unable to support life. Patel argued that he had an "absolute right" to sever the roots on his property without regard to any injuries inflicted on Booska's land. Although Patel won at the trial court level, the appellate court reversed. The appellate court held that "whatever rights Patel has in the management of his own land, those rights are tempered by his duty to act reasonably." They found that it was not reasonable to cut the tree roots at the property line. The court cited a duty to avoid "unnecessary injury" to a neighbor's tree.

The legal rationale set forth in the *Booska* case has not been adopted in Oregon, and acceptance of this doctrine appears to be very limited. In this case, Mr. Ohman's predecessor in interest partitioned the land specifically knowing that the flag lot he was creating would one day be connected to a city sewer system. The decision was made to leave a 20 feet "flag pole" to be used for access and utilities. Thus, the die has been cast for many years as to the eventual use of the flagpole for utilities.

Nonetheless, it is worth re-emphasizing that Ms. Taylor does value the two trees at issue and does not want to see harm done to them. Her contractor is familiar with the property and has stated that he is confident that he can perform the work without damaging trees. The approach he is proposing involves significant hand digging around roots, which involves increased cost and time. While it may turn out that one or more tree roots must be removed, due care will be taken to avoid that result, and certainly, the overall health of the tree will not be harmed.

B. Conditions of Approval Related to Trees Should Not Be Added to the Annexation.

At the last City Council hearing, there was a discussion about possibly adding conditions of approval related to trees to the Taylor annexation. Ms. Taylor opposes any condition of approval that would add significant cost to the sewer connection project. As it stands, the project is already projected to cost \$9000.00, and any further conditions would make the project too expensive to complete.

C. The City of Milwaukie Would Not Be Liable To Mr. Ohman if It Approves this Annexation.

Mr. Ohman also states, without supporting authority, that “[i]f the City of Milwaukie agrees to this annexation project then the City could be liable for any damage caused by this project. See Ohman letter dated Jan. 22, 2013. As discussed below, there is no merit to this suggestion.

A decision to annex property is generally a quasi-judicial (as opposed to ministerial) land use decision. *Petersen v. City of Klamath Falls*, 279 Or 249, 566 P2d 1193 (1977) (Annexation is a planning responsibility under ORS 197.175(1) and is subject to compliance with the statewide planning goals).

Discretionary immunity can be a statutory defense to negligence claims filed against public entities. ORS 30.265(3)(c). To qualify for discretionary immunity, the city would need to show that the decision involved the exercise of judgment, and that it made a decision "involving the making of policy" as opposed to a "routine decision[] made by employees in the course of their day-to-day activities[.]" See *Mosley v. Portland School Dist.* No. 1J, 315 Or. 85, 89, 843 P.2d 415 (1992) (stating test for discretionary immunity). By its very nature, an annexation application involves the exercise of policy judgment, and therefore the City cannot be liable for any negligence resulting from a decision to annex property.

III. Conclusion.

On behalf of the applicant, Tracy Taylor, we respectfully request that the City Council approve the request for annexation without conditions related to tree removal.

Sincerely,

ANDREW H. STAMP, P.C.

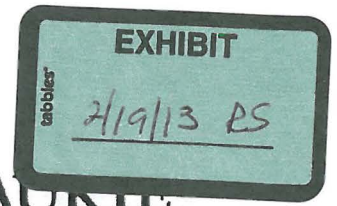
Andrew H. Stamp

AHS:ahs

cc: Client



MILWAUKEE
Dogwood City of the West



Memorandum

To: City Council

Through: Steve Butler, Interim Community Development Director

From: Kari Svanstrom, Associate Planner

CC: A-12-06 file

Date: February 14, 2013

Re: Public Comments received for A-12-06 Expedited Annexation at 10025 SE Wichita Ave (February 19, 2013 City Council Item 6B)

I am attaching two additional comments that have been received in regards to the Expedited Annexation (File A-12-06) for 10025 SE Wichita Ave, which had the first reading at the February 6, 2013 City Council Regular Session.

One item is an additional letter/comment from the adjacent property owner, which includes an arborist's report.

The second is an item submitted by the applicant. She and her potential contractor are aware of the trees, and she wanted to forward the proposal from her potential contractor showing that the work is being planned in such a way as to minimize damage to the trees in question.

Staff's understanding is that neither of the property owners have spoken with each other about these items, but as they have been submitted as public comment items, they have been shared with both parties. Staff believes that both the applicant and the adjacent property owner will be attending the February 19 City Council meeting.

In regards to the adjacent property owner's comment regarding City staff inspecting the trees, staff has visited the site to look at the trees and driveway in question. Staff has also had conversations with both Scott Ohman's arborist and the applicant's potential contractor. As the trees are on private property, the City Engineering Department is not planning to do a formal inspection of the trees, as the City does not have jurisdiction.

GSE INC.

GREG SCHROEDER ENTERPRISES

9812 S.E. Wichita Ave.

Milwaukie, OR 97222

OFFICE 503-654-4734

FAX 503-652-2333



CCB#99793

PROPOSAL

TO: Tracey Taylor
10025 SE Wichita Ave.
Milwaukie, OR 97222

Date: February 11th, 2013
Phone: 503-927-2086

We hereby proposed to furnish materials/labor necessary for the completion of:

RE: 10025 SE Wichita Ave.

Install sanitary lateral from behind fence on back of property to Wichita Ave. at city lateral.

Lay sanitary line on south side of driveway and backfill trench with crushed rock.

Haul excavated material offsite.

Digging thru area where there are two large trees on either side will slow things down some but I am confident we will do it without damaging trees.

Connection permit, track hoe, trucks, labor, material, dump fees
Crushed rock, pump and fill tank.

TOTAL \$ 8,884.00

NOTE: Note: By signing this proposal you have agreed receipt of the Consumer Protection Notice packet required by the Oregon Contractors Board.

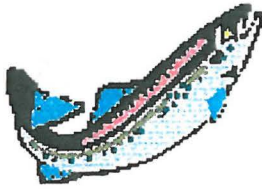
All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Worker's Compensation insurance. This Proposal may be withdrawn by us if not accepted within 30 days

Authorized Signature: _____

ACCEPTANCE OF PROPOSAL The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Accepted By: _____ Date: _____

Quality Work Thru 30' Years Experience & Still Digging It!



Scott Ohman

10021 SE Wichita Avenue
Milwaukie, OR 97222
ohman3803@comcast.net

Home: (503) 353-6825
Cell: (503) 407-4831

February 11, 2013

Milwaukie Planning Dept.
Attn: Kari Svanstrom
Associate Planner
Johnson Creek Facility
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97222

RE: Opposition to Annexation A-12-06 at 10025 SE Wichita Avenue

Dear Ms. Svanstrom:

Per Mr. Scott Ohmans' agreement with the Milwaukie City Council on File A-12-06 at 10025 SE Wichita Avenue, enclosed are the following items:

1. Report from I.S.A. Certified Arborist, Mark L. Michell
2. Milwaukie Municipal Code 16.32 Tree Cutting

These are copies that were received after the city council meeting. The copy of the municipal code is part of the Milwaukie Ordinances.

Mr. Ohman will be contacting his lawyer, Rod Boutin, today to ask for legal assistance, should it be needed.

Please forward this information to the Mayor and City Councilmen. Scott Ohman is looking forward to attending the next Milwaukie City Council meeting on Tuesday, February 19th at 7:00 pm. Should there be a change in the meeting date, time, and/or location please let Mr. Ohman know. He can be reached at (503) 407-4831 or at his home (503) 353-6825.

To date, Scott has not heard from the Milwaukie Engineering Dept. about inspecting the trees. Hopefully this matter can be resolved so the project can continue on schedule. Again until the (2) trees' root-systems are evaluated, and if so, the matter of who pays for these tree removals are resolved, Mr. Ohman is still forced to **oppose** the annexation of file A-12-06 at 10025 SE Wichita Avenue property.

Respectfully,

Pikake Downing

Life Partner

10021 SE Wichita Avenue
Milwaukie, OR 97222

RECEIVED

FEB 11 2013

CITY OF MILWAUKIE
PLANNING DEPARTMENT

Tree Magic Tree Surgery Co. I.I.c.

1-28-13

P.O. Box 722

Winchester Oregon

97495

RE: inspection of Fir and Cherry trees

I was contacted by Mr. Scott Ohman about two trees on his property at 10021 SE Wichita Ave. Milwaukie Oregon, which are adjacent to a proposed sewer line installation.

The first tree is a Douglas Fir tree 125 foot tall with a canopy of 60 feet and a diameter at breast height of 76 inches. The Fir is in good to excellent health, shows vigorous growth and is void of any exterior defects. This tree has been well maintained over the years and every attempt has been made to preserve it. Even the fence was cut around the root system so as not to disturb them.

The second tree is a Cherry tree 70 foot tall with a canopy of 30 feet and a diameter of 21 inches at breast height. This tree is in good health and growing vigorously. The cherry has a slight lean towards the driveway. It appears the tree grew this way searching out the sun light and is not uprooting or unstable. There are no outward signs of decay or defects.

Any excavation in the root drip line of these trees could be detrimental to their health. A minimum of 20 feet distance from the base of the Fir should be a no dig

zone. The Cherry should be allotted a minimum of 15 feet no dig zone. Any excavation done around these trees should be over seen by an I.S.A. certified arborist. Hand excavation around roots larger than 2 inches with proper cutting of end and sealing of wounds.

A possible alternative would be to horizontally bore under the roots at a depth of 8 feet or deeper. This would avoid the instability issue of excavation on the surface.

If you have any questions or concerns please contact me at 541-673-0085

Mark L. Michell



I.S.A. certified Arborist

Milwaukie Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[TITLE 16 ENVIRONMENT](#)[CHAPTER 16.32 TREE CUTTING](#)**16.32.010 DEFINITIONS**

The following definitions shall apply for terminology, used in this chapter:

"Canopy" means area of the tree above the ground, including the trunk and branches, measured in mass or volume.

"City" means the City of Milwaukie.

"Cutting" means the falling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. "Cutting" does not include normal trimming or pruning, but does include topping of trees.

"Dangerous tree" means the condition or location of the tree presents a clear public safety hazard or an imminent danger of property damage, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

"Dead tree" means the tree is lifeless.

"Drip line" means the perimeter measured at the outermost canopy.

"Dying tree" means the tree is diseased, infested by insects, deteriorating, or rotting, and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of infestation or disease to other trees.

"ISA" means the International Society of Arboriculture.

"Major pruning" means removal of over 20% of the tree's canopy, or injury or cutting of over 10% of the root system, during any 12-month period.

"Owner" means and includes, for the purposes of this chapter, any person with a freehold interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's consent.

"Person" means any individual, firm, association, corporation, agency, or organization of any kind.

"Pruning" means trimming or removing any part of the branching structure of a plant in either the crown, trunk, or root areas based on standards of the ISA.

"Relative Value." Relative value may be calculated using the methods described in the ISA's "Guide for Plant Appraisal." The values reflect the value to the public as a whole, rather than to the individual property owner. For example, a tree growing in full public view may have a high public value but be of low value to the property owner.

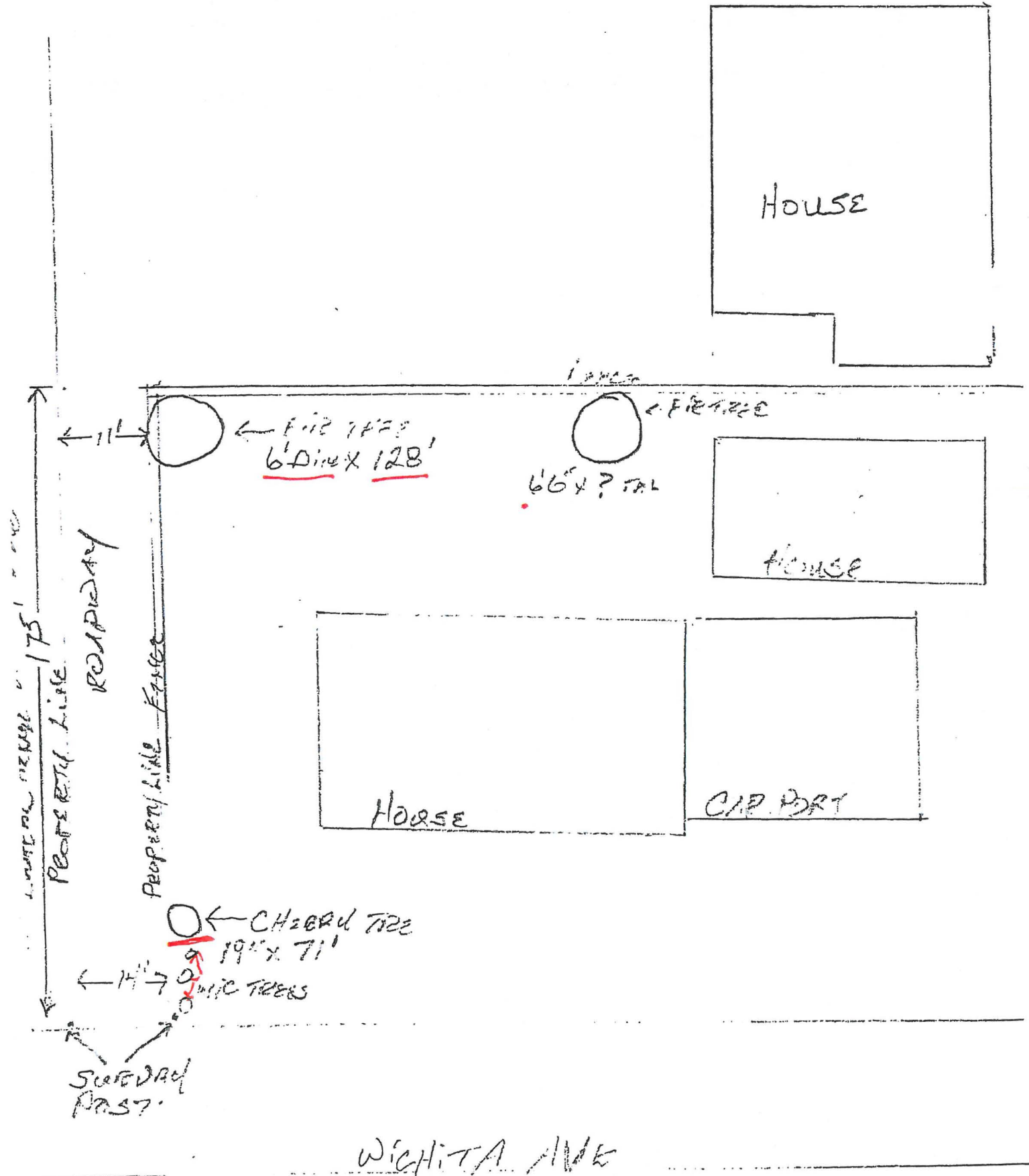
"Removal" means the cutting or removing of 50% or more of the crown, trunk, or root system of a plant; the uprooting or severing of the main trunk of the tree; or any act which causes, or may reasonably be expected to cause, the tree to die, including without limitation damage inflicted upon the root system by machinery, storage materials, or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials in a manner which may result in the loss of aesthetic or physiological viability.

"Root zone" means the area of the ground around the base of the tree measured from the trunk to 5 feet beyond the outer base of the branching system.

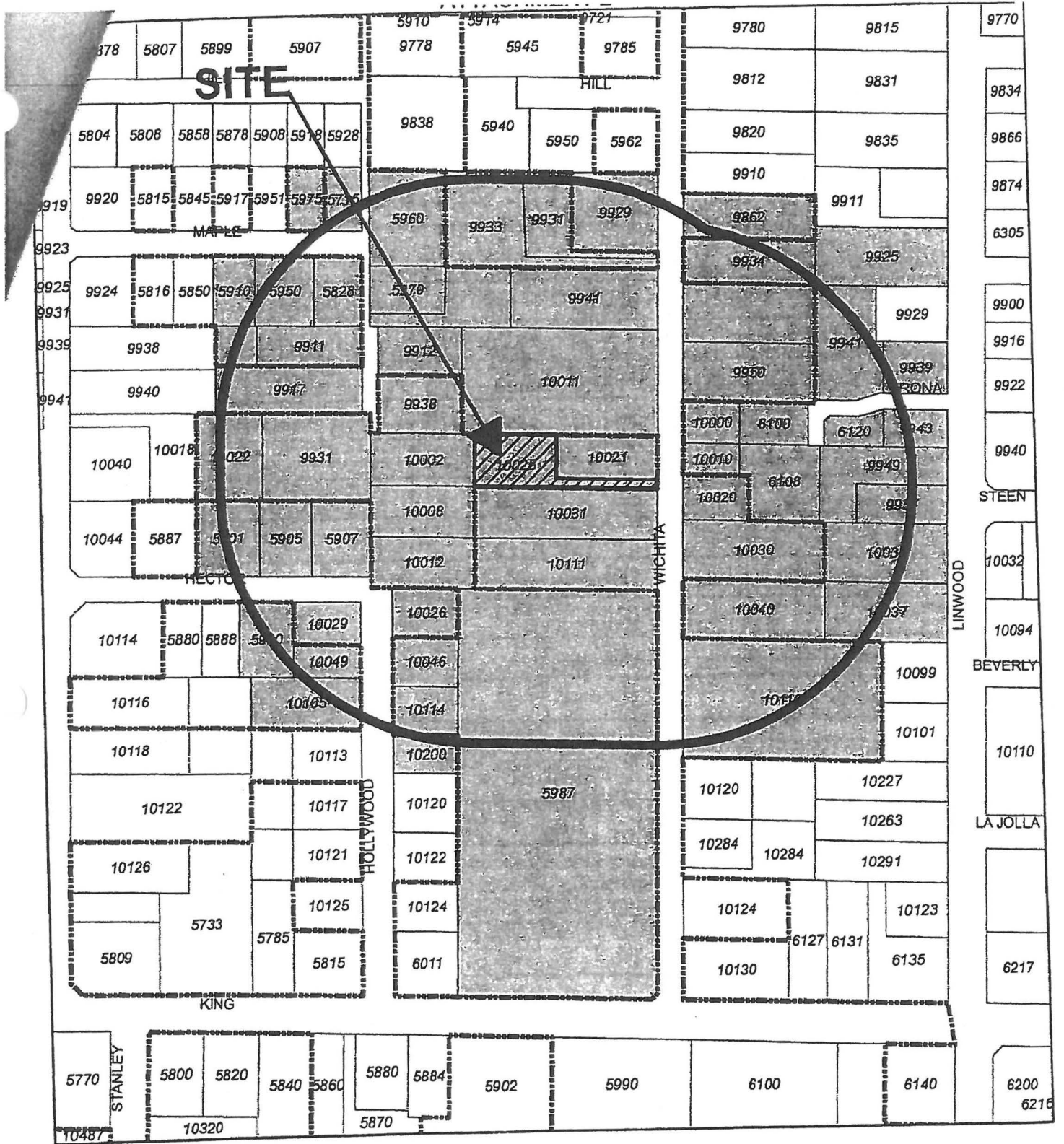
"Street tree" means any tree located within a street right-of-way.

"Topping" means the severe cutting back of the main stem and/or limbs to buds, stubs, or laterals large enough to assure terminal role within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

"Tree" means any living woody plant characterized by 1 main stem or trunk and many branches, or a multistemmed trunk system with a definitely formed crown. (Ord. 1836 § 1 (part), 1998)







WICHITA AVE



Site Map
10025 SE Wichita Ave
(12E30DD03400)
File# A-12-06

Legend

-  Site
-  Lots Receiving Notice
-  Tax Lots
-  City Limit



0 70 140 280 420 560 Feet

Milwaukie Tacoma Station Area Plan

Opportunity Site A:
Future retail /
commercial use

Mixed employment
and residential use

Opportunity Site B:
Mixed light industrial,
tech-flex, or office
employment with
supporting retail and
commercial uses.

Future
Park &
Ride

Springwater Corridor

Potential parking area
on portion of site

Mixed employment -
office and light manufacturing
with supporting retail and/or
some residential

City Council Update
February, 2013

tabbles[®]
2/19/13
RS
EXHIBIT



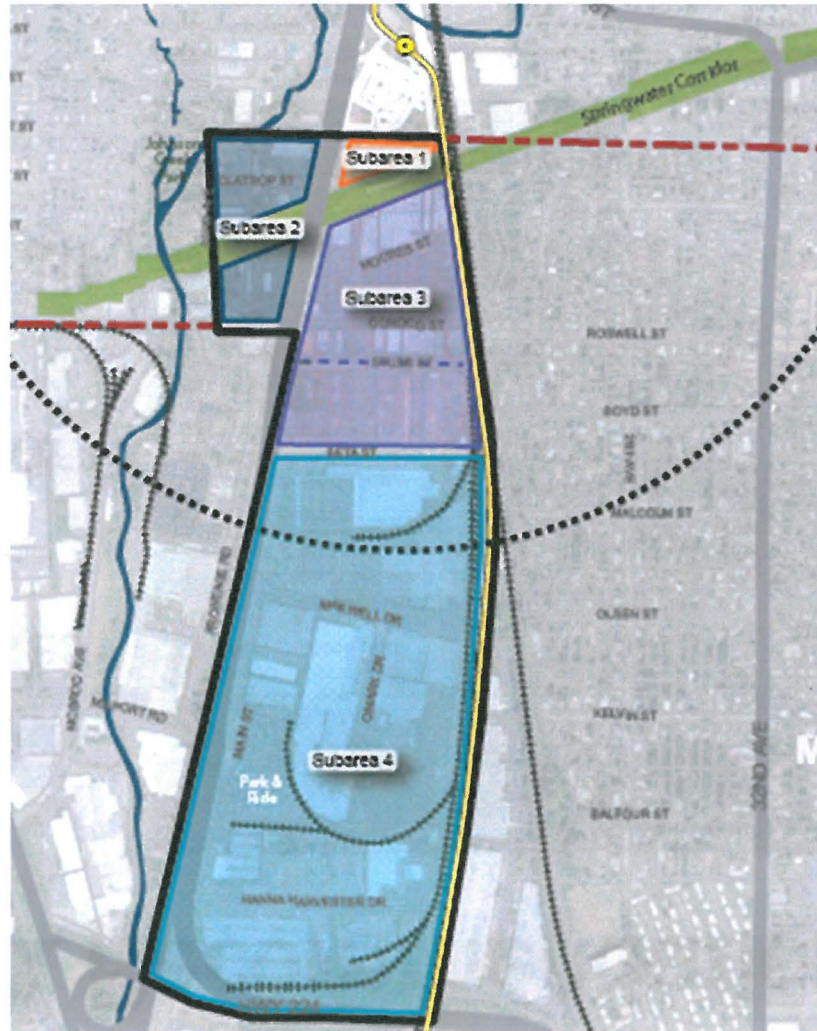
Draft Station Area Plan Contents

- › Executive Summary

1. Background and planning process
2. Land use and urban design recommendations
3. Transportation analysis
4. Transportation recommendations
5. Implementation Strategies (including zoning approach)



Draft Station Area Plan Sub-Areas



Sub-Area 1 Recommendations

- › Mix of small retail or commercial uses
- › Possible upper story housing or offices
- › Renovation of all or part of Pendleton building

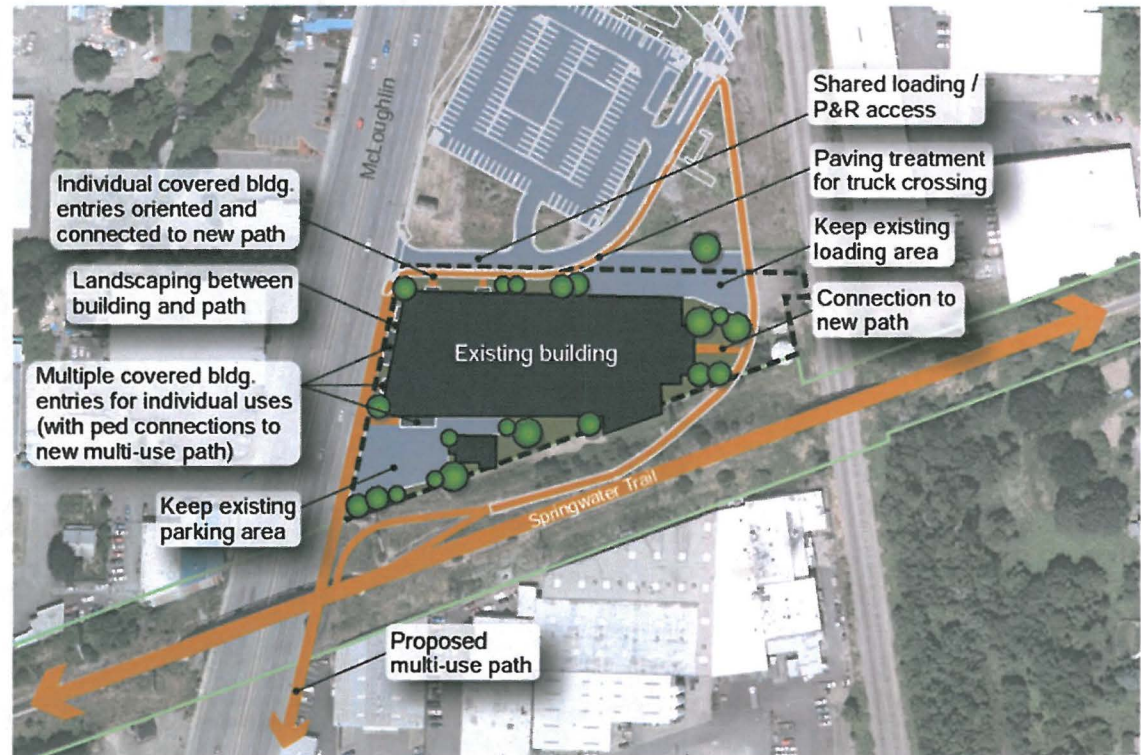
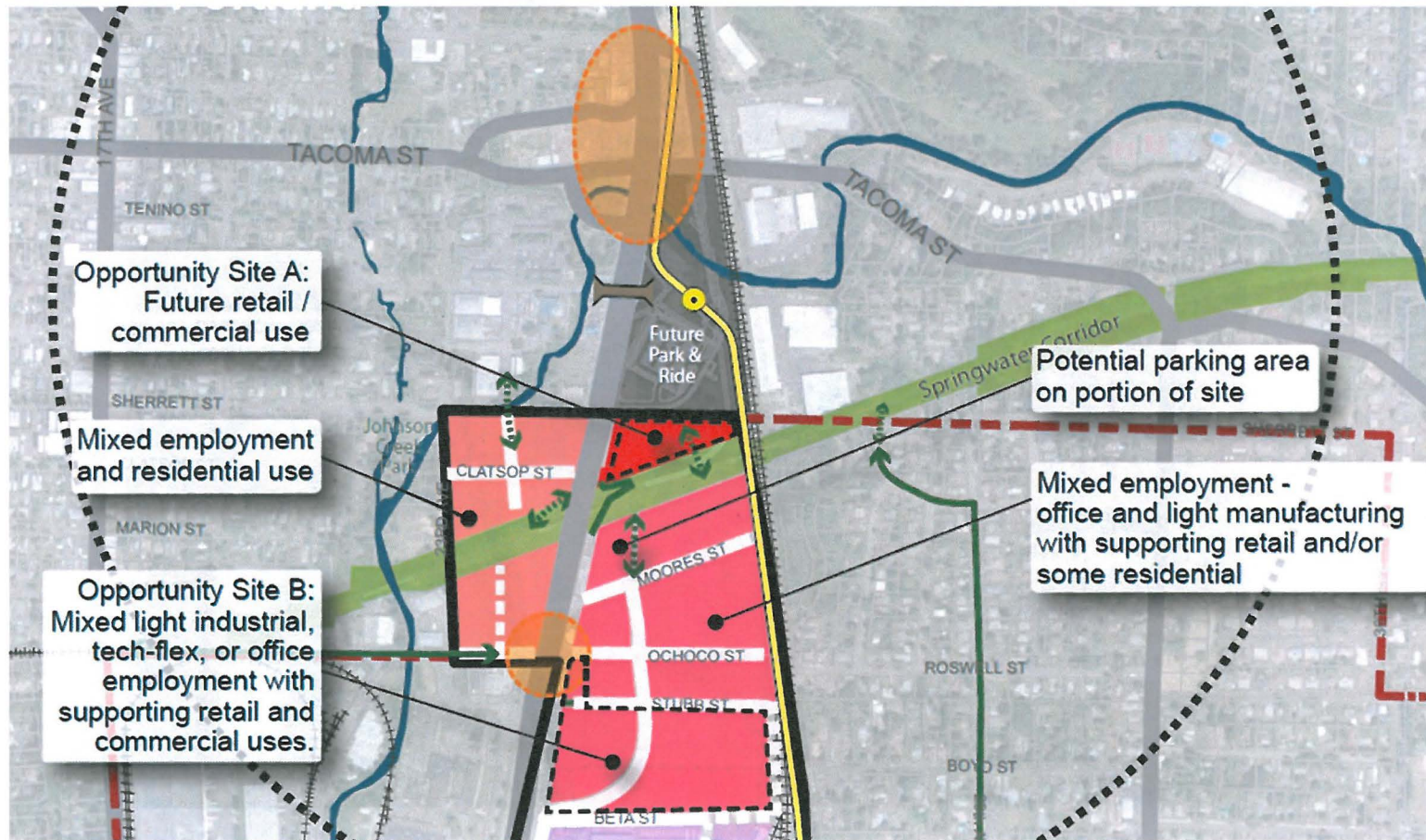


Figure 5. Conceptual Site Plan for Redevelopment of Opportunity Site A under all three scenarios

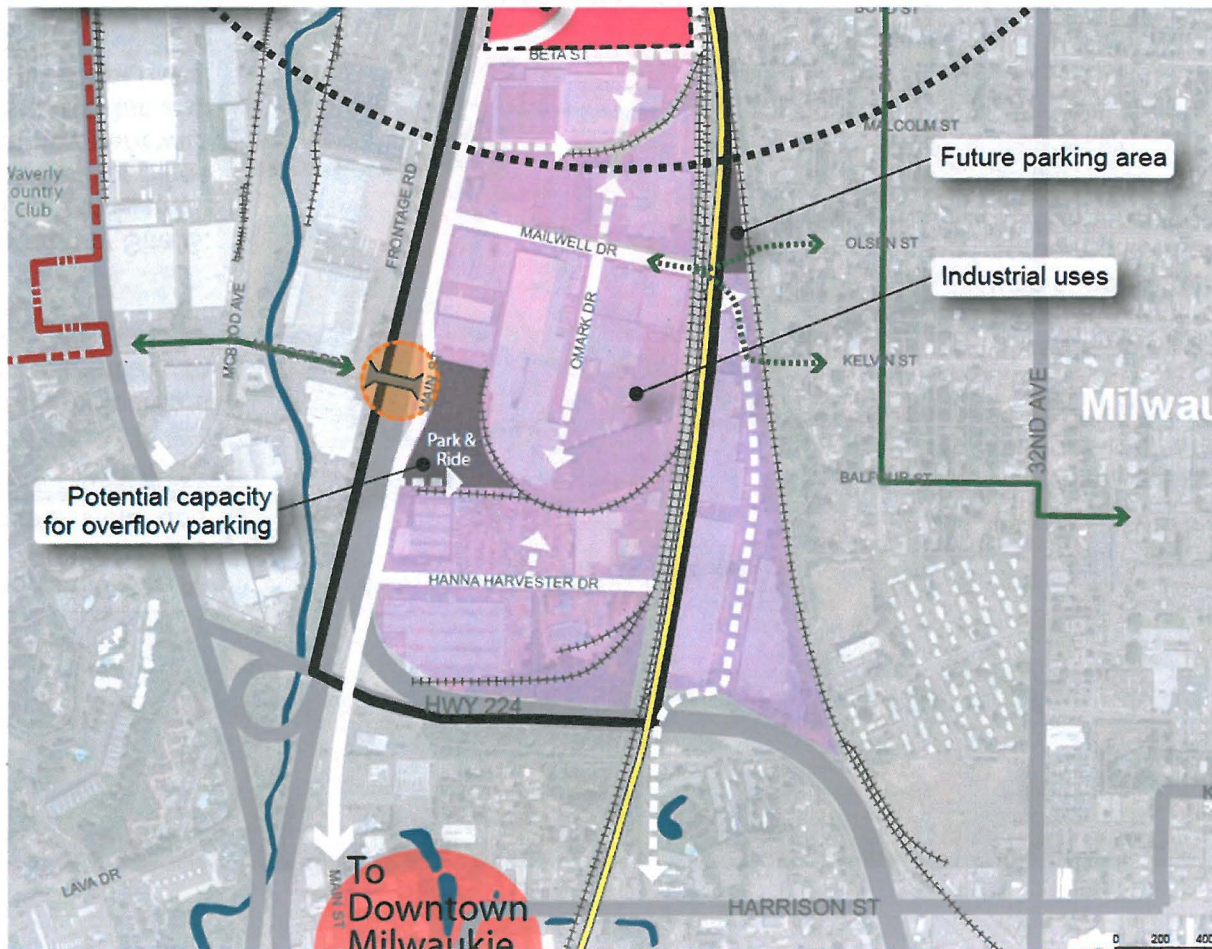
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Subareas 2 & 3



Subarea 4



Implementation Strategies

- › Comprehensive Plan policy amendments
- › Development Code amendments
- › Parking supply and management
- › Public/private partnerships to fund infrastructure improvements
- › Promote area as home for employment uses with higher job density
- › Market Opportunity Site B for appropriate future uses



Comprehensive Plan & Zoning

- › Comprehensive Plan
 - › Station Area Plan is referenced in Comp Plan as ancillary document
 - › Some additional policies added to Comp Plan
- › Zoning
 - › Amendments proposed to base M zone
 - › Overlay zone applied to Planning Area
 - › Allowed uses vary by sub-area
 - › Design standards applied, with variation by use
 - › Potential changes in parking ratios



Zoning Recommendations & Policy Issues

Overlay Zone Approach

- › Overlay zone would apply to Planning area and include:

Entire zone

- › Purpose & applicability
- › Non-conforming uses
- › Parking requirements
- › Review process

Sub-Area specific provisions

- › Boundary & description
- › Intent & characteristics
- › Permitted uses
- › Development & design standards

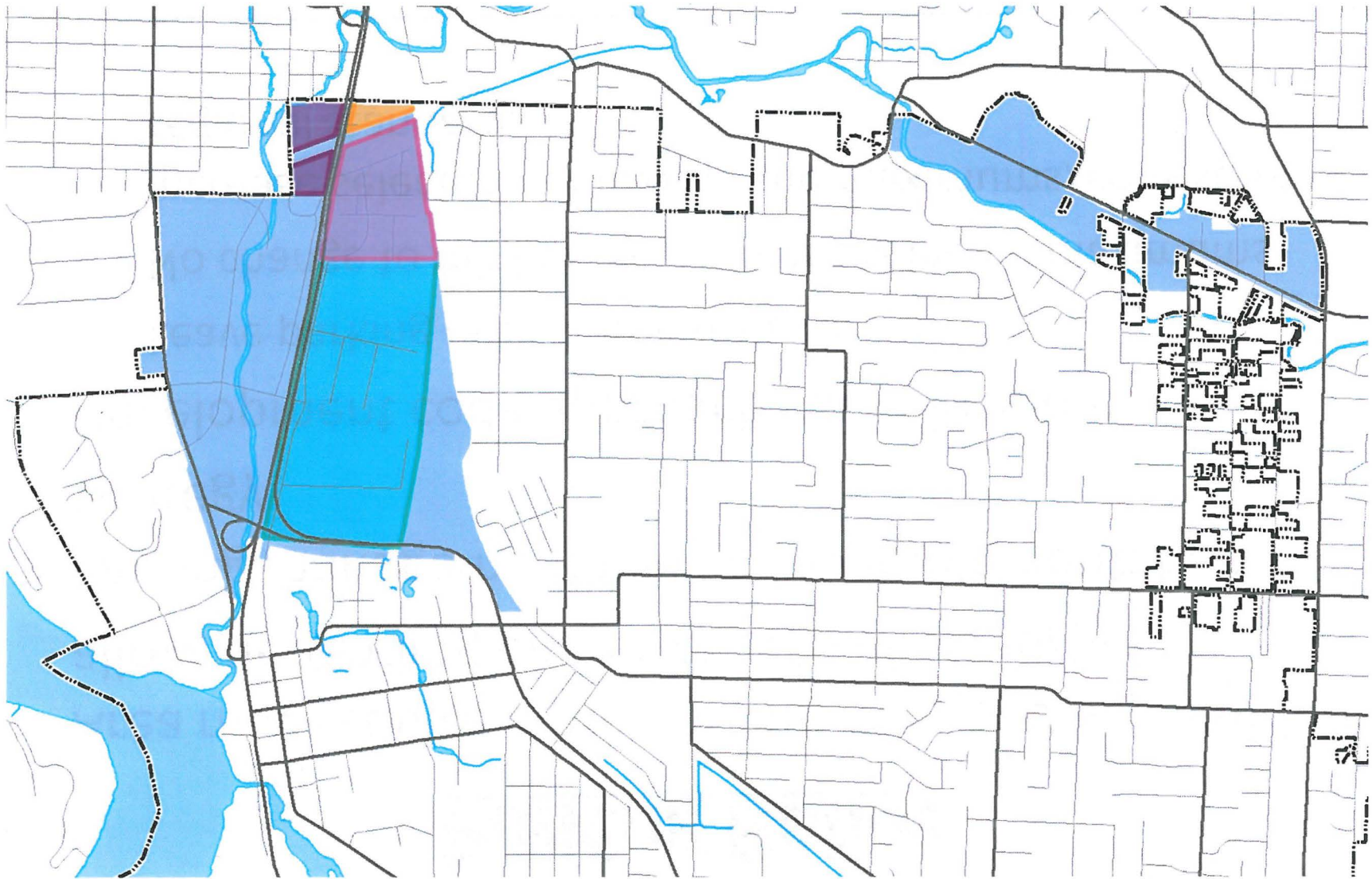


Zoning Recommendations & Policy Issues

Manufacturing Zone Amendments

- › Revised list and clearer description of permitted uses
- › Larger proportion of a site required to be a primary permitted use; current requirement is 25%
- › Retail and office uses allowed as secondary uses
- › Revised development standards
- › New transition standards for development near residential uses





Zoning Recommendations & Policy Issues

Parking Ratios

- › Area may require more parking than existing standards allow, depending on mix of uses allowed/built
- › Parking management will be key implementation strategy
- › Development code approach could include:
 - › Leave parking ratio standards as is
 - › No change to minimums; increase selected maximums
 - › Increase selected minimums and maximums, consistent with regional standards



Zoning Recommendations & Policy Issues

Residential Use in Sub-Area 3

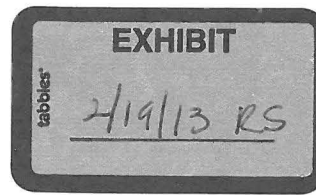
- › Residential use proposed to be allowed by limited in this sub-area
- › Potential options for limiting residential use:
 - › Allow as a conditional use
 - › Use deed restrictions or other tools to reduce opportunities for complaints/opposition to surrounding employment uses



Next Steps

- › Conduct briefing with City Council **February 19**
- › Conduct meetings with TAC and SAG late **March 7**
(tentative)
- › Conduct Community Meeting **March 20** *(tentative)*
- › Additional City Council briefing **late March**
- › Revised draft Plan & Ordinances **April**
- › Additional PC, Council, public review & adoption work sessions, hearings in **April-June**





FOR IMMEDIATE RELEASE
November 20, 2008

For more information please contact:
Daryl Winand, PMAR Governmental Affairs Specialist
503-459-2162, dwinand@pmar.org

New Homeownership Resource Website Debuts: www.HOWNW.com

Portland, Ore. —The Portland Metropolitan Association of Realtors® (PMAR) has unveiled www.HOWNW.com, a unique public service website that acts as a comprehensive homeownership resource to homebuyers.

HOWNW.com™ contains a searchable, multi-lingual database of homebuying programs available in Multnomah, Washington, and Clackamas counties. Homebuyers may enter the area they wish to live in, number of people in their household, and their annual income to discover what financial programs and resources are available to help them become homeowners.

The website walks consumers through the homebuying process and includes features such as 100 Questions and Answers for Buying a Home, information on finding a loan, a real estate glossary and much more. In addition, information on consumer issues such as predatory lending, finding a healthy home and credit is provided to help educate potential homebuyers.

Homebuyers may turn to HOWNW.com™ for a list of homebuying seminars that meet the requirements for homebuyer counseling required by some loan and assistance programs.

"This innovative homeownership tool provides anyone contemplating homeownership with a one-stop information resource on the home buying process as well as the potential for finding a unique lending program that could assist them in achieving the American Dream of owning their own home," said PMAR Chief Executive Officer Kathy Querin.

For more details, visit www.HOWNW.com.

###

PMAR, the voice of real estate in the Portland metropolitan area, is Oregon's largest local Realtor® association. Representing more than 7,500 professionals involved in all aspects of the real estate industry, PMAR is committed to protecting and promoting homeownership, establishing and maintaining high professional standards of practice and creating unity in the profession.

FOR IMMEDIATE RELEASE
September 16, 2009

For more information please contact:
Kathy Querin, PMAR Chief Executive Officer
503-459-2161, kquerin@pmar.org

HOWNW.com™ Empowers Consumers to Avoid Foreclosure and Fraud

Portland, Ore. —HOWNW.com™, a unique public service website presented by the nonprofit Portland Metropolitan Association of Realtors®, is a comprehensive homeownership resource to homebuyers that has added more resources for consumers. Homeowners facing foreclosure can visit the "Avoiding Foreclosure and Rescue Scams" section on the website.

This new section offers consumers information about how to avoid foreclosure through several reliable resources such as the National Association of Realtors®, the Office of the Comptroller of the Currency, the Federal Trade Commission, and Fannie Mae, who operates in the U.S. secondary mortgage market to increase the amount of funds available to make homeownership more available and affordable.

The National Association of Realtors® guide to avoiding foreclosure, "Learn How to Avoid Foreclosure and Keep Your Home," offers tips on talking to the lender, counseling resources, and more. Fannie Mae's "Avoiding Foreclosure" publication, available in both English and Spanish, is a quick one-page overview of foreclosure options.

Legitimate options are available to help consumers avoid foreclosure. Unfortunately, numerous scams and frauds are also circulating that prey on desperate homeowners.

"The possibility of losing your home is frightening," noted Realtor® and PMAR Homeownership Opportunities Vice Chairman Betsy Shand, Parker Realty, Inc. "The reality is that scam artists are preying on the vulnerability of desperate homeowners. There are endless numbers of so-called foreclosure rescue companies that claim they can save your home."

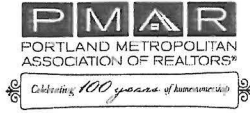
Worried consumers can download trusted resources on avoiding fraud from HOWNW.com™. The Office of the Comptroller of the Currency's "Consumer Tips for Avoiding Mortgage Modification Scams and Foreclosure Rescue Scams" lists common types of scams, ten scam warning signs, and legitimate resources that can help consumers. The Federal Trade Commission's "Foreclosure Rescue Scams: Another Potential Stress for Homeowners in Distress" notes ways to report fraud, red flags to watch out for, and more.

"If you feel that you may be the target or victim of foreclosure rescue scams or fraud, trust your instincts. Get help by visiting www.HOWNW.com," advises Realtor® and PMAR Homeownership Opportunities Chairman Bill Barry, Realty Trust Group, Inc.

###

PMAR, the voice of real estate in the Portland metropolitan area, is Oregon's largest local Realtor® association. Representing more than 6,900 professionals involved in all aspects of the real estate industry, PMAR is committed to protecting and promoting homeownership, establishing and maintaining high professional standards of practice and creating unity in the profession. Questions about homeownership? Visit www.HOWNW.com, a one-stop information resource on buying a home.





News Release

FOR IMMEDIATE RELEASE

November 9, 2011

For more information please contact:
Daryl Winand, PMAR Governmental Affairs Specialist
503-459-2162, dwinand@pmar.org

New Homeownership Resource for Military Servicemembers

Portland, Ore. — The Portland Metropolitan Association of Realtors® (PMAR) has created a one-of-a-kind online resource listing homeownership and homeownership retention resources available specifically to military personnel and their families.

"We created this no-obligation free resource out of deep concern for our returning servicemembers and veterans," said Jeff Wiren, 2011 PMAR President.

The Oregon Department of Veterans Affairs anticipates 20-40% of returning vets will have some level of post-traumatic stress and that 30% will have a physical disability. As a result, many servicemembers will need to purchase, modify or retrofit their houses. Often, spouses and families of the veteran need to make changes in advance of the return of their affected loved one.

This online resource is available on the one-stop, "information without obligation" website, HOWNW.com, which helps homebuyers achieve the goal of homeownership. The new Military Resources section is divided into four categories: homeownership, renovations, financing, and other resources.

"When all the smoke clears and these military service members go about moving their civilian lives forward, it will be so helpful to have a current, relevant, and trusted resource, like HOWNW.com, showing them what options they have to purchase a home," said Matt Ellison, former U.S. Marine. "In 2001, I chose to use my VA home loan and I was surprised at how inaccessible information was in my local area. A website like this will be so helpful to the returning troops."

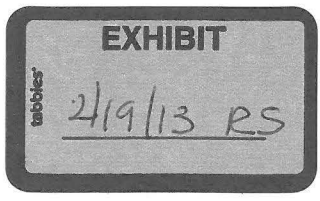
HOWNW.com™ contains a searchable, multi-lingual database of homebuying programs available in Multnomah, Washington, and Clackamas counties. Online, servicemembers or their families may enter the county they wish to live in, number of people in the household, and annual income to discover what financial programs and resources are available specifically for veterans and servicemembers.

"We greatly appreciate services that provide resources specific to veterans, service members and their families who have been asked to sacrifice for our nation," said Capt. Stephen Bomar, Director Public Affairs, Oregon Military Department. "This is another resource in an expanding network that is helping the reintegration process for veterans."

###

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General



Lisa M. Batey
11912 SE 19th Avenue
Milwaukie, Oregon 97222

February 19, 2013

Mayor Jeremy Ferguson and Milwaukie City Council
Milwaukie City Hall
10722 S.E. Main Street
Milwaukie, Oregon 97222

RE: Comments on Draft Council Goals on February 19th Agenda

Dear Mayor Ferguson and Council members:

Thank you for sharing your draft goals for public comment. I have another commitment this evening and cannot attend your meeting, hence am submitting these written comments.

There are some interesting new items on your list in comparison with the last two years, and I particularly commend you for item #1, indicating you will consider both a bond measure and a possible business tax. Both are important tools for raising revenue needed to help move items on your goals list, and in our Transportation System Plan (TSP), forward. Item 10, “[s]upport our downtown businesses in their efforts to create a business directed growth plan,” also caught my eye. I was unaware that downtown businesses are engaged in such an effort – indeed, the lack of a viable downtown business alliance has been a detriment to many things, including the planned look at downtown zoning this year. So, while I am not sure what a “business directed growth plan” is, if downtown businesses are collaborating and strategizing on enhancing the downtown business environment, that can only be good news.

There are other things in the agenda that I might do differently, such as putting the Adams Street Connector into the priority projects and not the second “unranked” tier. It’s a small project, but it is an important and time-sensitive project for connecting the future station to Main Street and being the first step toward implementation of the South Downtown plan. I think it is important, both aesthetically and in order to create better linkages, to see it built across Main Street to Dogwood Park. But I guess any two informed Milwaukie citizens are likely frame and rank goals differently.

There are two items on the goals list, however, where the wording creates a concern that the Council may be backpedaling on longtime commitments the City has made to its citizens. First, in item 6, subpart (c) reads “Consider making Monroe Avenue a bike boulevard.” In adopting the 2007 TSP, the City identified a Monroe Avenue bike boulevard as one of five items on the Bicycle Action Plan at Table 6-3, page 6-12. Among the list of citywide projects in all

modes of transportation, Table 13-3, it is listed as a high-priority project. I think everyone realizes that the project is not one which is likely to be funded in whole from the City budget, but rather it will require looking for grant funding. But to use the word “consider” indicates the Council is not committed to the long-discussed priority of an east-west bike boulevard (which could also be said to fall under draft goal 6(a), “improve livability in the neighborhoods). I encourage you to revise draft goal 6(c) to read “pursue construction of the Monroe Avenue bike boulevard.”

My other concern is with draft goal 4, which currently reads: “[a]dvance the Kellogg for Coho project by negotiating with Wildlands a contract to undertake the project, the first part of which will be a study to ascertain the feasibility and viability of doing so for all parties.” In contrast, both your 2011 and 2012 goals included this simple goal: “[c]omplete the Kellogg-for-Coho project by January 1, 2016.” The two goal statements may not be inconsistent, if everything works out with Wildlands (and, as Wildlands said in the December public meeting, it is even possible, though perhaps not likely, that the work could be done by 2016). But the wording of the current goal leaves open the possibility that the removal of Kellogg dam might not be pursued if the negotiations with Wildlands do not bear fruit. In order to foreclose any concern that Council might be backtracking on the decade-long (if not longer) efforts to remove the Kellogg dam, I would suggest clarifying that the goal is still removal of the dam – how that is accomplished is a secondary point. Possible language might be something like “complete the Kellogg-for-Coho project, pursuing an agreement with Wildlands, or in the event that agreement cannot be completed, through procuring other financing.”

Thank you for the opportunity to comment.

Sincerely,

Lisa M. Batey

Kellogg for Coho

DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Monday, January 14, 2013 3:09 PM
To: sixhobsons@comcast.net
Cc: _City Council
Subject: Re: Kellogg Creek dam removal

Thank you for your comments on the removal of Kellogg Dam. If it was just a simple matter of removing the dam no doubt it would have been done long ago. The fact that it isn't that simple is why nothing has so far been accomplished.

Unfortunately much misinformation is being propagated about my views on the dam and what I did and didn't say. First of all let me say that 1) at no time have I said I do not support the project, or 2) has a vote been taken or any type of decision been made. That should be very clearly understandable to all members of City Council despite what some may be saying to the contrary, or claiming to not understand why I do not support the project.

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There lives in Milwaukie an environmental engineer who undertakes restoration projects all over the United States, and who has done considerable research into the removal of this dam. He has for some time been asking city staff questions and has basically been ignored, or in his professional opinion given limited information which doesn't make much sense. When a citizen asks questions I would hope staff would answer fully and openly. When they don't and that citizen comes to me and asks me to ask the questions I will do, and did so.

Before I will decide that Wildlands are the people to undertake this project, I want to see and read the proposed contract between them and the City. It is still being negotiated. I want them to conduct a feasibility study to ascertain this project is one they can undertake, and for the City to decide if it meets all our requirements. I want to see that if the dam is removed Wildlands are capable of and will restore the area occupied by the lake, and we will not end up with something worse than we have now. I do not call hiring a company to test the silt for contaminants, and that company turns up with equipment insufficient to reach the bottom of the silt, a feasibility study. For staff to then present that information to Council claiming there is little contamination in the lake is an indication of how biased and untrustworthy some the information we have been given is.

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Thank you again for taking the time to email and express your opinions, I appreciate you doing so.

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Dave Hedges
Councilor - City of Milwaukie
(C) 971-222-5299
hedgesd@ci.milwaukie.or.us

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MILWAUKIE SUSTAINABILITY: Please consider the impact on the environment before printing a paper copy of this message.

From: <sixhobsons@comcast.net>
Sent: 1/14/2013
To: <fergusonj@ci.milwaukie.or.us>
Subject: Kellogg Creek dam removal

Dear Mayor Ferguson and council members,

I am writing today to express our desire for Milwaukie to enthusiastically vote for and support the removal of the Kellogg Creek dam. My family and I have lived in the Milwaukie area for the past twenty years and have been pleased with the development of our downtown core, parks, and community. Ten years ago we were fortunate enough to purchase a home with Kellogg Creek flowing freely in our backyard. We have done everything in our power to make sure that our actions impact the creek as little as possible and have taken steps to increase the health of our section of the creek. My children have grown up watching the ducks, poking around in the creek for crawdads, and even seeing the occasional deer and/or coyote wander through the creek corridor. The only thing missing are the salmon, steelhead, and cutthroat trout that should be swimming up Kellogg Creek to spawn.

We are also excited about the prospects of a passage way under Highway 99 that would give us access to the Willamette River and the park without the prospect of crossing

through traffic and also support that aspect of the plan. I certainly do not need to tell you about all of the benefits of the project but do want to express our desire for Mayor Ferguson and the council to seize this opportunity for removing Kellogg Creek dam. It would leave behind a legacy of doing the right think for our community and the environment for generations.

Please do not hesitate to contact us if we can help in any way.

Sincerely,
Nathan and Claire Hobson (Rachelle, Lauren, Samantha, Garrett)
4004 SE Licyntra Lane
Milwaukie, OR 97222
503-652-3763

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DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Monday, January 14, 2013 3:09 PM
To: Rod Benbrook
Cc: _City Council
Subject: Re: Kellogg Creek Dam

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Thank you again for taking the time to email and express your opinions, I appreciate you doing so.

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Dave Hedges
Councilor - City of Milwaukie
(C) 971-222-5299
hedgesd@ci.milwaukie.or.us

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From: Rod Benbrook
Sent: 1/14/2013
To: <hedgesd@ci.milwaukie.or.us>
Subject: Kellogg Creek Dam

Dear Mr. Hedges,

My wife Cindy and I would like to encourage the Milwaukie City Council to continue to move ahead with the removal of the Kellogg Creek Dam, and the improvement of the watershed area we call Kellogg Lake.

The combination of the pedestrian thru way, free flowing Kellogg Creek and the completion of the Light Rail system will be an amazing leap forward for our Downtown Milwaukie area, and we believe it's the right thing to do for the natural habitat that has been neglected for so long.

Thank you for your consideration.
Sincerely,

Rod and Cindy Benbrook
12177 SE River Road
Milwaukie

503-652-2560

DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Monday, January 14, 2013 3:09 PM
To: dicksallyshook@juno.com
Cc: _City Council
Subject: Re: Enhancement of Waterfront through Kellogg Dam Removal

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From: dicksallyshook@juno.com
Sent: 1/14/2013
To: <churchills@ci.milwaukie.or.us>
Subject: Enhancement of Waterfront through Kellogg Dam Removal

Gentlemen:

As citizens of the greater Milwaukie area, we urge you to approve the dam removal at the confluence of Kellogg Creek and the Willamette River. It is our belief that the enhancement of the riverfront in Milwaukie through this step would give the city greater footprint on the river through the additional access.

Water attracts people...we want more people to come to Milwaukie and an enlarged area for recreation that could be developed to support theater, art, a market place, food carts, picnicking, fireworks, a water festival in connection with Milwaukie Daze...the possibilities are limited only by our imaginations. This would be better than ball fields.

We would also be improving the livability of our city, supporting fisheries of Oregon and helping the environment.

With the light rail bringing visitors to our city to enjoy our facilities we will begin to grow and invigorate our downtown area.

Thanks for your consideration,

Dick and Sally Shook

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DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Monday, January 14, 2013 6:29 PM
To: Heather Hobson
Cc: _City Council
Subject: Re: Kellogg Creek Dam Removal ~

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Thank you again for taking the time to email and express your opinions, I appreciate you doing so.

Dave Hedges

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From: Heather Hobson
Sent: 1/14/2013
To: "fergusonj@ci.milwaukie.or.us" <fergusonj@ci.milwaukie.or.us>
Subject: Kellogg Creek Dam Removal ~

Greetings Mayor Ferguson and the City Council:

I am writing today to express our support and desire for the City of Milwaukie to remove Kellogg Creek Dam. Historically the dam had a purpose but that purpose has long since passed and now is the time to move on. Having a free flowing creek and associated wildlife corridor would do nothing but enhance the livability of Milwaukie. It is my understanding that the project is a priority for conservation organizations and would be of little financial burden to the city and its residents. The long-term benefits of the dam removal and clean-up will far outweigh the "pain" of the process of removal.

Do the right thing today for the people of tomorrow and remove the dam.

Sincerely,

Heather and Jason Hobson

12737 SE Weedman Court
Milwaukie, OR 97222

Heather Hobson | Account Manager

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Alice Turcotte | Inside Support | talice@wcpsolutions.com d: 503.221.4131 f: 503.221.4151

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DuVal, Pat

From: Miller, Mike
Sent: Monday, January 14, 2013 9:26 PM
To: Hedges, David; Heather Hobson
Cc: _City Council
Subject: RE: Kellogg Creek Dam Removal ~

I believe Councilor Hedges expressed my thoughts about this project. It is very unfortunate that some council members are accused of being against this project just because they want to do whats best for all our citizens. No votes have been taken on this or any project on our goal list for this year. I am not against this project . I just have questions which need answers about this project. Thanks Heather for your email. Mike Miller

Thank you for your comments on the Kellogg Dam. If it was just a simple matter of removing the dam no doubt it would have been done long ago. The fact that it isn't that simple is why nothing has so far been accomplished. foo

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Heather and Jason Hobson
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Heather Hobson | Account Manager

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16705 NE Mason, Portland,OR 97294

Alice Turcotte | Inside Support | talice@wcpsolutions.com d: 503.221.4131 f: 503.221.4151

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DuVal, Pat

From: Hobson, Lauren V <lhobson@tulane.edu>
Sent: Wednesday, January 16, 2013 2:06 PM
To: Milwaukie OCR
Subject: Kellogg Dam Removal

Follow Up Flag: Follow up
Flag Status: Flagged

Dear City Council, and to Whomever Else It May Concern:

I support the "un-damming" of Kellogg creek. I am a resident of and grew up in Milwaukie and in a house that borders the creek, and I can think of nothing better than a restoration of the watershed. Please seriously consider removing the dam.

Best,
Lauren Hobson

DuVal, Pat

From: Melanie Bennett <blazermelanie@hotmail.com>
Sent: Wednesday, January 16, 2013 2:21 PM
To: Milwaukie OCR
Subject: Kellogg Lake

Follow Up Flag: Follow up
Flag Status: Flagged

As a resident of Milwaukie, I think the dam at Kellogg Lake should be removed, and the area cleaned up. The place is a cesspool now, and seems to serve no real purpose. Please accept the offers of assistance that are coming in to remove the dam and return the ecosystem to a healthy, natural state. While it's sure to be an extensive project, it is a worthwhile project, and the rewards will be felt for many years, outliving any of us.

Thank you,
Melanie Bennett
Milwaukie, Oregon

DuVal, Pat

From: Churchill, Scott
Sent: Wednesday, January 16, 2013 9:22 PM
To: Hedges, David
Cc: _City Council
Subject: RE: Kellogg Dam Goal

Thank you, Dave

From: Dave Hedges [council@davehedges.com]
Sent: Tuesday, January 15, 2013 1:34 PM
To: Pepi Anderson
Cc: _City Council
Subject: Re: Kellogg Dam Goal

Thank you for your comments on the removal of Kellogg Dam. If it was just a simple matter of removing the dam no doubt it would have been done long ago. The fact that it isn't that simple is why nothing has so far been accomplished.

Unfortunately much misinformation is being propagated about my views on the dam and what I did and didn't say. First of all let me say that 1) at no time have I said I do not support the project, or 2) has a vote been taken or any type of decision been made. That should be very clearly understandable to all members of City Council despite what some may be saying to the contrary, or claiming to not understand why I do not support the project.

Some of the misinformation:-

The project is about removing the dam - It is in fact about this and restoring the area occupied by Kellogg Lake back to a creek and natural area.

30,000 fish will return to the creek - Wildlands say that is the total amount of fish in the Willamette River system. Further State fish experts put the number of fish returning at between 300 and 500. (Given at a public meeting in the City of Milwaukie)

The project can be completed before Light Rail gets here - Wildlands said at a recent public meeting they do not anticipate starting construction before 2015.

It will not cost the city any money - Part of the project is to be funded by a grant which we hope ODOT will give. The city has to provide a 10% money match. The staff time taken up by this of course costs the city money as well.

There lives in Milwaukie an environmental engineer who undertakes restoration projects all over the United States, and who has done considerable research into the removal of this dam. He has for some time been asking city staff questions and has basically been ignored, or in his professional opinion given limited information which doesn't make much sense. When a citizen asks questions I would hope staff would answer fully and openly. When they don't and that citizen comes to me and asks me to ask the questions I will do, and did so.

Before I will decide that Wildlands are the people to undertake this project, I want to see and read the proposed contract between them and the City. It is still being negotiated. I want them to conduct a feasibility study to ascertain this project is one they can undertake, and for the City to decide if it meets all our requirements. I want to see that if the dam is removed Wildlands are capable of and will restore the area occupied by the lake, and we will not end up with something worse than we have now. I do not call hiring a company to test the silt for contaminants, and that company

turns up with equipment insufficient to reach the bottom of the silt, a feasibility study. For staff to then present that information to Council claiming there is little contamination in the lake is an indication of how biased and untrustworthy some the information we have been given is.

When Wildlands has carried out a full feasibility study and they and us are satisfied that this project can be completed to the standards we require, I will be happy to give it my support. Until that time I will support only as far as undertaking the feasibility study being a Council goal. Remember we are only talking about what goes on the list for Council goals for 2013, at this moment in time. This maybe one of several goals, the most important of which to me will be completing River Front Park. The citizens of Milwaukie entrusted me to make informed and intelligent decisions on their behalf, not follow my own agenda. I will listen to citizen input, from all perspectives, and do what is in the best interests of the City.

Thank you again for taking the time to email and express your opinions, I appreciate you doing so.

Dave Hedges

--

Dave Hedges
Councilor - City of Milwaukie
(C) 971-222-5299
hedgesd@ci.milwaukie.or.us

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MILWAUKIE SUSTAINABILITY: Please consider the impact on the environment before printing a paper copy of this message.

From: Pepi Anderson
Sent: 1/15/2013
To: JeremyFerguson <FergusonJ@ci.milwaukie.or.us>
Subject: Kellogg Dam Goal

I am sorry that I did not have city email addresses for all of you so I used the ones I did have!

I guess with all being said that I am unclear why the council would not continue to keep the Kellogg Dam Removal on the goal setting for the council for the coming year. I believe there is a great amount of discussion and desire amongst Milwaukie Citizens to see this Dam removed or a much more indepth communication about why it can't happen or what all the alternatives or actions should be. I urge you to not drop this from your goals.

--

Pepi Anderson

DuVal, Pat

From: Churchill, Scott
Sent: Wednesday, January 16, 2013 9:45 PM
To: dicksallyshook@juno.com; Miller, Mike; Hedges, David
Cc: _City Council
Subject: RE: Enhancement of Waterfront through Kellogg Dam Removal

Dick and Sally,

Thank you for your interest this discussion. I appreciate your perspective and will look forward to additional important details about the contract negotiations, scope of work and proposed financial obligations by all parties from the city attorney.

Until we receive further details, I remain cautiously optimistic about the next phase of the project study. Thank you again for your interest and participation in the discussion.

Best regards,

Scott Churchill

From: dicksallyshook@juno.com [dicksallyshook@juno.com]
Sent: Monday, January 14, 2013 11:32 AM
To: Churchill, Scott; Miller, Mike; Hedges, David
Subject: Enhancement of Waterfront through Kellogg Dam Removal

Gentlemen:

As citizens of the greater Milwaukie area, we urge you to approve the dam removal at the confluence of Kellogg Creek and the Willamette River. It is our belief that the enhancement of the riverfront in Milwaukie through this step would give the city greater footprint on the river through the additional access.

Water attracts people...we want more people to come to Milwaukie and an enlarged area for recreation that could be developed to support theater, art, a market place, food carts, picnicking, fireworks, a water festival in connection with Milwaukie Daze...the possibilities are limited only by our imaginations. This would be better than ball fields.

We would also be improving the livability of our city, supporting fisheries of Oregon and helping the environment.

With the light rail bringing visitors to our city to enjoy our facilities we will begin to grow and invigorate our downtown area.

Thanks for your consideration,

Dick and Sally Shook

NetZero now offers 4G mobile broadband. Sign up now.<<http://www.netzero.net/?refcd=NZINTISP0512T4GOUT1>>

DuVal, Pat

From: Churchill, Scott
Sent: Wednesday, January 16, 2013 9:50 PM
To: Rod Benbrook
Cc: _City Council
Subject: RE: Kellogg Creek Dam

Rod and Cindy,

Thank you for your interest this discussion. I appreciate your perspective and will look forward to additional important details about the contract negotiations, scope of work and proposed financial obligations by all parties from the city attorney.

Until we receive further details, I remain cautiously optimistic about the next phase of the project study. Thank you again for your interest and participation in the discussion.

Best regards,

Scott Churchill

From: Rod Benbrook [rodman57@gmail.com]
Sent: Monday, January 14, 2013 10:25 AM
To: Churchill, Scott
Subject: Kellogg Creek Dam

Dear Mr. Churchill,

My wife Cindy and I would like to encourage the Milwaukie City Council to continue to move ahead with the removal of the Kellogg Creek Dam, and the improvement of the watershed area we call Kellogg Lake.

The combination of the pedestrian thru way, free flowing Kellogg Creek and the completion of the Light Rail system will be an amazing leap forward for our Downtown Milwaukie area, and we believe it's the right thing to do for the natural habitat that has been neglected for so long.

Thank you for your consideration.
Sincerely,

Rod and Cindy Benbrook
12177 SE River Road
Milwaukie

503-652-2560<<tel:503-652-2560>>

DuVal, Pat

From: Gamba, Mark
Sent: Thursday, January 17, 2013 8:01 AM
To: Milwaukie OCR
Cc: _City Council
Subject: Re: FW: Kellogg Lake

Thank You Melanie,

I couldn't agree more. I will work hard to see the dam is removed the creek restored and Kronberg Park built within my term of office. I would request that you stay tuned into the process as I don't necessarily think it will be a smooth one going forward. Thank you for your interest and participation.

All the best,
Mark Gamba

Sent from my Verizon Wireless 4G LTE DROID

Milwaukie OCR <MilwaukieOCR@ci.milwaukie.or.us> wrote:

From: Melanie Bennett [mailto:blazermelanie@hotmail.com]
Sent: Wednesday, January 16, 2013 2:21 PM
To: Milwaukie OCR
Subject: Kellogg Lake

As a resident of Milwaukie, I think the dam at Kellogg Lake should be removed, and the area cleaned up. The place is a cesspool now, and seems to serve no real purpose. Please accept the offers of assistance that are coming in to remove the dam and return the ecosystem to a healthy, natural state. While it's sure to be an extensive project, it is a worthwhile project, and the rewards will be felt for many years, outliving any of us.

Thank you,
Melanie Bennett
Milwaukie, Oregon

DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Thursday, January 17, 2013 1:46 PM
To: lhobson@tulane.edu
Cc: _City Council
Subject: Kellogg's Dam

Dear Lauren

Thank you for your comments on the removal of Kellogg Dam. If it was just a simple matter of removing the dam no doubt it would have been done long ago. The fact that it isn't that simple is why nothing has so far been accomplished.

Unfortunately much misinformation is being propagated about my views on the dam and what I did and didn't say. First of all let me say that 1) at no time have I said I do not support the project, or 2) has a vote been taken or any type of decision been made.

Some of the misinformation:-

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Thank you again for taking the time to email and express your opinions, I appreciate you doing so.

Dave Hedges

--

Dave Hedges
Councilor - City of Milwaukie
(C) 971-222-5299
hedgesd@ci.milwaukie.or.us

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DuVal, Pat

From: Churchill, Scott
Sent: Thursday, January 17, 2013 8:59 PM
To: Milwaukie OCR
Cc: _City Council
Subject: RE: Kellogg Dam Removal

Dear Ms. Hobson,

Thank you for your interest this discussion. I appreciate your perspective and will look forward to additional important details about the contract negotiations, scope of work and proposed financial obligations by all parties from the city attorney.

Until we receive further details, I remain cautiously optimistic about the next phase of the project study. Thank you again for your interest and participation in the discussion.

Best regards,

Scott Churchill

From: Milwaukie OCR
Sent: Thursday, January 17, 2013 7:19 AM
To: _City Council
Subject: FW: Kellogg Dam Removal

-----Original Message-----

From: Hobson, Lauren V [mailto:lhobson@tulane.edu]
Sent: Wednesday, January 16, 2013 2:06 PM
To: Milwaukie OCR
Subject: Kellogg Dam Removal

Dear City Council, and to Whomever Else It May Concern:

I support the "un-damming" of Kellogg creek. I am a resident of and grew up in Milwaukie and in a house that borders the creek, and I can think of nothing better than a restoration of the watershed. Please seriously consider removing the dam.

Best,
Lauren Hobson

DuVal, Pat

From: Lester Garrison <rusty@chemistrystockroom.com>
Sent: Thursday, January 17, 2013 9:18 PM
To: Milwaukie OCR
Subject: Fwd: City of Milwaukie Goals for 2013-Kellogg Creek

Begin forwarded message:

From: Lester Garrison <rusty@chemistrystockroom.com>
Date: January 17, 2013 9:15:41 PM PST
To: ocr@ci.milwaukie.or
Subject: City of Milwaukie Goals for 2013-Kellogg Creek

To The Mayor and City Council of Milwaukie, Oregon
Mayor Jeremy Ferguson
Council President Greg Chaimov
Councilor Dave Hedges
Councilor Joe Loomis
Councilor Mike Miller

City Hall,
Milwaukie Oregon

Honorable Mayor and City Councilors;

Milwaukie Presbyterian Church, MPC, at 2416 SE Lake Road, is a major property owner on Kellogg Lake, and strongly supports efforts to remove the dam on Kellogg Creek and restore the Kellogg Creek stream bed through the current area of Kellogg Lake.

MPC was established in 1951 and has more than 200 active members, about 150 families, about 85 of those with a Milwaukie Address. For the last 4 years we have been involved in restoring the wetlands property of MPC. We are the second largest private property owner on Kellogg lake, and 3-1/2 of our 5 acres is in the City of Milwaukie's environmentally protected water quality resource areas and habitat conservation areas.

We have done a lot to restore the habitat and improve public access to the site, including removing invasive species and restoring trails & bridges, all with hundreds of hours of volunteer labor, and with the help of grants from Clackamas Soil and Water District, Metro Nature in the Neighborhood, and Tri-Met Mitigation funds. Two links for more detail on this:

1. A link to Kellogg Creek-MPC Restoration Project <http://www.milwaukierules.com/do/kellogg-creekmilwaukie-presbyterian-restoration-project>
2. A link to a case study of MPC's restoration project http://www.cascadespresbytery.org/Milwaukie_Watershed_Case_Study.pdf

We would very much like to see the restoration of Kellogg Creek, with the removal of the dam, the restoration of the stream bed, the removal of invasive species from other properties bordering the lake, and the establishment of native plants. We understand this may be a possibility using funds from the Portland Harbor Superfund Cleanup. We strongly support the City of Milwaukie exploring such potential funding for this purpose, and feel it should have a top priority as a goal for 2013.

Thank you for your thoughtful consideration.

Respectfully submitted, on behalf of the Session of MPC,

Lester Garrison
Clerk of Session
Milwaukie Presbyterian Church
2416 SE Lake Road
Milwaukie, Oregon 97222

503-804-2867 direct

DuVal, Pat

From: chris ortolano <cdortolano@gmail.com>
Sent: Saturday, January 19, 2013 2:30 PM
To: Milwaukie OCR
Subject: Kellogg for Coho Initiative is a Priority

Dear Mayor, Councilors, City Manager, and staff,

Dozens of concerned citizens have been working for many years towards the completion of the Kellogg for Coho project, if feasible, by January 01, 2018. This project has been a [priority for Council](#) in the recent past, and it is extremely important for continuity and trust among regional and state-wide stakeholders to move forward with the due diligence process in cooperation with Wildlands.

At the last Kellogg for Coho public meeting in December, Wildlands indicated they were willing to commit to a feasibility study with little or no cost to the City beyond some staff hours to administer the contract. The feasibility study would address outstanding concerns such as viability of the restoration credits, negotiation with property owners, additional testing of silt for toxics, and timeline for restoring salmon runs.

The City of Milwaukie, in cooperation with ODOT, has a unique opportunity to remove this blight on our watershed, and increase access to the Riverfront through the creation of a pedestrian underpass where the existing fish ladder is currently located. The dam removal also enhances the ongoing restoration work in the 3 Creeks area, which the Council and many NDA's identified as a significant priority in 2010 and 2011.

Thank you for working together to lead Milwaukie along the path towards a sustainable, affordable, and inspired future.

Sincerely,

Chris Ortolano
11088 SE 40th Ave
Milwaukie, OR 97222

DuVal, Pat

From: Greg Deane <deanegreg3@gmail.com>
Sent: Saturday, January 19, 2013 3:09 PM
To: Milwaukie OCR
Subject: Un-dam Kellogg Creek

To whom it may concern-

Please consider the un-damming of Kellogg Creek. Un-damming the creek would complete the cycle of all the hard work & restoration efforts that have been done upstream of the dam & truly allow the natural restoration to occur. With an experienced contractor like Wildlands offering to potentially take on this project, this seems like a great opportunity.

Kindly-

Greg Deane
Milwaukie resident

DuVal, Pat

From: CM_Yahoo <Clodine_M@yahoo.com>
Sent: Saturday, January 19, 2013 5:15 PM
To: Milwaukie OCR
Subject: Kellogg for Coho Initiative is a Priority

Dear Mayor, Councilors, City Manager, and staff,

Dozens of concerned citizens have been working for many years towards the completion of the Kellogg for Coho project, if feasible, by January 01, 2018. This project has been a [priority for Council](#) in the recent past, and it is extremely important for continuity and trust among regional and state-wide stakeholders to move forward with the due diligence process in cooperation with Wildlands.

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Thank you for working together to lead Milwaukie along the path towards a sustainable, affordable, and inspired future.

Sincerely,

Clodine Mallinckrodt
11088 SE 40th Ave
Milwaukie, OR 97222

DuVal, Pat

From: gbb@strawbalefilms.com
Sent: Thursday, January 24, 2013 11:21 AM
To: Milwaukie OCR
Cc: Monahan, Bill; Bankhead, Teri
Subject: Kellogg for Coho Initiative Goal

Hi Councilors - Councilor Hedges was kind enough to send the updated version of the Kellogg for Coho goal.

Advance the Kellogg for COHO project by negotiating with Wildlands a contract to undertake the project. The first part of which will be a study to ascertain the feasibility and viability of doing so for all parties.

The changes are good but as I've mentioned to Councilor Hedges, I think 'all parties' need to be identified. Who are the parties and what is the extend of their influence in the outcome. I believe answering these questions makes for a more transparent process and a clear, concise goal.

Thank you for your time - Greg BB

Bicycle/Alternative Transportation

DuVal, Pat

From: Sandy Senffner <sandysenffner@gmail.com>
Sent: Wednesday, January 16, 2013 8:58 PM
To: Milwaukie OCR
Subject: biking Milwaukie

To Whom it May Concern,

Our family moved to Milwaukie about two years ago. We love our house and our large lot that we couldn't afford in Portland. Milwaukie has a lot to offer. One thing that has been a constant disappointment to us is the lack of viable biking routes in Milwaukie. The strange grid does not allow you to take back streets anywhere and the biking lanes (if there are any,) on the thoroughfares are dangerous. The worst place to bike is down 32nd street. I believe that better biking would encourage more people to live and bike Milwaukie. Please consider furthering and bettering bike lanes.

Thank you,

Sandy Senffner

DuVal, Pat

From: Dave Hedges <council@davehedges.com>
Sent: Thursday, January 17, 2013 2:05 PM
To: sandysenffner@gmail.com
Cc: _City Council
Subject: Re: FW: biking Milwaukie

Dear Sandy,

Thanks for the comments about adding and improving bike lanes in the City. If you have ridden around the many back streets in our city, you will realize what an appalling state of disrepair our roads are in, add to that many do not have sidewalks. Which is partly why our bike routes stay away from them.

Our City does not have money to fund all the road repairs which need doing. In fact this year and for several years to come we are going to have to take monies from our reserve fund just to make sure our services have sufficient money to operate. When we resurface roads adding bike lanes is a consideration and will continue to be, but until the economic climate is better I do not foresee any drastic improvements happening. While admitting I am more of a fair weather cyclist, I say that as someone who does cycle around my neighborhood so appreciates the frustrations you experience.

Dave Hedges

--

Dave Hedges
Councilor - City of Milwaukie
(C) 971-222-5299
hedgesd@ci.milwaukie.or.us

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From: Milwaukie OCR
Sent: 1/17/2013
To: _City Council <CityCouncil@ci.milwaukie.or.us>
Subject: FW: biking Milwaukie

From: Sandy Senffner [mailto:sandysenffner@gmail.com]
Sent: Wednesday, January 16, 2013 8:58 PM
To: Milwaukie OCR
Subject: biking Milwaukie

To Whom it May Concern,

Our family moved to Milwaukie about two years ago. We love our house and our large lot that we couldn't afford in Portland. Milwaukie has a lot to offer. One thing that has been a constant disappointment to us is the lack of viable biking routes in Milwaukie. The strange grid does not allow you to take back streets anywhere and the biking lanes (if there are any,) on the thoroughfares are dangerous. The worst place to bike is down 32nd street. I believe that better biking would encourage more people to live and bike Milwaukie. Please consider furthering and bettering bike lanes.

Thank you,

Sandy Senffner

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DuVal, Pat

From: Churchill, Scott
Sent: Thursday, January 17, 2013 8:56 PM
To: Milwaukie OCR
Cc: _City Council
Subject: RE: biking Milwaukie

Dear Ms. Senffner,

Thank you for your email. I will keep that in mind as we develop priorities for 2013.

Regards,

Scott Churchill

From: Milwaukie OCR
Sent: Thursday, January 17, 2013 7:19 AM
To: _City Council
Subject: FW: biking Milwaukie

From: Sandy Senffner [mailto:sandysenffner@gmail.com]
Sent: Wednesday, January 16, 2013 8:58 PM
To: Milwaukie OCR
Subject: biking Milwaukie

To Whom it May Concern,

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Thank you,

Sandy Senffner

DuVal, Pat

From: John Henry Burns <john.henry.burns@gmail.com>
Sent: Saturday, January 19, 2013 9:47 AM
To: Milwaukie OCR
Subject: SE Monroe St Bike Boulevard

Hello,

I have recently been made aware of potential plans to construct a "bike boulevard" along SE Monroe Street. I think this is a fantastic idea! This is a highly cost-effective transportation system improvement, and should be a high priority for the city to construct as soon as possible.

As a resident of SE 32nd Ave, the Monroe St bike boulevard would be a welcome addition to the city's transportation infrastructure, while also providing livability benefits to the community. Increasing the transportation options from Milwaukie's residential neighborhoods to connect to the commercial districts can provide a tangible economic benefit to Milwaukie's local economy as people will be more inclined to do business locally instead of traveling out of the city to the Mall or unincorporated portions of the county (e.g. McLoughlin Blvd).

A bike boulevard on Monroe St would be cost-effective investment, in that it would serve to multiply the benefit of several other recent or on-going transportation improvement, including enhancing access to the new Max line and to other bicycle/pedestrian routes in Milwaukie. A complete network of transportation infrastructure has much more value than the individual components in isolation, making the Monroe St improvements a clearly wise choice for prioritized short-term investment.

Thanks for much for considering this improvement, and I hope the council can prioritize construction of the new bike boulevard on SE Monroe in the very near future.

If there is a mailing list for future updates on this project, then please add my email address.

Best regards, - John Henry Burns

DuVal, Pat

From: M. Susan Dean <deansusan@gmail.com>
Sent: Saturday, January 19, 2013 10:51 AM
To: Milwaukie OCR

Fortunately, the Monroe Street Bike Boulevard has been determined to be a top priority for the City of Milwaukie. In addition, it's an affordable upgrade. This bikeway will provide a quiet street for the local residents while giving the children of the neighborhood a way to travel safely to school and thus help to combat the obesity epidemic. It will also avail bike riding to families who are risk averse and thus not willing to ride along King.

I have several friends who live in Milwaukie and am excited about the creation of a bikeway that competes with some of the bikeways in Portland. The 17th Bikeway and the Trolley Trail are now destination points for cyclists. This brings money and familiarity to the City. Way to go!

--

We do not inherit the Earth from our ancestors, we borrow it from our children. ~ Native American Proverb

DuVal, Pat

From: chris ortolano <cdortolano@gmail.com>
Sent: Saturday, January 19, 2013 1:54 PM
To: Milwaukie OCR
Subject: Monroe Bike Boulevard is a Priority

Dear Mayor, Councilors, City Manager, and staff,

Milwaukie deserves a world-class bicycle boulevard on Monroe Street. When the 17th Ave. Bikeway (connecting to the Springwater Corridor) and the Trolley Trail (connecting to Oregon City) opens, many Portland and Oregon City residents will have better walking and biking connections to downtown Milwaukie than Milwaukie residents living east of downtown. Monroe Bike Boulevard would provide that connection.

In the 2007 Transportation System Plan, “Milwaukie Bike Boulevard” is listed as a “High-Priority” on the list of top transportation priorities citywide. The average price for Milwaukie’s 27 “High-Priority” transportation projects is over \$3.5 million but the Monroe project is estimated to cost just \$300,000. (See TSP Appendix B). In addition, Monroe runs along the top of Milwaukie’s largest transit-disadvantaged neighborhood — a neighborhood in which all transit stops are over 1/4 mile away. (See TSP figure 3-17). Over 1000 students must travel to Milwaukie High School and Milwaukie Elementary every day. Monroe Bike Boulevard would provide them with a safe, healthy way to get to their schools while reducing the number of cars clogging Milwaukie’s streets before and after school.

The Monroe Bike Boulevard will connect neighborhoods to the east with downtown Milwaukie, schools, Riverfront Park, and the Orange Light Rail and increase public safety, public health, reduce childhood obesity, and reduce congestion attributable to single occupancy vehicle traffic. Thank you for working together to lead Milwaukie along the path towards a sustainable, affordable, and inspired future.

Sincerely,

Chris Ortolano
11088 SE 40th Ave
Milwaukie, Oregon 97222

DuVal, Pat

From: Clodine Mallinckrodt <clodine@webwoman.tv>
Sent: Saturday, January 19, 2013 5:13 PM
To: Milwaukie OCR
Subject: Monroe Bike Boulevard is a Priority

Dear Mayor, Councilors, City Manager, and staff,

Milwaukie deserves a world-class bicycle boulevard on Monroe Street. When the 17th Ave. Bikeway (connecting to the Springwater Corridor) and the Trolley Trail (connecting to Oregon City) opens, many Portland and Oregon City residents will have better walking and biking connections to downtown Milwaukie than Milwaukie residents living east of downtown. Monroe Bike Boulevard would provide that connection.

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Sincerely,

Clodine Mallinckrodt
11088 SE 40th Ave
Milwaukie, Oregon 97222

DuVal, Pat

From: Stephen Bachhuber <srbachhuber1@gmail.com>
Sent: Saturday, January 19, 2013 9:15 PM
To: Milwaukie OCR
Subject: Monroe Bike Boulevard

To the Council:

I really like the idea of a Monroe street bikeway that is parallel to King. I have ridden my bike along King to the Farmer's market several times, and have had my children accompany me. Although they navigated the King Street traffic well enough, I was very uncomfortable, and the alternative of a limited traffic route is a very good idea. Please make this your highest priority in the coming year.

Stephen Bachhuber
10651 SE Idleman Rd.
Happy Valley, OR 97086

DuVal, Pat

From: Mike Fajen <mfajen@gmail.com>
Sent: Monday, January 21, 2013 7:12 AM
To: Milwaukie OCR
Cc: carl@btaoregon.org
Subject: Monroe Bike Blvd

Hello,

I'd like to add my voice to those who support the development of a Bicycle Boulevard on SE Monroe Street. I currently ride a mile out of my way over to the Springwater Corridor, but would love to be able to take Monroe more as a bike friendly route.

Thank you for considering this.

Mike Fajen

DuVal, Pat

From: Teresa Kubo <teresa.kubo@gmail.com>
Sent: Tuesday, January 22, 2013 4:13 PM
To: Milwaukie OCR
Subject: Monroe Street Bike Blvd

Dear Members of the City Council,

My working hours will not allow me to attend your meeting this evening, but I understand that among priorities to be discussed is the Monroe Street Bike Boulevard. I would like to encourage you to move forward with implementing this element of the 2007 Transportation System Plan. I am a cyclist, a mother, and full time worker. Having an established bike boulevard on Monroe would greatly facilitate our use of the areas north of Hwy 224. As it stands currently, we tend to avoid that area because we do not feel that Kind Road is a safe option for our son who is still an unexperienced rider. Further, I believe bike boulevards make neighborhoods more desirable and encourage a healthy lifestyle. The bike boulevard would be a boon to the Monroe neighborhood and to all those who would move through the area to take advantage of commercial, educational, and transit opportunities. Thank you for considering my input.

Best regards,

**Teresa Kubo
503-490-8990**

DuVal, Pat

From: Greg Deane <deanegreg3@gmail.com>
Sent: Friday, February 01, 2013 9:44 PM
To: Milwaukie OCR
Subject: Bike BLVD's

Please direct staff to actively pursue funding for the Monroe Bike Blvd Project. A low cost, huge impact community improvement must be top priority in Milwaukie's planning. Bike Blvds offer a safe environment for all modes of transportation, while promoting health & more intimate connection to community activity. This has been a goal for years, it seems like it would be an easier one to accomplish and start the momentum for larger goals.

Completing this project would show that Milwaukie is putting efforts toward supporting its residents' quality of life.

Kindly-

Greg Deane
Milwaukie resident

DuVal, Pat

From: Milwaukie OCR
Sent: Monday, February 04, 2013 7:12 AM
To: _City Council
Subject: FW: Safe Pedestrian and Bikeways across Hwy 224

From: Joan Young [mailto:joan.s.young@gmail.com]
Sent: Sunday, February 03, 2013 7:45 PM
To: Milwaukie OCR
Subject: Safe Pedestrian and Bikeways across Hwy 224

Dear City of Milwaukie Council members:

As you are considering where the City of Milwaukie will prioritize its efforts in the next few years, we have a request of you. We are a family of runners, hikers and bikers. We use what is referred to as "alternative transportation" to reduce our carbon footprint on this earth, and to stay healthy. We have family that live on both the south side and the north side of Hwy 224. Hwy 224 can be quite dangerous to cross. There are a number of families and extended families with this issue in the north Clackamas area. We hope, in your work to improve transportation within the City of Milwaukie city limits, that you work with the State of Oregon and Clackamas County to bring focused improvements in N/S crossings of Hwy 224 for pedestrians, joggers and bike riders.

Thank you for your consideration.

J & J Young

DuVal, Pat

From: Bike Milwaukie <bikemilwaukie@gmail.com>
Sent: Friday, February 15, 2013 2:07 PM
To: Hedges, David; Ferguson, Jeremy; Miller, Mike; Milwaukie OCR; Monahan, Bill; mark@markgamba.com
Cc: greg bbowman
Subject: Re: Council Goals- Monroe Neighborhood Greenway
Attachments: why 20 mph.pdf; Neighborhood Slow Zones - PBIC Webinar 2012.pdf; HEAL- Milwaukie Sharrows Application.pdf

Greetings Mayor and City Council,

In 2007 the City Council adopted the Milwaukie Transportation System Plan, a document to help the city identify transportation projects for improvements and funding. The plan took countless hours and the help and guidance of many, many, citizens. The TSP envisions Milwaukie as a vibrant, livable, and safer city for all modes of travel.

On your draft goal list for 2013, City Council has included Goal 6c. – “Consider making Monroe Street a bike boulevard” – Thank you and Bravo! We believe having any pedestrian or bike infrastructure improvement as a city goal demonstrates forward-thinking and recognition that there needs to be infrastructure for all modes of transportation. We believe it is important to acknowledge the 2007 TSP adopted by the Milwaukie City Council has already ‘considered’ Monroe as a bike boulevard and the next true step in the process is to identify funding and work with the community to begin creating the project. Monroe Street passes through 5 of our 7 neighborhoods and with its low-traffic volume, stands alone as the safest, most viable route east-west for citizens not using a car or bus. The Monroe Neighborhood Greenway is overdue for a city committed to public safety.

Neighborhood Greenway? What’s that? We’re glad you asked, it’s the evolved terminology for ped/bike improvements known as a Bike Boulevard. The term ‘Bike Boulevard’ is a narrow term for a project with a greater, wider effect on the community. What the terminology evolution represents is the recognition of the positive effects bike boulevard-type improvements have for pedestrians, cars, and property owners among others. These benefits include, but are not limited to:

Reduce auto cut-through - Speed bumps and traffic diverters keep cars that are trying to avoid main streets from cutting through on neighborhood streets.

Provide safer bicycling and pedestrian connections - [Pavement markings](#) (called Sharrows) alert people driving to expect people bicycling; improved crossings and curb ramps make pedestrian mobility easier and safer.

Reduce auto speeds - Speed bumps help slow automobile traffic on greenways.

Help people across our busier streets - [Improved crossings](#) at main streets help people walking and bicycling cross more easily.

Guide people on the route and help get them where they are going - Markings on the pavement and signage lets people know where the Greenway goes and what's nearby, like parks, schools, and business districts.
Provide more "eyes on the street" - More people out on the street bicycling and walking leads to safer street

Does it all have to be built at once? No. When we talk about creating a Neighborhood Greenway, we are not necessarily talking about building out an entire project at once (sharrows, traffic calming, sidewalks, and traffic diversion) unless a large source of funding was found. We know that is not likely going to happen (not without a bond for a larger set of projects). What we *are* talking about is laying the foundation for a complete project by building it one element at a time, which is possible. Starting with sharrows, and then building upon that by then adding other elements like speed bumps and traffic diversion, and finally at some far off date, adding sidewalks (or some kind of less expensive alternative to a traditional sidewalk).

What does it cost? The first step of adding sharrows to the 2.1 miles of Monroe from downtown to Linwood would cost between \$18K and 36K depending on how far apart they are spaced. Portland is currently spending an average of \$140K per mile to install their Neighborhood Greenways which includes other elements like signage, speed bumps, and some traffic diversion. We already have much of our pole mounted directional signage in place.

The Monroe Neighborhood Greenway project has the potential to:

- More safely connect 5 of 7 Milwaukie neighborhoods.
- Make it easier and safer for cyclists and pedestrians to move more freely across town, including safer access to multiple schools.
- Maintain existing auto parking for local residents.
- Improve overall livability along the Monroe corridor by slowing traffic, making it a quieter street for residents living along the street.

The Monroe Neighborhood Greenway is a low-cost, benefit-filled project in need of council support. The handful of grant opportunities that are available each year should not be missed. We understand the city has limited funds available for projects but as we learned with the HEAL grant, the city match often is only staff time. What's not to like about that?

This council can begin to make Milwaukie safer with a vote. We encourage and request the City Council modify the wording of Goal 6c. to read something like this; **‘direct staff to actively prepare for, and to apply for grants that will allow Milwaukie to begin the Neighborhood Greenways listed in the bike chapter of the 2007 TSP.’**

Please take a few moments to watch this video about Neighborhood Greenways in Portland.

<http://vimeo.com/16552771#at=0>

We have attached a PDF document showing what New York City is doing with similar streets that they are calling “Neighborhood Slow Zones” with plenty of statistics and photos to document the process. We have also included a PDF document called “why 20 mph” which discusses OR HB 3150 which allows local governments to reduce residential speed limits from 25 to 20 without state approval under certain conditions. Lastly we have included the County HEAL grant which we applied for a few months ago, but did not receive funding.

We want to see this project move forward and we want to work with fellow residents, staff, and council to get it done. If you have any questions, please let us know.

We appreciate your time and efforts to improve Milwaukie for all citizens.

--

Greg Baartz-Bowman & Matt Menely
Bike Milwaukie Co-Organizers

Building community and encouraging advocacy in Milwaukie on self propelled wheels.

We have monthly or semi-monthly rides in and around Milwaukie.

[Keep informed about Bike Milwaukie events on Facebook](#)

HB 3150

***An important step in Portland's
effort to create a network of
comfortable and safe streets for
walking and bicycling***

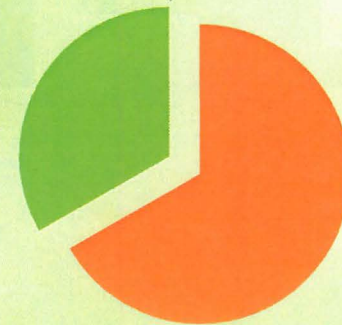
Mark Lear

*Projects and Funding Manager
Portland Bureau of Transportation*

Community and School Traffic Safety Partnership

- ✿ Ten years ago Portland created the CSTSP to enhance traffic safety services:

- ✿ Reducing injuries and fatalities
- ✿ Reducing people limiting walking and biking due to traffic safety concerns



66% of Portlanders limit walking and bicycling due to their fears about traffic.

Transportation Safety Account

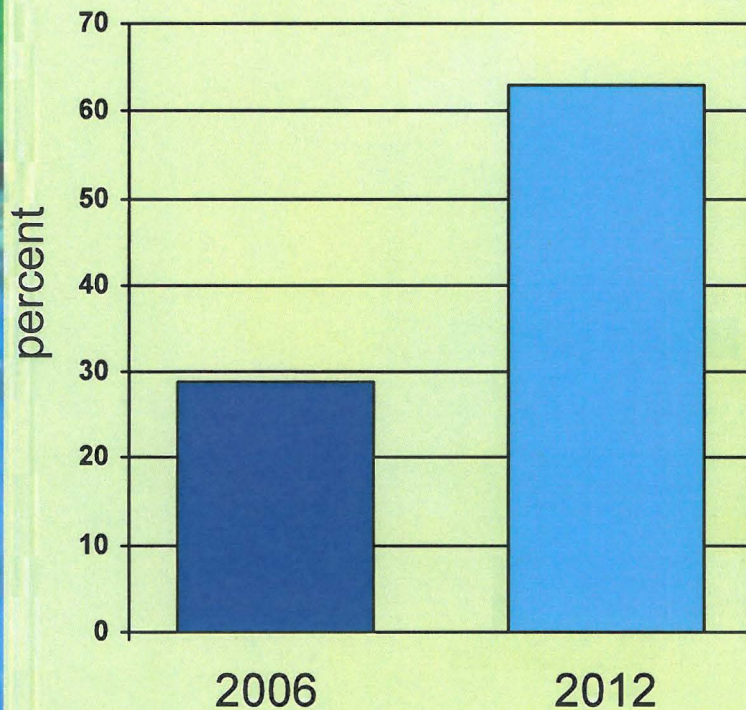
- ✿ 2004 Portland City Council dedicated an increase in traffic fine revenue to the following services:



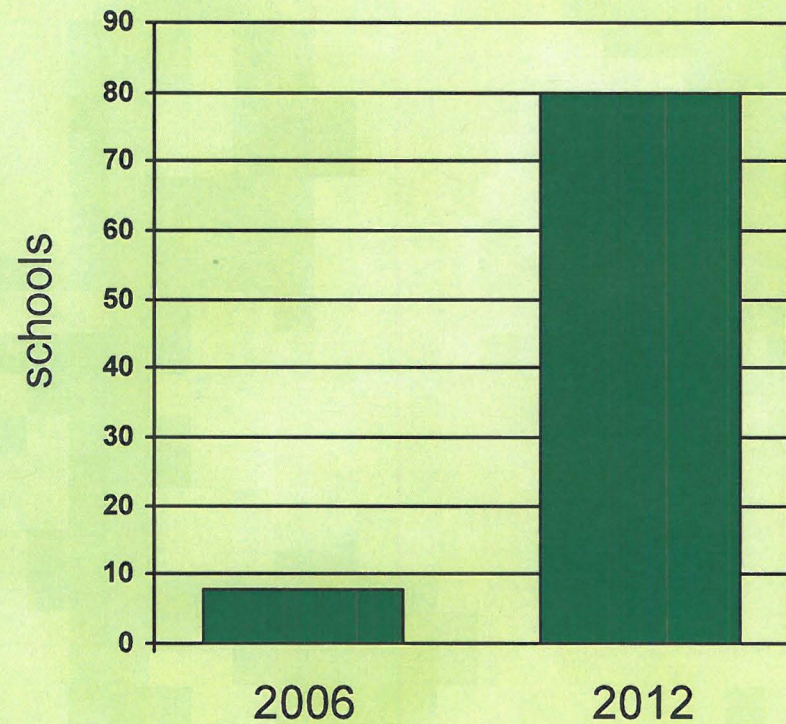
- ✿ Reducing Driver Errors
- ✿ Pedestrian / Bicycle Safety
- ✿ Safe Routes to School

Background Results

Portland Homes and Businesses
Within ½ Neighborhood Greenway



Schools Participating in Safe
Routes to School Program



Problem

There is growing evidence and experience that the safety and comfort of shared streets improves dramatically by reducing speed from 25 mph to 20 mph

“it is like the difference between a street and a really wide bicycle / pedestrian path”





Problem

Prior to HB 3150 Oregon law limited 20 mph to business zones and narrowly defined school zones

- Enforcement limited to higher speeders
- Unable to space speed bumps for desired speed limit of 20 mph

HB 3150

* Local governments can reduce residential speed limits from 25 mph to 20 mph without state approval under the following conditions

- Local street
- Volume of motor vehicles of less than 2,001 per day
- 85% speed of less than 30 mph
- Streets signed/marked to indicate bike/pedestrian use
- Signed 20 mph
- Identified in an ordinance by the local road authority



Keys to Legislative Success

- * Strong support from the Oregon chapter of the Automobile Association of America (AAA) and the Oregon Trucking Association
- * Application of the 20 mph speed limit to low-volume and relatively low speed streets
- * Strong support from a broad coalition of public health, safety, modal and neighborhood advocates including legislators
- * Role of local governments in identifying streets
- * Trust that local governments would fairly apply new rules

I walk my dog
to the park

Marie Dodds
American Automobile Association
(AAA)



I ride my bike
for fun

Debra Dunn
Oregon Trucking Association



I love avocados
delivered
by truck

Steph Routh
Willamette Pedestrian Coalition



Question #1:

Will changing the speed limit really change the speed of vehicles?

- * Yes. Portland will design all new neighborhood greenway projects and retrofit old projects with additional speed bumps to ensure speed reduction
 - 25 mph street – 14 foot speed bump/hump every 400-450 feet ensures 25 mph 85% speed
 - 20 mph street – 14 foot speed bump/hump every 330-380 feet ensures 20 mph 85% speed

Before



NO TRAFFIC CALMING FEATURES

After

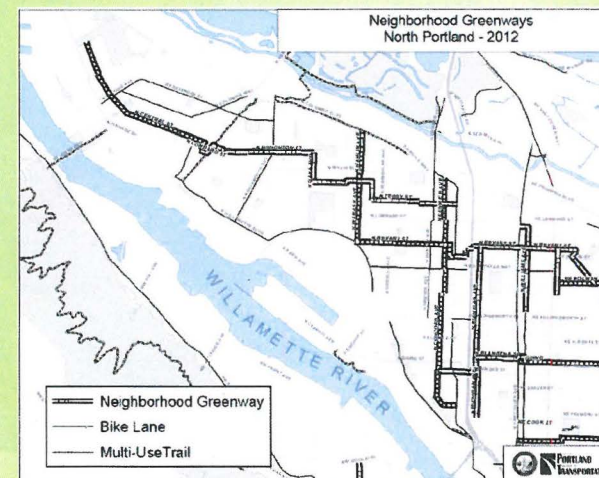
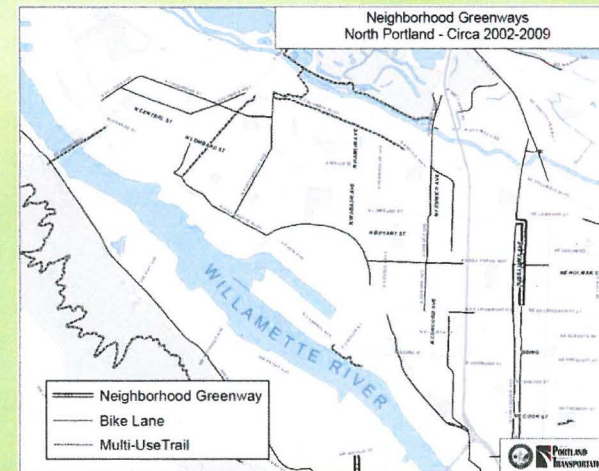


NEW SHARROWS AND A SPEED BUMP TO SLOW TRAFFIC

Question #2:

Why invest resources on a street that is already pretty low speed, low volume and safe?

- * Neighborhood Greenways create a transit-like network that connects schools, parks, and provides access to business and transit.
- * Neighborhood Greenways become attractive alternative to busy streets due to slow speed of vehicles, safe crossings, elimination of unnecessary stop signs and plenty of nice people walking and bicycling.
- * In addition to being safer places if a crash occurs the facilities are much lower stress due to reduction in cars passing bicyclists, they just provide a nice experience. They're quiet, you're not breathing in exhausts, you can walk or bike side by side and have a conversation.



Question #3:

Will creating a network of traffic calmed streets come at a cost of reductions in emergency response times?



- * No. Portland's Fire and Transportation staff have worked together to create a network of emergency response routes that are not eligible for traffic calming. These routes were avoided in developing the neighborhood greenway system.

Question #4:

Will these additional speed bumps make these routes less attractive to bicyclists?

- * No, Portland has routinely received positive feedback from bicyclists that the 14 foot speed bump is not an issue for the vast majority of people bicycling on our traffic calmed streets.
- * Citywide GPS study document that bicyclists prefer traffic calmed streets with low speeds and volumes.



Question #5:

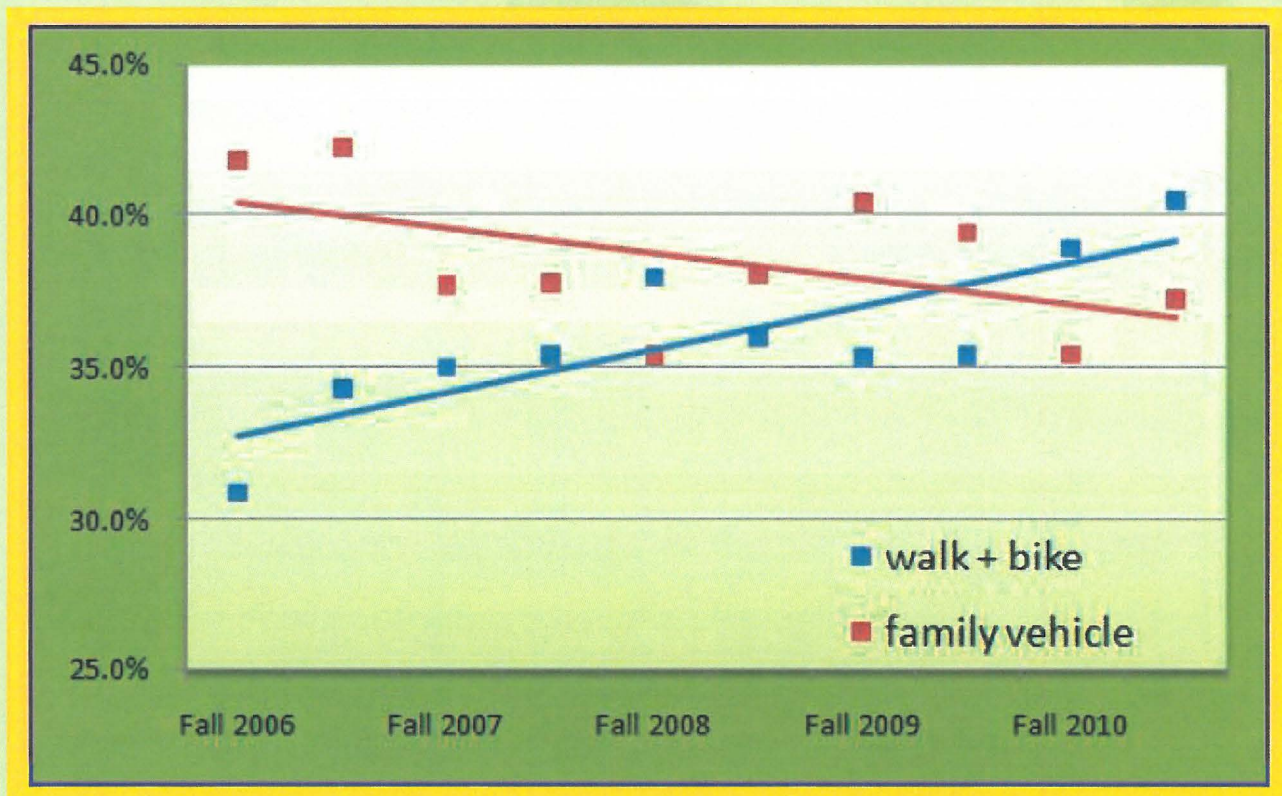
With limited resources how can local governments afford to build these types of projects?

- ✱ Neighborhood Greenways are among the most cost-effective solutions in transportation.
- ✱ Average cost per mile for last 45 miles of Neighborhood Greenways - \$140,000
- ✱ Limited maintenance dollars can be prioritized for maintenance of this subset of the local street network.



Portland Safe Routes Working!

31% Increase in Active Transportation



Clackamas County HEAL Grant
Project Name: Milwaukie- Monroe Street Bicycle Improvements

Project Description

Purpose of the project:



a. We are asking for funds to purchase Sharrows which will be installed by the City of Milwaukie on Monroe Street, identified in the City's 2007 Transportation System Plan (TSP) as a "Bike Boulevard" (The TSP had extensive community-support in its development). Sharrows are markers placed in the center of an automobile travel lane to indicate that a bicyclist may use the full lane. Installation of Sharrows on Monroe will help Milwaukie more fully realize the 2007 TSP. The 2.2 mile-long street has lower volumes of automobile traffic which lends itself to the installation of bike improvements like Sharrows. Monroe is the only continuous low-volume street in Milwaukie

that stretches from the west end of the city to the east end (and it continues east beyond the city border). 1.4 miles of Monroe were re-paved in Fall 2012.

b. Project activities or work plan.

Jan/Feb 2013: City Staff will perform outreach to stakeholders to gain feedback from the community on specific placement of the Sharrows.

Spring 2013: Once the weather is dry enough, City Staff will install the Sharrows. Staff will also perform public education/ outreach to the community to provide information about Sharrows around the same time that they are installed. Education and outreach will include: an article on the City website and in the monthly City newsletter (*The Pilot*); communication with neighborhood leaders; presentations at neighborhood meetings; and the use of social media tools including Facebook and Twitter.

c. How will it increase active living and access to healthy foods:

- **Active Living:** By installing Sharrows the project will increase active living in Clackamas County by encouraging more people to ride their bikes to get across town, and beyond. Milwaukie is a small city with around 22,000 residents. It takes an average cyclist approximately 15-20 minutes to get across the city on a bicycle. Encouraging cyclists to use lower traffic streets through the use of Sharrows will make it safer and easier for residents to move around Milwaukie on their bikes, while at the same time getting exercise, reducing congestion, and air pollution. Because Sharrows slow auto traffic, this project will also make it safer for pedestrians and residents living along this corridor.
- **Healthy Foods:** Monroe connects multiple neighborhoods to Downtown Milwaukie, which hosts the Milwaukie Farmer's Market every Sunday from May thru October. The Farmer's Market is located one block North of Monroe. Many individuals and families ride their bikes to purchase locally grown produce at the Market. By adding Sharrows to Monroe the residents will also have easier

access to the Farmer's Market and several grocery stores including Safeway and Albertsons which are each located within 1-2 blocks of Monroe.

d. Anticipated outcomes: It is anticipated that the installation of Sharrows will increase cycling along the Monroe street corridor. Results could be measured in the future using a portable bicycle counter if the county has one available, or through manual counting before and after the project is completed.

e. Targeted communities this project will engage: This project targets anyone who wants to move from one side of Milwaukie to another (east/west). It will help lower barriers to entry for potential cyclists by showing that a specific street is better suited for bicycle travel. Many people are interested in getting on their bike, but they may be concerned that it is not safe. Studies show that this is especially true of women and parents riding with young children. Sharrows will show cyclists an ideal route that is on a street with lower automobile volume. This project will assist in connecting cyclists in Milwaukie to: public transit, schools (Portland Waldorf School, St. Johns, Milwaukie High School), parks, health care providers, grocery stores, Farmer's Market, the library, post office, and other local businesses.

f. Anticipated number of people affected by project: This project will affect not only cyclists, but anyone who uses Monroe and neighborhoods that it passes through. It will calm traffic in those areas and increase walkability and livability for residents living along Monroe and adjacent streets. This project will travel through [four Milwaukie neighborhoods](#): Historic, Ardenwald, Hector Campbell, and Linwood.

g. Long term maintenance:

Sharrows are made from the same thermo-plastic that other road markings are, and are designed to last many years and require no maintenance. Because a large portion of Monroe was just repaved (1.4 miles, between Oak St. and Linwood), this is the ideal time to install Sharrows. The City does not have plans to repave the other sections of Monroe in the next few years, so the Sharrows installed will be in-place for a long time.



2. Describe your qualifications (skills, resources, experience) to complete the project: The City of Milwaukie has a full planning, engineering, and street maintenance staff that is capable of implementing the placement and installation of Sharrows in a timely manner. In 2010 the City installed pole-mounted bicycle way-finding signs City-wide (total investment \$35,000). The City routinely consults local cyclists on projects impacting cyclists. This project will be a joint effort between the City of Milwaukie and Bike Milwaukie (a Milwaukie-based group of cyclists who formed in 2011 with the purpose of promoting bicycling in Milwaukie). Bike Milwaukie co-founder Matt Menely is

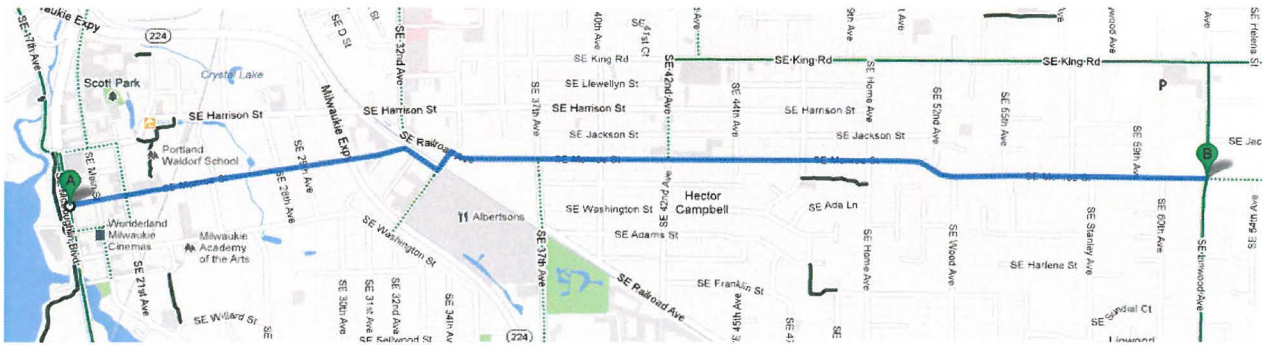
the grant writer, and was involved in the creation of the 2007 Transportation System Plan. He and other cyclists in the community will help City Staff with the outreach and education component of this grant. The City will provide technical support at the application stage, outreach and education, manage the finances, and install the Sharrows.

3. Community organization partners:

- City of Milwaukie
- Bike Milwaukie
- Neighborhood Associations

4. Projected timeline (including expected start and completion dates and any project milestones. Include permit process requirements, if applicable):

- Jan/Feb 2013: City Staff will perform outreach to stakeholders to gain feedback from the community on specific placement of the Sharrows.
- Spring/Summer 2013: Once the weather is dry enough, City Staff will install the Sharrows. Staff will also perform public education/ outreach to the community to provide information about Sharrows around the same time that they are installed. Education and outreach will include: an article on the City website and in the monthly City newsletter (*The Pilot*); communication with neighborhood leaders; presentations at neighborhood meetings; and the use of social media tools including Facebook and Twitter.



5. Grantees Agreement: We will fulfill and comply with all public requirements for safety, financing, budgeting, and construction. Permits will be obtained, if required.

Budget

1. Attached to this document is a copy of the budget “HEAL-Milwaukie- Monroe Street Bicycle Improvements”.
2. The City of Milwaukie will provide matching funds in the form of staff time for planning and labor for installation, at an estimated \$10,509. City staff estimates it will take two staff persons to place the Sharrows and that it will take on average 1.5 hours to install each of the 48 sharrows. The City will also spend \$30 per hour for the truck and

equipment required to perform the installation. Finally the City is estimating three hours in public information and outreach for the placement for the sharrows.

Summary

The bicycle is a human-powered vehicle that allows people of all ages to move independently, at relatively low cost and with little impact to the environment. Bicycling promotes the well-being of people who live and work in Milwaukie, with the added benefit of reducing auto traffic on city streets. Even though it should be understood that vehicles and bicycles share the road, we believe the installation of Sharrow pavement markings creates more awareness and safety for bicyclists. MUTCD has performed safety studies on these particular Sharrow symbols and they're proven to yield a higher safety result, which as we bring "Shared Road" cycling to Milwaukie, safety is an imperative. We know having this funding to install these markings will create a safer travel way for our bicycling citizenry and visitors.

We request these funds from the County HEAL Grant to help us succeed in creating a healthy, safe, and active community in Milwaukie and Clackamas County.

Thank you for your consideration!

Neighborhood Slow Zones

A community-driven approach to reducing speeds to 20MPH

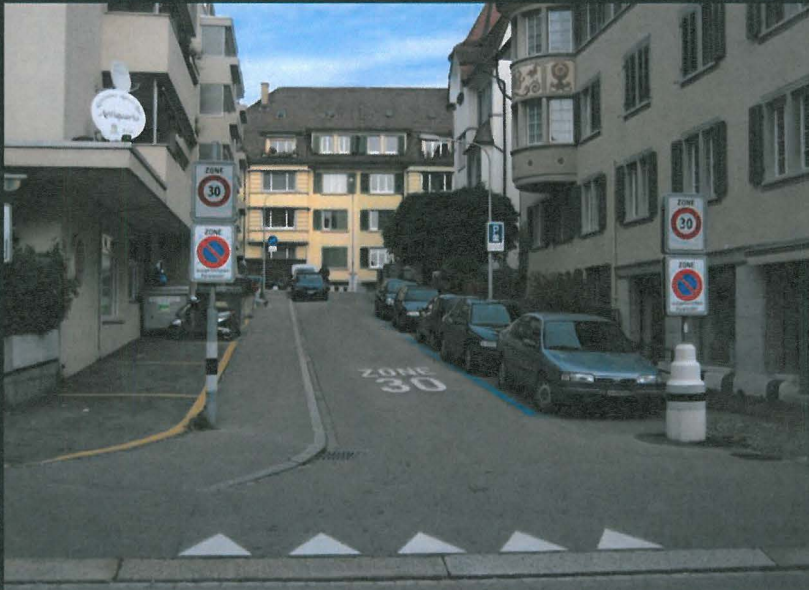


Commissioner Janette Sadik-Khan New York City Department of Transportation
Office of Research, Implementation & Safety, Division of Traffic & Planning



What is a Neighborhood Slow Zone?

- Inspired by programs in the UK and Europe
- Speed limit set at 20mph
- Small, self-contained area (~5x5 blocks or ¼ mile diameter)
- Announced with signs and gateway treatments
- Self-enforcing via traffic calming and markings



Safety Impacts from Other Cities

- United Kingdom
 - London: 46% reduction in KSI, as compared to untreated areas
 - London: No collision migration
 - Average speeds reduced 9mph
- The Netherlands
 - Average decrease in injuries of ~25% in Zones 30
 - As of 2007, 75% of residential streets set at 30 kph (19mph)
 - Amsterdam: Entire city center set at 30 kph
- Barcelona
 - Began piloting in 2006, crash rates dropped up to 27%
 - Building 215 km of “Zone 30” by end of 2009



Overall Benefits

Quality of Life Improvements

- Reduced traffic noise
- Reduced cut-through traffic
- More social streets

Develop Safer Driving Culture

- Slowly build a network of slower speed zones citywide
- Shift driving habits to slower, more context appropriate speeds



Slow Zone Toolbox

- Gateways
- Speed humps
- 20 MPH markings
- Other traffic calming markings

Gateways

- Roadway is narrowed by in-street sign base, signs and markings to bring down vehicle speeds
- Drivers are clearly alerted that they are entering a traffic calmed zone by signage and markings
- Two parking spaces “daylighted” at each gateway



Speed Humps

- Keep vehicle speeds around 20mph; 15 mph near schools & other sensitive locations
- ~20% reduction in speeds
- ~30% reduction in mid-block crashes
- ~40% reduction in pedestrian crashes, without increasing any other type of crash
- Speed humps distributed as evenly throughout the Slow Zone as feasible
- Key element in making the Slow Zone “self-enforcing”
- Follow standard NYCDOT speed hump criteria when choosing streets for installation



20 MPH Markings



Other Traffic Calming Markings

- Optional treatments: where appropriate, markings employed to narrow and calm roadway



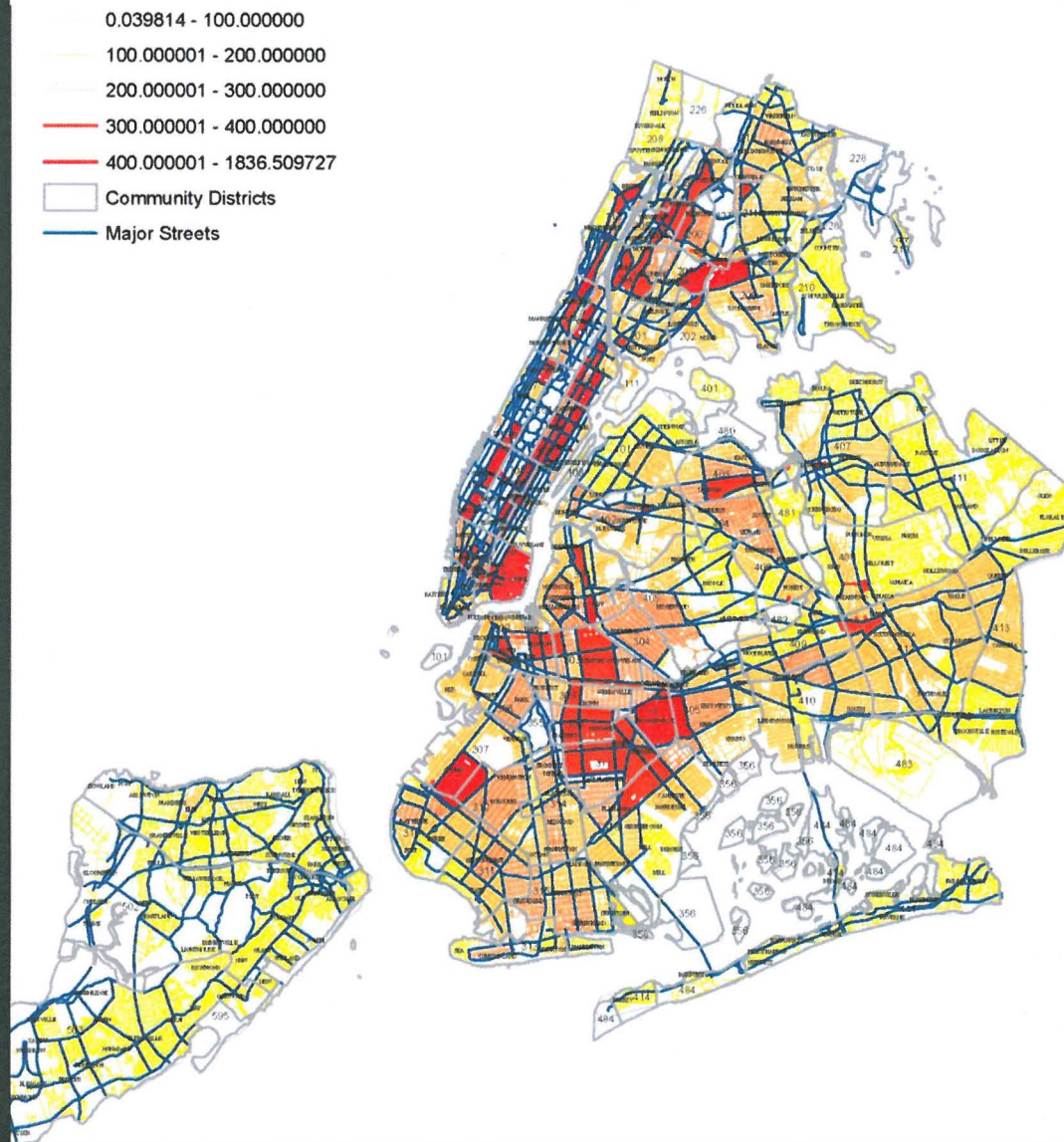
Operational Summary

Requires Minimal DOT Operations Resources

- No signals work required
- Minimal data collection required
- Minimal design work: formulaic sign and markings installations
- Two “double” signs & ped island sign at most gateway, average 12 gateways per Zone
- ~13 Speed Humps per Zone (one every three blocks)
 - Excluded from bus routes
 - No truck routes inside the Slow Zones

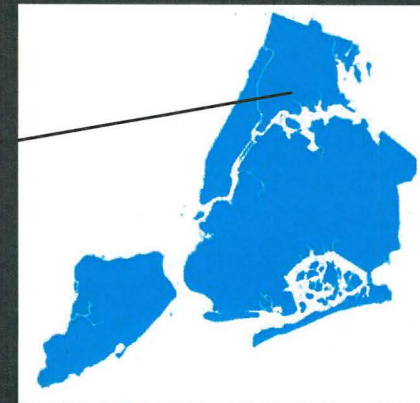
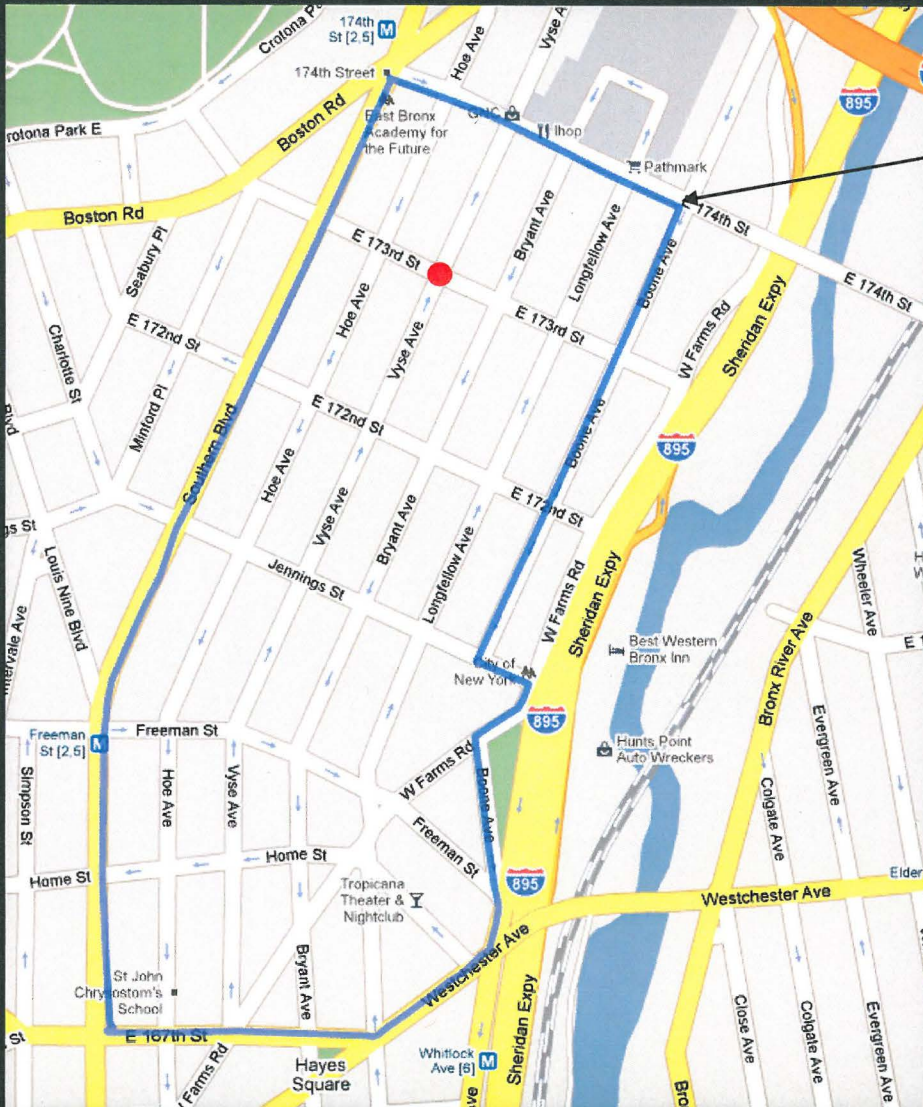
Pilot Neighborhood Selection Process

Local Streets: Severity-Weighted Crashes/Mile



- Select preliminary list of possible locations using crash rates and street characteristics
- Solicited Borough Commissioner (NYCDOT community Liaison) input on potential community interest

2011 Slow Zone Pilot Area



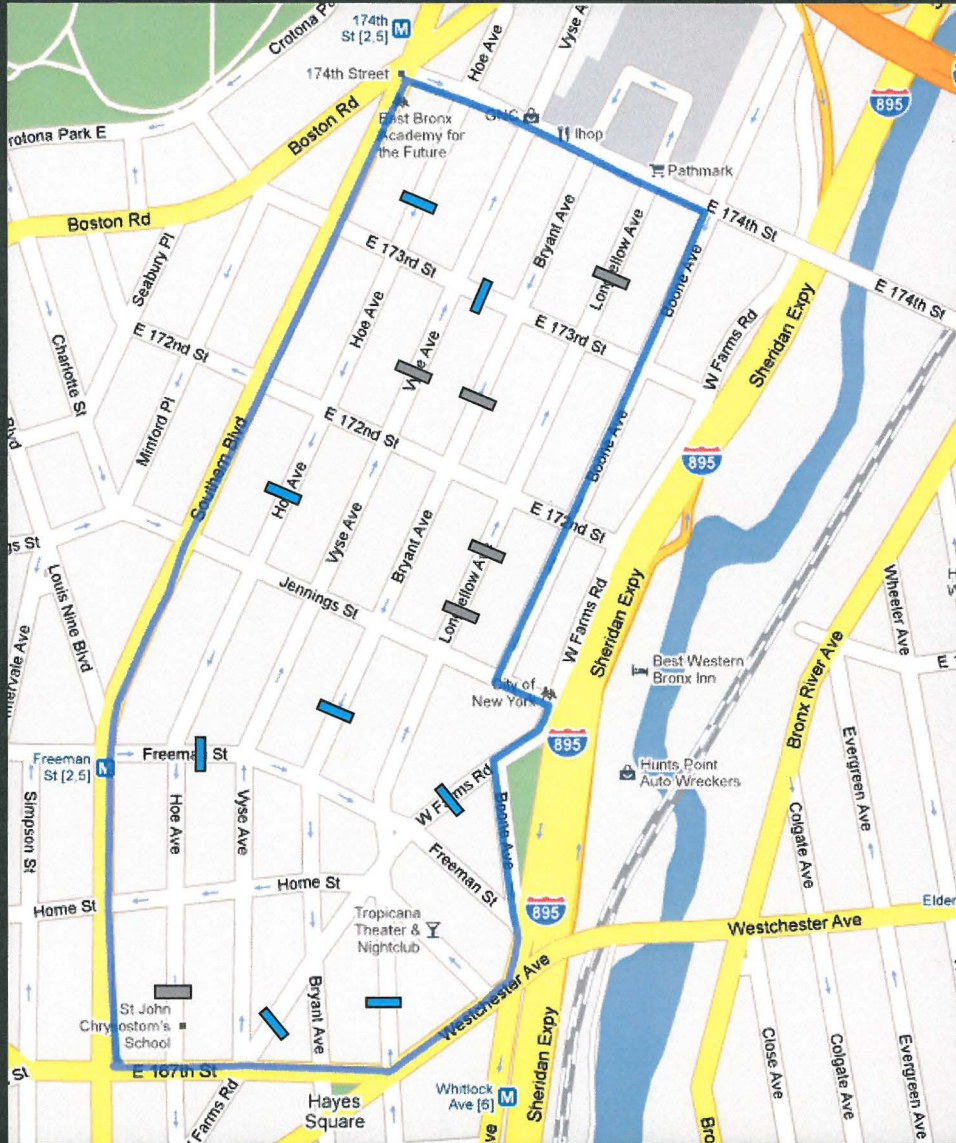
Claremont, South Bronx

- 1 fatality (2005-2009)
- 74th percentile for injuries per mile
- Community Board open to the project
- Strong boundaries: surrounded by elevated train, highway, industrial zone, commercial streets
- .22 square miles
- 6 schools within Zone
- Close to 3 subway stations
- Strong neighborhood quality, highly residential

Claremont Slow Zone Pilot Area

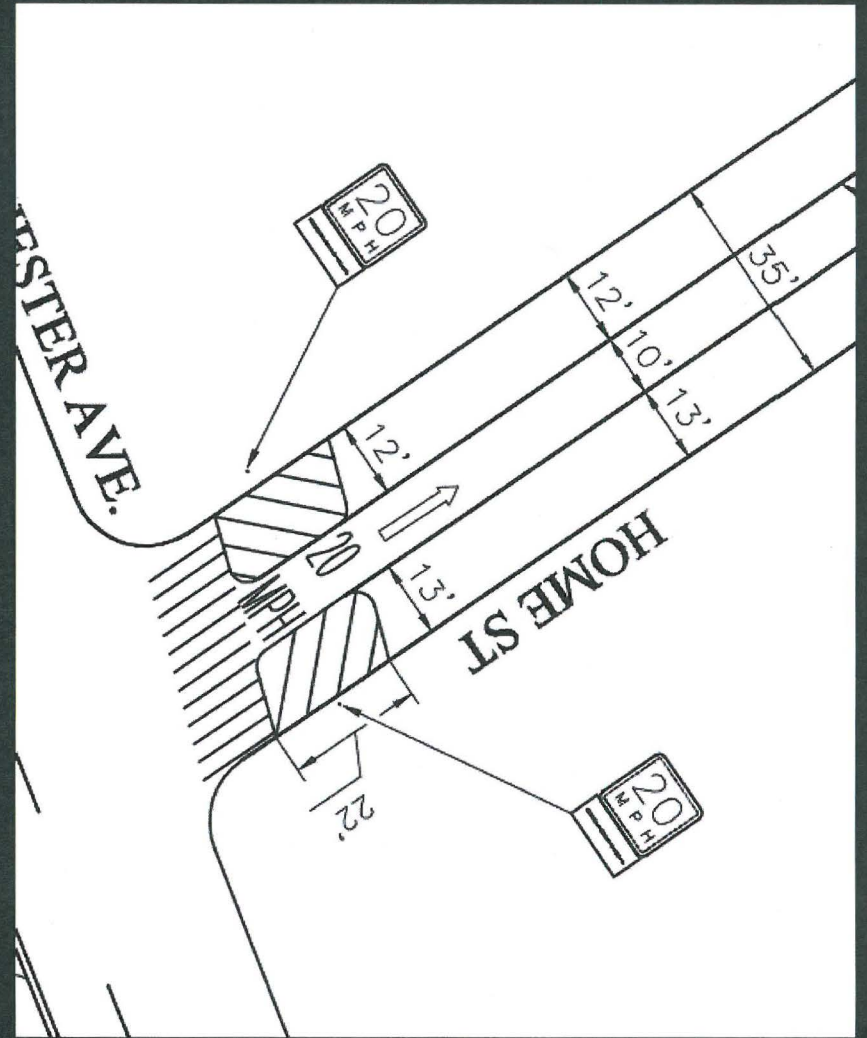
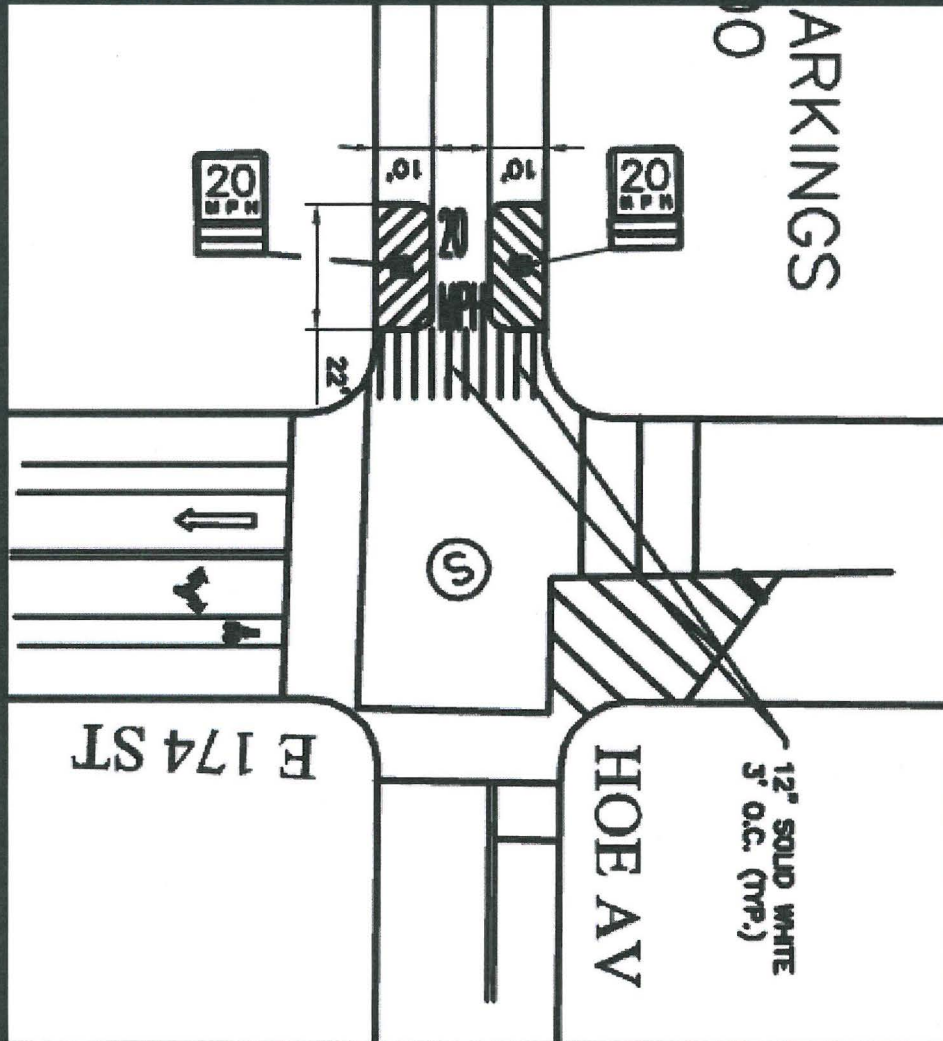


Speed Humps



- 8 New Speed Humps Proposed
- 6 Speed Humps Existing

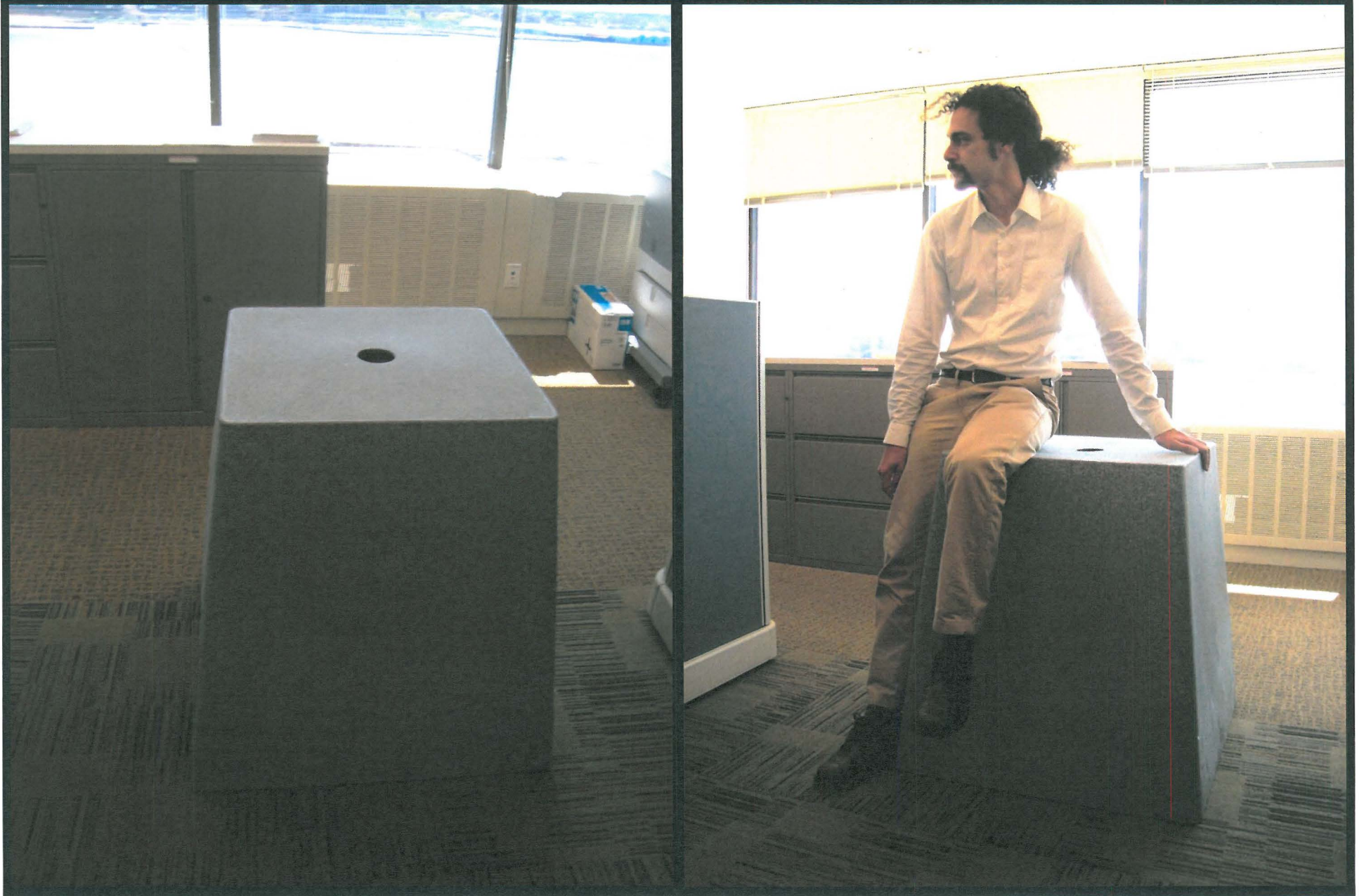
Gateway Design



Custom Sign



Custom Sign Base
















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About DOT Neighborhood Slow Zones

Neighborhood Slow Zones are a community-based program that reduces the speed limit from 30 mph to 20 mph and adds safety measures within a select area in order to change driver behavior. The ultimate goal of the Neighborhood Slow Zone program is to lower the incidence and severity of crashes. Slow Zones also seek to enhance quality of life by reducing cut-through traffic and traffic noise in residential neighborhoods.

Neighborhood Slow Zones are established in small, self-contained areas that consist primarily of local streets. Signs and gateways announce the presence of a Slow Zone. The Zone itself is a self-enforcing, reduced-speed area with speed bumps, markings and other traffic calming treatments. Implementing Neighborhood Slow Zone safety treatments can result in the loss of some on-street parking.



DOT creates slow zones in response to applications from communities. After each round of applications, DOT selects appropriate location(s) and works with the community to devise a plan to install the Slow Zone. Slow Zones must be approved by the local Community Board.


Applying

Applications may be submitted by local Community Boards, civic associations, business improvement districts (BIDs) or elected officials. The deadline for submitting applications is Friday, February 3, 2012. Applications must be submitted via email to slowzones@dot.nyc.gov.

[Download the Application](#)

Applicants should:

- pick a location that is approximately a quarter square mile (around 5 by 5 blocks) in area
- pick a location that is primarily residential
- avoid wide, major streets, industrial and major commercial areas within the zone
- choose strong boundaries, e.g. highways, large parks, elevated trains, dead ends, major streets



Applicants must provide an inventory of relevant institutions and transportation facilities within the boundaries of the zone, including schools, senior centers, daycare centers, subway stations, bus routes (in the zone and on the boundary), truck routes (in the zone and on the boundary), fire stations, and hospitals.

[Find schools, hospitals and other institutions on NYCityMap](#)
[Browse transit maps from the MTA](#)

Applications must demonstrate local support for the Slow Zone. Applications that include letters of support from key community stakeholders will be prioritized. Examples of key stakeholders include the local Community Board, police precinct, civic councils, community groups, BIDs and local elected officials.

All applications will be reviewed to ensure they are complete, and applicants will be sent confirmation of receipt of their applications as soon as they have been processed. Applicants may be asked to provide additional information or make changes to the application after the original application has been submitted.

New York City Department of Transportation

2011

NYC Neighborhood Slow Zone



Application for Communities & Neighborhoods

Please read through the Neighborhood Slow Zone Guidelines before completing the application

Community Information

Name of Interested Community/Group: _____ Borough: _____
 Community Board(s): _____ Contact Person and Title: _____
 Contact's Address: _____
 City: _____ State: _____ Zip Code: _____
 Contact's Phone #: _____ Contact's Email: _____

Proposed Boundaries of Slow Zone

Describe the proposed location and boundaries of the Neighborhood Slow Zone. Please indicate any "strong" boundaries, e.g. highways, parks, elevated trains, dead ends, major streets. (Please attach a map):

2011-2012 Applications

- Slow Zone application period was open for 10 weeks
 - 11-17-2011 through 02-03-2012
- ~100 applications received
- ~25 applications promising enough to score
- Other applications were disqualified due to:
 - Contained major, high traffic streets
 - Only specified a single street
 - Collection of disconnected streets
 - Too small or too large (.25 square mile ideal)
 - Information unclear

2011-2012 Applications

- Queens & Staten Island accounted for ~80% of demand
 - Staten Island (43)
 - Queens (34)
 - Brooklyn (13)
 - Bronx (5)
 - Manhattan (2)

2011-2012 Applications

- Applications were scored using positive and negative criteria, with **crashes** and **community support** weighted highest. Criteria included:

Positive Criteria	Negative Criteria
Crashes	Gateways required
Letters of Support	Fire Stations
Schools	Hospitals
Senior Centers	
Daycare	
Strong Boundaries	
Subway Stations	
Bus Routes (on boundary)	Bus Routes (in zone)
Truck Routes (on boundary)	Truck routes (in zone)

2012-2013 Slow Zones

- NYCDOT will install 13 Slow Zones citywide
 - **Bronx**
 - Baychester
 - Eastchester
 - Mt Eden
 - Riverdale
 - **Brooklyn**
 - Boerum Hill
 - **Manhattan**
 - Inwood
 - **Queens**
 - Auburndale
 - Corona
 - E Elmhurst/Jackson Heights
 - Elmhurst
 - **Staten Island**
 - Dongan Hills
 - New Brighton/St George
 - Rosebank

Preliminary Evaluation

- Too early for crash reduction data (NYCDOT waits minimum 18 months)
- Speeds were reduced at 6 out of 7 locations where speed bump was installed
- Of those 6, average reduction of 85th percentile speed was - 10%
- Speeds were unchanged at the non-hump locations
- In-street signs have been problematic, 7 out of the 16 installed have been damaged as of January 2012
- Anecdotal observations from the police are positive, reporting that driving in the Zone was slower and less aggressive
- Public response in the neighborhood has been favorable, no issues or complaints

Questions?

Thank
You

DuVal, Pat

From: chris ortolano <cdortolano@gmail.com>
Sent: Monday, February 18, 2013 5:07 PM
To: Milwaukie OCR
Subject: 2013 City Council draft goals - public comment

Greetings Mayor and City Council,

I appreciate current fiscal challenges, the need to reduce expense, increase revenues, and make do with a limited staff budget. I also appreciate your willingness to prioritize protecting public health and safety. In the past, you have demonstrated your leadership addressing coal exports. During times of fiscal uncertainty, community involvement around public health and safety concerns is an asset, not a liability.

Bike Boulevards, or Neighborhood Greenways, currently improve public health and safety. Cities like Portland demonstrate the benefits of multi-modal transit solutions. Greenways can be implemented with an incremental approach through sharrows, speed bumps, traffic diversions, signage, and sidewalks to make multi-modal transit safer and easier for everyone. Neighborhood Greenways do NOT preclude on-street parking.

A safe bike/ped route to downtown will reduce air and noise pollution, and support increased cycling by parents and children. By directing city staff to develop Monroe St. into a Neighborhood Greenway, Council will acknowledge the need for a safe and smart bike/ped and motorist friendly street that connects five of our neighborhoods to the new downtown light rail station. This will make our neighborhoods more flexible, more resilient to fluctuations in fuel price and bus service, and build goodwill towards supporting a comprehensive bond measure that could provide some funding for these efforts.

- *Fact: When the 17th Ave. Bikeway (connecting to the Springwater Corridor) and the Trolley Trail (connecting to Oregon City) both open, a safe north-south bike corridor will be in place. No such east-west corridor exists to connect the Hector Campbell neighborhood to downtown.*
- *Assumption: Milwaukie will soon be a destination for cycling families with children who recognize the value of safe cycling neighborhoods.*

By directing city planning staff to seek matching grants, work with community leaders, and collaborate with Greenways experts, Council will invigorate community members who care about public health and safety. You send a message that bike/ped safety is an asset that promotes public health and safety, and the community has the ability to work with Council to help overcome funding and implementation challenges.

Citizen collaboration is a hallmark of many great cities and will encourage a stronger, richer, and more vibrant civic experience. This is especially important as the city considers the breadth and depth of a proposed bond measure in 2013. This bond measure will require a tremendous amount of public support to pass. Including clear language supporting a Neighborhood Greenway in the goal setting process sends a strong signal that Council considers community collaboration an important element in helping Milwaukie to pass a bond measure and overcome the fiscal challenges we currently face.

Thank you for your consideration,

Chris Ortolano
Hector Campbell Resident

DuVal, Pat

From: gregory baartz-bowman <baartzbowman@yahoo.com>
Sent: Monday, February 18, 2013 11:03 PM
To: Milwaukie OCR
Subject: Climate Change

City Council - Climate change is real and does not stop at our border. Every long-time Oregonian I ask tells me the same thing, 'The weather has changed'. This link to The U.S. Fish & Wildlife Service website explains the climate conditions for our kids and grand kids over the next 80 years. It sucks for them. <http://www.fws.gov/pacific/Climatechange/changepnw.html>

Burning fossil fuels is the number one cause of climate change. We need to do our part to reduce the use of fossil fuels NOW. Walking or riding a bike is the quickest, least expensive, and most far-reaching way to use less fossil fuel. Being able to walk or ride a bike safely will increase the number of citizens who walk or ride, which in turn reduces the use of fossil fuels, which reduces the effects of climate change.

Neighborhood Greenways are not the future, they are the NOW. Across the world cities big and small find a way to create Neighborhood Greenways that not only inspire citizens to walk, ride a bike, and drive a car less. They inspire our neighbors, the cities and towns nearby to do the same. To make it safer for everyone and to use less fossil fuels. It is this effort, this belief that the effects of climate change outlined by the Federal Government will not occur as ferociously or deadly for the people of the 21st century and beyond. Because people born in the 20th century at last made it safer to walk to the store and ride a bike to work. It's that simple.

It's time to 'direct staff to actively prepare for, and to apply for grants that will allow Milwaukie to begin the Neighborhood Greenways listed in the bike chapter of the 2007 TSP.'

Guys - The climate is going to hell in a hand basket. Do you care? Do you care enough?

Greg Baartz-Bowman

Art

DuVal, Pat

From: alicia hamilton <aliam10@hotmail.com>
Sent: Tuesday, January 29, 2013 12:06 PM
To: Milwaukie OCR
Cc: Ragel, Beth
Subject: Support for Arts and Culture

Dear City Councilors,

I would like to echo the sentiments of those able to speak in support of the arts at last week's goal setting session.

In a city long divided by many issues, there is one topic that brings the Milwaukie community **together.....ART.**

One can witness this phenomenon while watching people enjoying City Hall's sculpture garden, dancing at a First Friday event, listening to music at Scott Park on a hot summer day, enjoying poetry at the Pond House, or watching a film produced by high school students (to name a few).

Imagine if we could use the arts to bring our community together on a larger scale. We can do this. YOU can do this.

Please consider supporting a mural art program as well as options to fund arts and culture in our community.

Thank you.

Sincerely,

Alicia Hamilton

Stauffer, Scott

From: Lisa Batey <lisabatey@msn.com>
Sent: Tuesday, February 19, 2013 2:12 PM
To: Milwaukie OCR; DuVal, Pat
Subject: comments for Council goal-setting discussion 2/19/13
Attachments: lbatey ltr to Council on draft 2013 goals 2-18-13.doc

Pat: Could you please see that the attached is distributed to Council for tonight's meeting? Many thanks! --
Lisa

Lisa M. Batey
11912 SE 19th Avenue
Milwaukie, Oregon 97222

February 19, 2013

Mayor Jeremy Ferguson and Milwaukie City Council
Milwaukie City Hall
10722 S.E. Main Street
Milwaukie, Oregon 97222

RE: Comments on Draft Council Goals on February 19th Agenda

Dear Mayor Ferguson and Council members:

Thank you for sharing your draft goals for public comment. I have another commitment this evening and cannot attend your meeting, hence am submitting these written comments.

There are some interesting new items on your list in comparison with the last two years, and I particularly commend you for item #1, indicating you will consider both a bond measure and a possible business tax. Both are important tools for raising revenue needed to help move items on your goals list, and in our Transportation System Plan (TSP), forward. Item 10, “[s]upport our downtown businesses in their efforts to create a business directed growth plan,” also caught my eye. I was unaware that downtown businesses are engaged in such an effort – indeed, the lack of a viable downtown business alliance has been a detriment to many things, including the planned look at downtown zoning this year. So, while I am not sure what a “business directed growth plan” is, if downtown businesses are collaborating and strategizing on enhancing the downtown business environment, that can only be good news.

There are other things in the agenda that I might do differently, such as putting the Adams Street Connector into the priority projects and not the second “unranked” tier. It’s a small project, but it is an important and time-sensitive project for connecting the future station to Main Street and being the first step toward implementation of the South Downtown plan. I think it is important, both aesthetically and in order to create better linkages, to see it built across Main Street to Dogwood Park. But I guess any two informed Milwaukie citizens are likely frame and rank goals differently.

There are two items on the goals list, however, where the wording creates a concern that the Council may be backpedaling on longtime commitments the City has made to its citizens. First, in item 6, subpart (c) reads “Consider making Monroe Avenue a bike boulevard.” In adopting the 2007 TSP, the City identified a Monroe Avenue bike boulevard as one of five items on the Bicycle Action Plan at Table 6-3, page 6-12. Among the list of citywide projects in all

modes of transportation, Table 13-3, it is listed as a high-priority project. I think everyone realizes that the project is not one which is likely to be funded in whole from the City budget, but rather it will require looking for grant funding. But to use the word “consider” indicates the Council is not committed to the long-discussed priority of an east-west bike boulevard (which could also be said to fall under draft goal 6(a), “improve livability in the neighborhoods). I encourage you to revise draft goal 6(c) to read “pursue construction of the Monroe Avenue bike boulevard.”

My other concern is with draft goal 4, which currently reads: “[a]dvance the Kellogg for Coho project by negotiating with Wildlands a contract to undertake the project, the first part of which will be a study to ascertain the feasibility and viability of doing so for all parties.” In contrast, both your 2011 and 2012 goals included this simple goal: “[c]omplete the Kellogg-for-Coho project by January 1, 2016.” The two goal statements may not be inconsistent, if everything works out with Wildlands (and, as Wildlands said in the December public meeting, it is even possible, though perhaps not likely, that the work could be done by 2016). But the wording of the current goal leaves open the possibility that the removal of Kellogg dam might not be pursued if the negotiations with Wildlands do not bear fruit. In order to foreclose any concern that Council might be backtracking on the decade-long (if not longer) efforts to remove the Kellogg dam, I would suggest clarifying that the goal is still removal of the dam – how that is accomplished is a secondary point. Possible language might be something like “complete the Kellogg-for-Coho project, pursuing an agreement with Wildlands, or in the event that agreement cannot be completed, through procuring other financing.”

Thank you for the opportunity to comment.

Sincerely,

Lisa M. Batey

AGENDA

MILWAUKIE CITY COUNCIL FEBRUARY 19, 2013

MILWAUKIE CITY HALL
10722 SE Main Street

2144th MEETING

- | | Page # |
|---|--------|
| 1. CALL TO ORDER
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Milwaukie High School Student of the Month Heather Colvin | |
| B. Portland Metropolitan Association of Realtors Ownership Information Program – Daryl Winand | |
| C. Tacoma Station Area Plan Briefing #3
Staff: Ryan Marquardt, Senior Planner | 2 |
| 3. CONSENT AGENDA <i>(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)</i> | |
| A. Consider Personal Services Agreement for City Prosecutor Legal Services – Resolution | 34 |
| B. Consider Contract for Clay Pipe Replacement Project – Resolution | 49 |
| C. Consider an OLCC Application for Spring Creek Coffee House, 10600 SE McLoughlin Boulevard, change of ownership | 57 |
| D. City Council Minutes | 58 |
| 1. January 15, 2013 Work Session | |
| 2. January 15, 2013 Regular Session | |
| 3. January 22, 2013 Work Session | |
| 4. AUDIENCE PARTICIPATION <i>(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)</i> | |

5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
- A. **Supplemental Budget – Resolution** **77**
Staff: Casey Camors, Finance Director
6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
- A. **Downtown Code Amendments – Ordinance, 2nd reading** **85**
File #ZA-12-02
Staff: Ryan Marquardt, Senior Planner
- B. **Expedited Annexation of 10025 SE Wichita Street – Ordinance, 2nd reading** **130**
File #A-12-06
Staff: Kari Svanstrom, Associate Planner
- C. **City Council 2013 Goal Adoption – Resolution** **150**
Staff: Teri Bankhead, Assistant to the City Manager
- D. **Council Reports**

7. **INFORMATION**

8. **ADJOURNMENT**

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS



Agenda Item: RS 2.C.
Meeting Date: 2/19/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Tacoma Station Area Plan – Briefing #3

Prepared By: Ryan Marquardt, Senior Planner

Dept. Head Approval: Steve Butler, Planning Director & Interim Community Development Director

City Manager Approval: Bill Monahan

Reviewed by City Manager: 2/7/13

ISSUE BEFORE THE COUNCIL

Briefing on the Tacoma Station Area Plan

STAFF RECOMMENDATION

None, this is a presentation for Council's information.

KEY FACTS & INFORMATION SUMMARY

The Tacoma Station Area Plan (TSAP) is scheduled for adoption hearings in June 2013. This briefing will focus on the proposed zoning code amendments that will implement the land uses and types of development envisioned by the plan.

OTHER ALTERNATIVES CONSIDERED

None.

CITY COUNCIL GOALS

None.

ATTACHMENT LIST

- 1) TSAP Preferred Maps: preferred land use scenario; proposed subareas; transportation improvement projects
- 2) Draft Amendments to Manufacturing Zone
- 3) Draft Amendments for TSAP Overlay Zone

FISCAL NOTES

Tacoma Station Area Plan expenditures have already been budgeted for in the Planning Department's FY 2012 and FY 2013 budgets.



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Steve Butler, Planning Director & Interim Community Development Director
Ryan Marquardt, Senior Planner

Subject: Tacoma Station Area Plan – Briefing #3

Date: February 13, 2013, for February 19, 2013, Regular Session

ACTION REQUESTED

None. This is a briefing for Council's information.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

January 2013: Council was briefed on the preferred land use scenario for the Tacoma Station Area Plan.

March 2012: Council was briefed in a worksession about the Tacoma Station Area Plan (TSAP), the project study area, and the scope of work for creating the plan.

March 2011: Council adopted Resolution 30-2011 that endorsed the City's grant application for Transportation and Growth Management (TGM) funding to develop a Tacoma Station Area Plan.

February 2011: Council directed staff to prepare a TGM grant application for the Tacoma Station Area Plan project.

BACKGROUND

The project consultants, Angelo Planning Group (APG), will present City Council with an overview of the plan for the station area and the zoning amendments and recommended transportation improvements associated with the plan.

ZONING AMENDMENTS IN THE TACOMA STATION AREA PLAN

The overall land use plan for the TSAP is illustrated by the maps in Attachment 1. These show the preferred land use scenario, proposed subareas, and recommended transportation projects for the station area. Many of the land use policies recommended in the TSAP will be implemented through amendments to the Milwaukie Zoning Ordinance. The contents of the proposed amendments are presented in this section.

A. Manufacturing zone amendments

One of the preliminary steps in this planning process was to draft recommended amendments to the city's Manufacturing (M) zone to address existing deficiencies and support implementation of the Tacoma Station Area Plan. The draft amendments are provided in a memo dated May 7, 2012 (see Attachment 2). Generally, the draft amendments recommend the following:

- A new list of permitted use categories to replace the more specific list in the current code. The draft amendments eliminate existing language that allows “any combination of manufacturing, office, and/or commercial uses...when at least 25% of the total project involves an industrial use...”
- Retail and office uses are allowed only as accessory uses to the primary allowed uses. Language includes size limitations on retail and office space that do not exist in the current code.
- New development standards to regulate outdoor storage uses, location of parking and loading areas, external effects and mechanical equipment.
- A placeholder for the existing density standard of 10 employees per acre if the city opts to retain this requirement. If so, additional language will be needed to clarify how the density standard is applied, defined and enforced.
- New transition area standards that address additional building setbacks and screening in proximity to adjacent residential uses that are similar to those found in Chapter 19.504.6.

The most relevant of the above recommended amendments are those that pertain to allowed uses in the M zone and the employment density standard. The current code allows up to 75% of a “project” to be non-manufacturing uses and only limits the size of retail uses in those areas that are designated “Employment” or “Industrial” areas as shown on the Comprehensive Plan Title 4 Lands Map (which does not apply in the station area). The recommended amendments significantly limit the amount of non-manufacturing uses allowed in the zone by requiring that retail, commercial and office uses be accessory to a primary permitted use. The amendment language also limits “retail commercial and professional service” uses to a total of 20,000 square feet per project.

The approach taken with the M Zone amendment will impact how the Station Area Overlay zone is drafted. For example, the overlay zone is likely to provide for greater flexibility in terms of allowed non-industrial uses in certain portions of the overlay zone. But since it is applied as an overlay to the base M zone, the base zone requirements will affect the more specific, alternative requirements in the overlay zone.

B. Station Area Overlay Zone

The Station Area Plan recommends creation of an overlay zone (Tacoma Station Area Overlay) as the primary implementation tool for the plan. Generally, the overlay would encourage a more intensified mix of employment uses within the Station Area, along with some residential uses in appropriate areas. The recommended overlay boundary would be the same as the Study Area boundary (see Attachment 1) and would consist of four subareas established on the basis of intended mix of uses and characteristics. The overlay zone would apply on top of the base zone, which would remain Manufacturing (M). All the standards and requirements of the M zone would apply, in addition to the standards and requirements of the overlay. If conflicts occurred between the two, the overlay zone would prevail.

The overlay zone would contain a comprehensive set of provisions to regulate development in the Station Area, including the following:

- Purpose and applicability
- Nonconforming situations
- Parking requirements
- Review process

For each subarea, the overlay would include the following provisions:

- Boundary and description
- Intent and characteristics
- Permitted uses
- Development and design standards

See the overlay zone outline provided in Attachment 3 for more detail.

KEY POLICY QUESTIONS

Key issues on which staff and APG would like Planning Commission's input are explained in this section.

A. M-Zone amendments and TSAP Overlay

A key assumption in implementation of the TSAP through zoning is that the study area would retain a base zone designation of M, the M zone applied to this area would be amended, and much of the vision from the station area plan would be implemented through an overlay zone.

There are two geographic areas of the city that have the Manufacturing (M) zone designation: the North Industrial Area, which includes the Tacoma Station Area, and the Johnson Creek Industrial Area, which generally applies to lots along SE Johnson Creek Blvd from about SE 43rd Ave to SE Linwood.

The proposed M zone amendments have been discussed in context of the North Industrial Area and associated plan for the Tacoma Station Area. These amendments would resolve several issues with the existing M zone by clarifying and better describing the uses allowed within the M zone. However, the TSAP project has not conducted extensive outreach to the property owners or businesses in the North Industrial Area outside of the study area, and has not conducted any outreach for the Johnson Creek Industrial. It is likely that stakeholders in this area are not yet aware of these amendments.

Policy Questions:

- Should the TSAP be implemented as an overlay zone and retain a base zone of Manufacturing (M)? Staff believes the major advantage of this approach is that it allows the M zone uses to continue to occur in the station area, while also allowing properties in the study area to establish the types of uses envisioned by the TSAP when they choose to do so.
- Should the M Zone amendments be adopted city-wide? This would mean that non-manufacturing uses would be further limited throughout the M Zone relative to current regulations. As noted above, if the amendments are adopted, the Station Area Overlay would be used to allow a different and more flexible mix of employment uses just within the Station Area. This approach would effectively serve as a trade-off in that M Zone land inside the Station Area would be allowed a higher proportion of non-manufacturing uses but M Zone land outside the Station Area would be allowed a lower proportion of non-manufacturing uses (compared with current code).

B. Nonconforming uses

Depending on the language in the draft Station Area Overlay zone, it is possible that non-conforming situations may be created either through changes to the list of permitted uses or new design and development standards in the overlay zone. For example, if warehousing is no longer permitted as a future new use in some of the identified Subareas, existing warehousing uses could become nonconforming uses and would be subject to the city's nonconforming use regulations in Chapter 19.800. Those uses would be limited in their ability to expand or be moved or altered in any way. This approach may conflict with the objective of supporting existing businesses in the Station Area. An alternative would be to develop code language that avoids creation of non-conforming uses as described below.

Policy question: How should potential nonconforming situations be addressed in the planning area? Should the overlay zone include language stating that no nonconforming situations (uses or developments) will be created with adoption of the overlay? This would mean existing businesses would be allowed to expand or move without regard to the nonconforming regulations in 19.800, even if they were no longer allowed as new uses by the overlay zone. If those uses were to expand by a certain amount, they would be subject to Development Review and to the applicable design and development standards in the overlay.

C. Multifamily residential - deed restriction vs. conditional use

The Station Area Plan identifies Subareas 1, 2 and 3 as areas that could be appropriate for multifamily or multifamily mixed use development, and portions of Subarea 2 may also be appropriate for single-family development. Currently, the overlay zone is drafted so that multifamily (stand-alone or above a commercial/office use) would be permitted outright in Subareas 1 and 2 and permitted only through conditional use review in Subarea 3. The intent of the conditional use requirement was to recognize that Subarea 3 is anticipated to be primarily a mix of employment uses include manufacturing, office and commercial uses; it is not intended to be a residential district. As such, the city will want to ensure that residential developments in Subarea 3 are built to be compatible with non-residential uses and to avoid any expectation of the area becoming a primarily residential district. Requiring a conditional use review will allow the Planning Commission to evaluate each potential multifamily project against the intended goals and objectives for Subarea 3 to determine if it is an appropriate project.

An alternative to the conditional use review would be to impose a deed restriction or other mechanism on multifamily developments in Subarea 3 that would prohibit residents from filing complaints about adjacent non-residential uses. In other words, the deed restriction would recognize that the residential development was occurring in a primarily non-residential district and some inherent incompatibilities may exist. This is somewhat analogous to the approach taken in agricultural areas to avoid nuisance complaints that would adversely affect farm uses. The benefit to the deed restriction approach is that multifamily could be permitted outright instead of requiring a more time consuming and expensive conditional use review.

Policy question: Should multifamily development in Subarea 3 be required to go through conditional use review or permitted outright with deed restrictions? A possible compromise between the two could provide an either-or option for the developer and allow them to choose which approach to take.

D. Parking ratios

Based on a parking analysis conducted for the Station Area Plan, demand for off-street parking in the Station Area is predicted to exceed the amount that would be supplied under the city's current parking standards. In addition, property and business owners have indicated that portions of the Station Area already experience parking shortages. While parking management strategies such as shared parking, shuttle services, pricing and parking permits may help mitigate the need for additional parking, the city has also considered revising the parking requirements for certain uses to address anticipated demand.

The city's Zoning Code currently requires the following amount of off-street parking for office, retail and manufacturing uses (these are the uses most relevant to the Station Area):

- General office: Minimum requirement is 2 spaces per 1,000 square feet of floor area. Maximum allowed is 3.4 spaces per 1,000 square feet.
- Manufacturing: Minimum requirement is 1 space per 1,000 square feet of floor area. Maximum allowed is 2 spaces per 1,000 square feet.

- General retail: Minimum requirement is 2 spaces per 1,000 square feet (includes grocery stores, convenience stores, specialty retail and shops). Maximum allowed is 5 spaces per 1,000 square feet.

All three of the above uses have off-street parking requirements (both minimums and maximums) that are notably lower than those recommended for areas served by frequent transit in the Metro Regional Transportation Functional Plan (RTFP) Regional Parking Ratios Table (Table 3.08.3). However, simply increasing the minimum parking requirement in the Station Area may conflict with the objective of creating a more intensified development pattern and promoting alternative modes of transportation (transit, biking and walking). An oversupply of parking also could potentially reduce the amount of land available for employment, public space or other desirable/valuable uses.

In finding the balance between parking supply and demand in the Station Area, the city has considered the following general approaches:

- Option 1: Leave the existing parking requirements as they are and rely entirely on parking management strategies to address parking demand.
- Option 2: Leave the existing minimum parking requirements as they are but increase the parking maximums for office, retail and manufacturing to allow the option for more parking.
- Option 3: Increase both minimum and maximum parking requirements for office, retail and manufacturing uses to be similar to those recommended in the RTFP. The RTFP recommends the following:
 - General office: Minimum of 2.7 spaces per 1,000 square feet of gross leasable area, maximum of 4.1 spaces per 1,000 square feet
 - Manufacturing: Minimum of 1.6 spaces per 1,000 square feet of gross leasable area, no maximum
 - Retail/commercial: Minimum of 4.1 spaces per 1,000 square feet of gross leasable area, maximum of 6.2 spaces per 1,000 square feet

Again, this discussion focuses only on revisions to the Zoning Code. It is likely that a combination of actions will be needed to ensure adequate parking in the Station Area; that combination may or may not include revisions to the parking standards in the Zoning Code. Other elements (in addition to parking management strategies) may include repurposing the existing TriMet parking lot to provide additional parking capacity south of Beta Street and/or revisions to the Manufacturing Zone that reduce the amount of non-manufacturing uses allowed (thus reducing parking demand).

Policy question: Which of the three options listed above is the most appropriate approach to parking requirements in the Station Area?

E. Design standards

The proposed Station Area Overlay Zone will likely contain new development and design standards, particularly for commercial, office and retail development. The recommended standards would be similar to standards found in Milwaukie's Downtown Commercial zone and would regulate the following elements:

- Lot size and lot frontage
- Building height

- Floor-Area-Ratio
- Setbacks
- Building orientation and entrances
- Building signage
- Ground floor window requirements, amount and glazing
- Parking and landscaping
- Design standards for street-facing walls, windows and roofs

For residential uses, existing standards for multifamily and townhouse development would apply.

Again, these standards would primarily apply to new or expanded commercial, office and retail uses in the Station Area. However, the city may want to consider applying some or all of the standards to new or expanded manufacturing or other industrial uses as well.

Policy question: Should new development and design standards be applied to manufacturing uses in the Station Area? If so, which of the above standards would be appropriate and should the standard be reduced for manufacturing uses? For example, should the ground floor window requirement be less for manufacturing uses than for a commercial use?

F. Process for new development

The recommended approach for permitting development in the Station Area is outlined below.

- Most uses would be permitted outright through a Type I or Type II Development Review and have clear and objective standards for development. Multifamily uses in certain subareas may require a conditional use review, depending on the outcome of policy subsection C in this memo.
- The Planning Commission would only review developments in the Station Area if they are subject to a Type III review such as conditional use or community service use (or appeal of a Type II approval). Otherwise, reviews would be done at staff level.

Policy question: Do you support this approach?

CONCURRENCE

The Planning Department has engaged the Community Development Department with regard to redevelopment issues for this area and the Engineering Department regarding the proposed transportation projects in the plan.

FISCAL IMPACT

The TSAP project is governed by an Intergovernmental Agreement (IGA) between the Oregon Department of Transportation (ODOT) and the City. The City's required matching amount for the total \$170,000 project cost is \$25,000. The \$25,000 matching amount was budgeted in the Planning Department's FY2012 budget. The Planning Department's FY2013 budget includes \$18,000 for the TSAP.

WORK LOAD IMPACTS

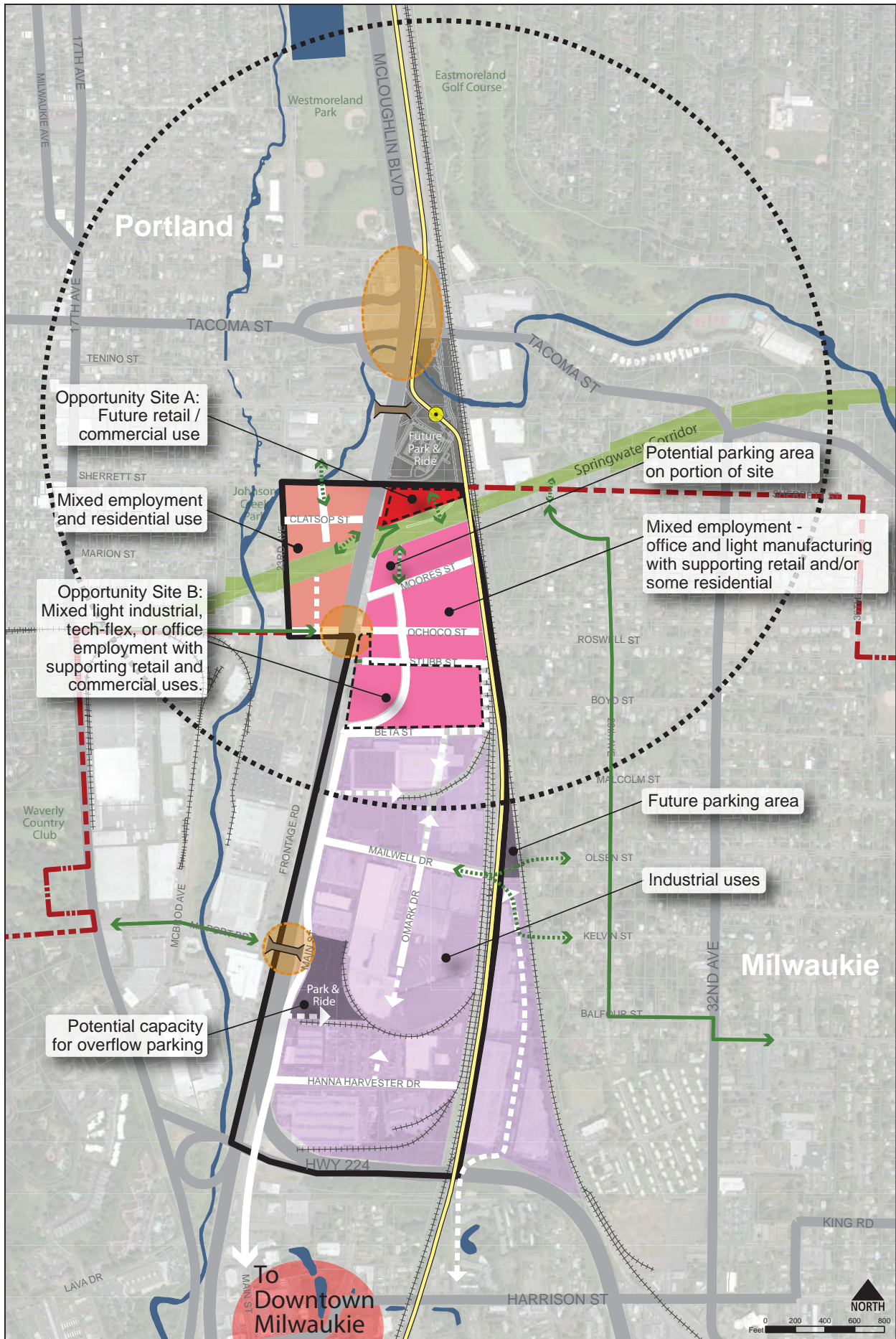
The workload impact of the TSAP project requires 0.3 FTE from Planning staff and involvement from the Planning Director. This work load is scheduled to continue through June 2013.

ALTERNATIVES

None at this time.

ATTACHMENTS

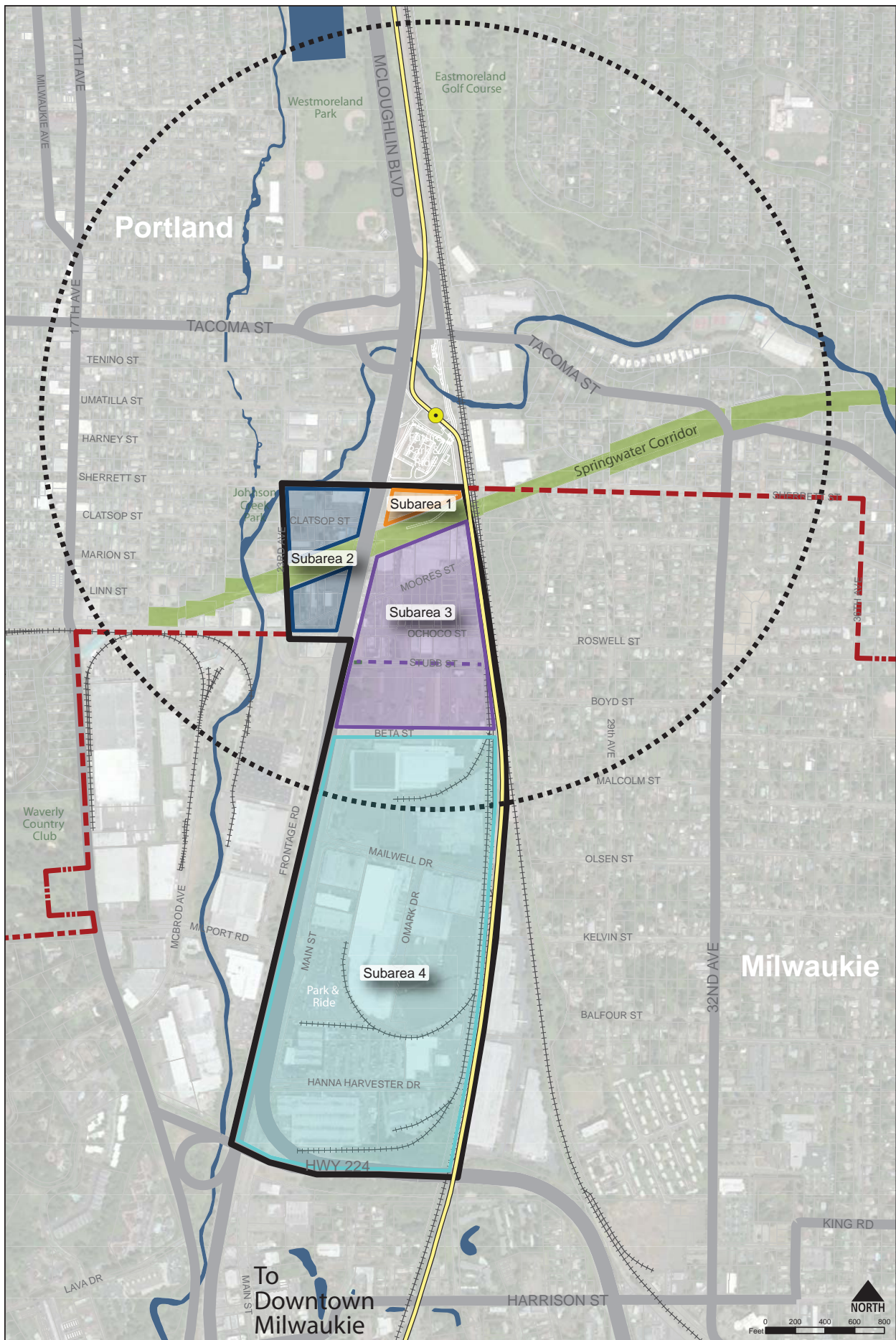
1. TSAP Preferred Maps: preferred land use scenario; proposed subareas; transportation improvement projects
2. Draft Amendments to Manufacturing Zone
3. Draft Amendments for TSAP Overlay Zone



Preferred Concept Alternative
TACOMA STATION AREA PLAN

4 February 2013

- | | | |
|--|---|---|
| ■ Commercial | Study Area Streets | Project Study Area |
| ■ Live Work (Mixed Residential / Employment) | New Street Connections | Station Area (1/2 mile radius) |
| ■ Civic / Entertainment | — Bike / Ped Improvements | City Boundary |
| ■ Mixed Employment | — New Bike / Ped Connections | ● LRT Station |
| ■ Existing Employment | ● Intersection Improvements | — LRT Alignment |

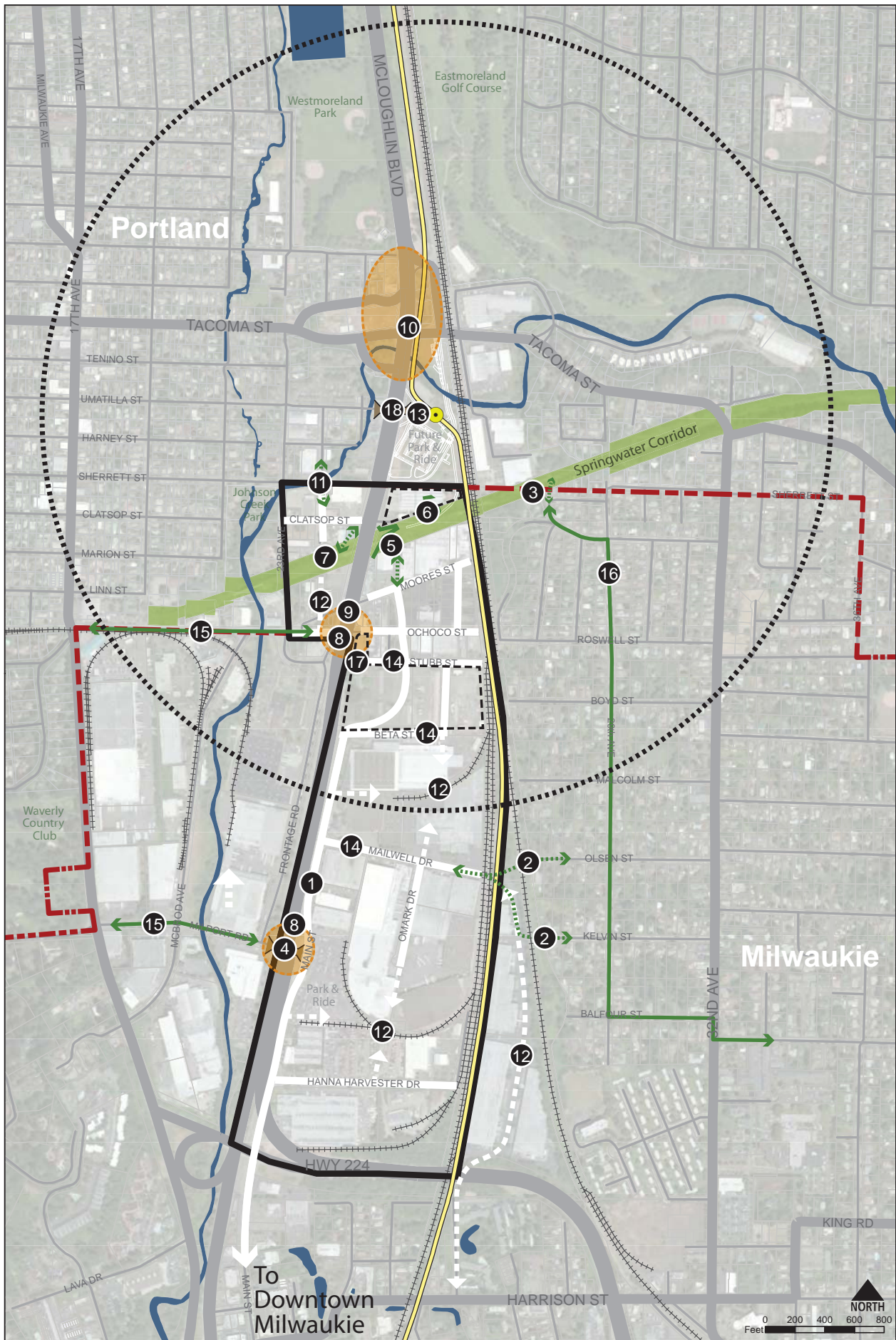


Study Sub-Areas
TACOMA STATION AREA PLAN

4 February 2013

- Subarea 1: Opportunity Site A
- Subarea 2: Area west of McLaughlin
- Subarea 3: South of Springwater and North of Beta, including Opportunity Site B (this subarea split into two parts for the transportation analysis)
- Subarea 4: South of Beta

- Project Study Area
- Station Area (1/2 mile radius)
- City Boundary
- LRT Station
- LRT Alignment



Station Area Transportation Improvements
TACOMA STATION AREA PLAN

4 February 2013

- Study Area Streets
- New Street Connections
- Bike / Ped Improvements
- New Bike / Ped Connections
- Intersection Improvements
- Project Study Area
- Station Area (1/2 mile radius)
- City Boundary
- LRT Station
- LRT Alignment

Appendix F: Draft Amendments to Manufacturing (M) Zone

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MEMORANDUM

DATE: May 7, 2012

TO: Milwaukie Tacoma Station Area Plan Project Management Team

FROM: Matt Hastie, Angelo Planning Group
Serah Breakstone, Angelo Planning Group

**SUBJECT: Tacoma Station Area Plan
DRAFT Manufacturing Zone Revisions**

The purpose of this memorandum is to recommend revisions to Milwaukie’s Manufacturing (M) zone in order to address existing deficiencies and support implementation of the Tacoma Station Area Plan (Plan). Land within the Plan study area is currently zoned for manufacturing uses under Section 19.309 of the city’s zoning code. Land use analyses¹ conducted for the study area in 2002 and 2011 concluded that manufacturing uses, including flexible industrial space and office uses, remain the most appropriate uses for the study area. However, the city has identified several issues with its existing manufacturing zone that make it difficult to implement and present barriers to efficiently regulating and developing the area. Those issues are described in a 2009 code audit² and are briefly summarized below:

- The M zone lists uses that are permitted, permitted conditionally, or prohibited. Clear definitions or descriptions of those uses are not provided which makes it difficult for staff to determine if a use is allowed or to make a “similar use” determination for those uses that are not listed.
- The M zone lacks clear and objective development standards intended to preserve the zone primarily for industrial uses.
- The zone requires that combined uses provide at least ten employees per net acre but there is no guidance for calculating or monitoring/enforcing that standard.
- Size limitations for retail space currently only apply to areas within the Title 4 “Employment Area” boundary, which is limited in its scope.

¹ *Land Use Analysis for Milwaukie’s North Industrial Area*, Hobson Ferrarini Associates, November 2002 and *SE McLoughlin Best Use Study*, Kidder Mathews, July 2011.

² *Milwaukie Code Evaluation Report*, Angelo Planning Group, July 2009.

Recommended amendments to the Manufacturing zone are presented in Attachment A of this memorandum and are intended to address the issues described above. Those recommended amendments include:

- A list of use categories that are allowed either outright or conditionally in the Manufacturing zone. Categories are defined and examples of uses in each category are provided. Some of the use categories on the recommended list may allow uses that wouldn't be allowed under current code; city staff will need to carefully review the list to ensure it is suitable.
- Retail and office uses are only allowed as accessory uses to the primary uses allowed in the Manufacturing district. The recommended language contains size limitations on retail and office space that do not exist in the current code.
- Recommended amendments include new development standards to regulate outdoor storage uses, location of parking and loading areas, external effects, and mechanical equipment. In addition, a reference to the supplemental development standards in Chapter 19.500 is included.
- A placeholder is included for the density standard (10 employees per acre). If the city decides to keep this standard, additional language will be needed to clarify how the standard is applied, defined, and enforced.
- The transition area review requirement is recommended for deletion and will be replaced by the transition standards in Chapter 19.504.6.

Addition of the Tacoma light rail station to this area presents an opportunity to implement some new standards that will promote an active station area community and encourage redevelopment. Subsequent tasks in this project will evaluate additional code amendments needed to achieve the goals and objectives of the Plan. The assumption at this point is that the study area will continue to be zoned for manufacturing; however, some additional standards and requirements may be needed to further support the Plan. Those additional standards may include an overlay zone to implement specific design standards and allow additional uses for the Plan area, especially the opportunity sites.

The recommended code amendments in Attachment A are shown in underline for new text and ~~striketrough~~ for deleted text.

Attachment A
Recommended Code Amendments

Municipal Code Title 19 Zoning

CHAPTER 19.300 BASE ZONES

19.309 MANUFACTURING ZONE M

Statement of Purpose. The purpose of this manufacturing zone is to promote clean, employee-intensive industries which may also include related accessory uses, such as commercial and office uses, which serve the industrial area.

19.309.1 Permitted Uses Use Categories

The categories of land uses that are permitted in the Manufacturing Zone are listed in Table 19.309.1. Permitted uses are designated with a “P”. A “C” in this table indicates a use that may be permitted as a conditional use in conformance with Chapter 19.905. An “L” indicates a use that is permitted outright with certain limitations as described in Section 19.309.X.

All uses must comply with the land use district standards of this section and all other applicable requirements of the Zoning Code. If it is unclear whether or not a proposed use is allowed under the use categories, city staff will make a Director determination about the use in conformance with Chapter 19.903.

[NEW TABLE]

<u>Use Category</u>	<u>Status</u>
<p>A. <u>Construction: Contractors and Related Businesses. This category comprises businesses whose primary activity is performing specific building or other construction related work.</u></p> <p><u>Examples of contractors are residential and nonresidential building construction, utility/civil engineering construction, specialty trade contractors, and moving companies. Examples of related businesses are engineering, architectural and surveying services and which often take place in office-type buildings.</u></p>	<p>P</p>
<p>B. <u>Manufacturing. Manufacturing comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products, including the assembly of components parts.</u></p> <p><u>Examples of manufacturing include alternative energy development, biosciences, food and beverage processing, software and electronics production, fabrication of metal products, products made from manufactured glass, products made from rubber, plastic or resin, converted paper and cardboard products, and microchip fabrication.</u></p>	<p>P</p>
<p>C. <u>Wholesale Trade. Wholesale Trade comprises establishments engaged in selling / and or distributing merchandise to retailers; to industrial, commercial, or professional business users; or to other wholesalers, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers sell merchandise to other businesses, not the general public, and normally operate from a warehouse or office and are not intended for walk-in traffic.</u></p>	<p>P</p>

<p>D. <u>Transportation/Distribution (Trucking and Rail).</u> This category provides for transportation of cargo using motor vehicles or rail spurs and may include loading docks, temporary outdoor storage, and fleet parking. Goods are generally distributed to other firms or the final customer and are often associated with warehousing and storage facilities.</p>	<p><u>P</u></p>
<p>E. <u>Warehousing and Storage.</u> These industries are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other products and materials that have been manufactured and are generally being stored in anticipation for delivery to final customer. May provide a range of logistical services including labeling, packaging, price marking and ticketing, and transportation arrangement. Mini-storage facilities are not considered industrial warehousing and storage and are not permitted in the Manufacturing district.</p>	<p><u>P</u></p>
<p>F. <u>Information Services.</u> Information services are establishments engaged in the producing and distributing information and cultural products; providing the means to transmit or distribute these products as well as data or communications; or processing data.</p> <p><u>Examples include publishing industries including book, periodical and software publishing; computer systems design; internet web search services; internet service providers; video and motion picture industries; computer data storage services; optical scanning and imaging services, and processing financial transactions such as credit card transactions and payroll processing services. These businesses primarily serve other industries and generate few general public customer visits per day.</u></p>	<p><u>P</u></p>
<p>G. <u>Trade or commercial schools.</u> Establishments whose primary purpose are to provide training to meet industrial needs and often lead to job-specific certification.</p> <p><u>Examples of this use category are electronic equipment repair training, truck driving school, welding, and operation and repair of industrial machinery and other industrial skills.</u></p>	<p><u>P</u></p>
<p>H. <u>Accessory Uses.</u> This category includes uses that are primarily intended to support and serve other allowed uses in the Manufacturing Zone. Accessory uses are divided into three sub-categories:</p> <ul style="list-style-type: none"> (1) <u>General accessory uses.</u> This category includes uses that are necessary in order to effectively operate an allowed use in the Manufacturing district. General accessory uses include outdoor storage, docks, rail spur or lead lines, employee facilities, repair facilities, and truck fleet parking and maintenance areas. (2) <u>Administration and support in office buildings.</u> This category includes uses in office-type buildings that are accessory to an industrial use; establishments which administer, oversee, and manage companies; which manage financial assets and securities; research and design; laboratories and testing facilities; provide document preparation and other industrial support services; including corporate offices, company 	<p><u>L</u></p>

<p><u>business offices, call centers, and other office type uses that primarily serve other industries and do not generate a significant number of daily customer visits. See Section 19.309.5.A.</u></p> <p>(3) <u>Retail commercial and professional services. The sales of goods and materials and of professional services intended to serve employees and customers of the industrial area.</u></p> <p><u>Examples of retail commercial include restaurants, storefronts, mini-marts, factory outlet stores and office supplies. Examples of professional services that cater to employees and customers include bank branches, financial, insurance, real estate, legal, medical and dental offices. See Section 19.309.5.B.</u></p>	
<p>I. <u>Exclusive Heavy Industrial Uses. Uses exclusive to the HI are those sites which are primarily rock crushing facilities; natural resource extraction; aggregate storage and distribution facilities; and concrete and/or asphalt batch plants. See Section 19.309.4.A.</u></p>	<p><u>C</u></p>
<p>J. <u>Waste Management. Businesses that provide garbage and recycling hauling, sorting and transferring, including fleet parking and maintenance.</u></p>	<p><u>P</u></p>
<p>K. <u>Miscellaneous Industrial. Firms involved in large scale repair and servicing of industrial, business or consumer electronic equipment, machinery and related equipment, products, or by-products.</u></p> <p><u>Examples include welding shops; machine shops; tool, electric motor, industrial instruments repair; sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire retreading or recapping; exterminators including chemical mixing or storage and fleet storage and maintenance; janitorial and building maintenance services that include storage of materials and fleet storage and maintenance; fuel oil distributors; solid fuel yards; and large scale laundry, dry-cleaning and carpet cleaning plants. Few customers, particularly not general public daily customers, come to the site.</u></p>	<p><u>P</u></p>
<p>L. <u>High-Impact Commercial Use. A high impact commercial use is a use that generates substantial traffic, noise, light, irregular hours, or other potential impact on the community.</u></p> <p><u>Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels. See Section 19.309.4.B.</u></p>	<p><u>C</u></p>

~~Permitted uses are limited to industrial uses meeting the following criteria:~~

- ~~A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.1.B. The combined uses shall provide at least 10 employees per net acre.~~

- ~~B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.~~
- ~~C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.~~
- ~~D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.~~
- ~~E. Has access to a collector or arterial street.~~
- ~~F. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.~~
- ~~G. Warehouse use which is accessory to an industrial use.~~

19.309.2 Preexisting Uses and Developments

Notwithstanding the provisions of Chapter 19.800 Nonconforming Uses and Development, prohibited uses and structures located in any mapped "employment" or "industrial" area, as shown on the Milwaukie Comprehensive Plan Title 4 Lands Map, that were lawfully in existence prior to May 6, 1999, ~~and would be impacted by amendments prohibiting retail uses in excess of 60,000 sq ft,~~ are considered to be approved uses and structures for the purposes of this section. If such a preexisting use or development is damaged or destroyed by fire, earthquake, or other natural force, then the use will retain its preexisting status under this provision, so long as it is substantially reestablished within 3 years of the date of the loss.

Notwithstanding the provisions of Chapter 19.800 Nonconforming Uses and Development, prohibited uses and structures located in any mapped "industrial" area, as shown on the Milwaukie Comprehensive Plan Title 4 Lands Map, that were lawfully in existence prior to March 17, 2009, may continue and expand to add up to 20% more floor area and 10% more land area than exists on the above-stated date. This expansion requires a conditional use review.

19.309.3 Prohibited Uses

- A. Any use which has a primary function of storing, utilizing, or manufacturing explosive materials or other hazardous material as defined by the Uniform Fire Code, Article 80;
- B. New residential construction, churches, public schools;
- ~~C. Retail uses greater than 60,000 sq ft gross floor area per building or business are prohibited on all lots included in mapped "Employment" or "Industrial" areas as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999.~~
- ~~D. All lots included in mapped "Industrial" areas, as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999, carry the following additional restrictions:~~

- ~~1. Individual retail trade uses greater than 5,000 sq ft gross floor area per building or business are prohibited.~~
- ~~2. Multiple retail trade uses that occupy more than 20,000 sq ft gross floor area are prohibited, whether in a single building or in multiple buildings within the same project.~~
- ~~3. Facilities whose primary purpose is to provide training to meet industrial needs are exempted from this prohibition.~~

19.309.4 Standards for Conditional Uses

The following standards apply to those uses listed as conditional (C) in Table 19.309.1.

A. ~~Natural Resource Extraction~~ Exclusive Heavy Industrial Uses

1. Open pit and gravel excavating or processing shall not be permitted nearer than 50 ft to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 ft to the right-of-way line of an existing platted street or an existing public utility right-of-way.
2. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.
3. A rock crusher, washer, or sorter shall not be located nearer than 500 ft to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

B. High-Impact Commercial Uses

When considering a high-impact commercial use, the Commission shall consider the following:

1. Nearness to dwellings, churches, hospitals, or other uses which require a quiet environment;
2. Building entrances, lighting, exterior signs, and other features which could generate or be conducive to noise or other disturbance for adjoining uses;
3. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons;
4. Hours of operation;
5. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to ensure that such establishments do not become unduly or unnecessarily disruptive.
6. In addition, when considering an adult entertainment business, the following criteria shall be used:
 - a. The proposed location of an adult entertainment business shall not be within 500 ft of an existing or previously approved adult entertainment business or within 500 ft of either a public park, a church, a day-care

center, a primary, elementary, junior high, or high school, or any residentially zoned property.

- b. ~~both of which distances~~ Distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business and either the closest property line of the impacted property or the closest structural wall of any pre-existing or previously approved adult entertainment business.

19.309.5 Standards for Limited Uses

The following standards apply to those uses listed as limited (L) in Table 19.309.1.

- A. Administration and support in office buildings. Only administrative and support offices which are related to the operation of a manufacturing use on the property are permitted in the Manufacturing zone. No greater than 20% of the floor area of a building may be used for administrative office space.
- B. Retail commercial and professional services. In order to ensure that these uses are primarily intended to serve the needs of workers and customers in the immediate area, the following standards apply:
 - 1. The total gross leasable square footage of an individual retail or professional service use shall not exceed 5,000 square feet. Multiple retail or professional service uses shall not exceed 20,000 square feet cumulative gross leasable square footage within the same development project. For the purposes of this section a development project is defined as:
 - a. A single building with less than 50,000 square feet of gross floor area that does not share common development features (such as access, parking, or utilities) with another building that has less than 50,000 square feet of gross floor area, whether or not the second building is located on the same or a different parcel or lot; or
 - b. Multiple buildings, each with less than 50,000 square feet of gross floor area, that share common development features (such as access, parking, or utilities), whether or not the buildings are located on the same or a different parcel or lot; or
 - c. A single building with 50,000 square feet or more of gross floor area.
 - 2. Retail and professional services uses shall not be permitted in a stand-alone building. They must be included within a building whose primary purpose is for an allowed manufacturing use.

19.309.5 Site Development Requirements

19.309.6 Development Standards for All Uses

The following development standards apply to all uses in the Manufacturing district.

- A. Setbacks
 - Front: 20 ft

Side: None*

Corner side yard: 10 ft

Rear: None*

* Except when abutting a residential district, in which case the setback shall match the abutting property.

B. Height. 45 ft

C. Parking and loading. See Chapter 19.600.

D. Landscaping

15% landscaping of the site is required. A variety of trees, shrubbery, and ground cover is encouraged. Street trees are required along street frontages and within parking lots to help delineate entrances, provide shade, and permeable areas for storm water runoff. A bond or a financial guarantee of performance will be required.

E. Site access. All sites shall have access to a collector or arterial street. Each site shall have one 4 curb cut (45 ft maximum) per 150 ft of street frontage.

~~F. Transition Area~~

~~Industrial development adjacent to and within 120 ft of areas zoned for residential uses is subject to Type I or II review per Section 19.906 Development Review. The following characteristics will be considered:~~

- ~~1. Noise~~
- ~~2. Lighting~~
- ~~3. Hours of operation~~
- ~~4. Delivery and shipping~~
- ~~5. Height of structure~~
- ~~6. Distance to residential zone boundary~~

~~The review authority may attach conditions to reduce any potentially adverse impacts to residential properties.~~

G. Transportation requirements and standards. As specified in Chapter 19.700.

H. Uses shall provide a minimum of 10 employees per acre.

I. Outdoor uses shall be screened as follows:

1. All outdoor storage areas shall be screen from adjacent properties by a six-foot high sight-obscuring fence or wall.
2. All screened or walled outdoor use and storage areas which abut a public street shall be set back a minimum of 25 feet from the property line(s). Within that setback area trees and evergreen shrubs shall be planted. The plants shall be of such a variety and arranged to allow only minimum gaps between foliage of mature trees and plants within four years of planting.

J. Parking, loading and unloading areas shall be located as follows:

1. Parking, loading and unloading areas shall not be located within a required setback.

2. No loading or unloading facilities shall be located adjacent to lands designated for residential uses or a residential community service if there is an alternative location of adequate size on the subject site.

K. External effects. The potential external effects of manufacturing uses shall be minimized as follows:

1. The emission of air pollutants or odorous gasses and changes in temperature detectable by the human senses without the aid of instruments at any point beyond the property line is prohibited.

2. Electrical disturbances which interfere with the normal operation of equipment or instruments on adjacent properties are prohibited.

3. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.

4. Loud, unnecessary, or unusual noise or dust that endangers health, peace or safety or creates off-site impacts or nuisance as defined by DEQ or the City Noise Ordinance is prohibited.

L. Roof mounted mechanical equipment such as ventilators and ducts for buildings located adjacent to residential districts, arterial streets or transit streets shall be contained within a completely enclosed structure that may include louvers, latticework, or other similar features.

M. Chapter 19.500, Supplementary Development Regulations contains additional standards that may apply.

DRAFT

Appendix G: Outline - Draft Tacoma Station Area Overlay Zone

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[NOTE: THE LANGUAGE IN THE OVERLAY ASSUMES THAT THE RECOMMENDED AMENDMENTS TO THE M ZONE, AS DESCRIBED IN APPENDIX F, ARE ADOPTED.]

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.406 TACOMA STATION AREA OVERLAY ZONE

19.406.1 Purpose statement. *Describes the primary intent of the overlay and refers back to the Station Area Plan document. Includes some language about the intended character, mix of uses, and transit-supportive elements.*

19.406.2 Applicability. *States that the standards and requirements in this section apply within the Tacoma Station Area Overlay Zone boundary as shown in the associated map from the Station Area Plan. For clarity, the map should be included in this section as a reference figure.*

19.406.3 General Provisions. *Contains general language that applies to the entire overlay zone, as follows:*

A. *Consistency with base zone. Statement that the requirements (permitted uses, development standards, etc.) of the base Manufacturing zone apply in the overlay unless otherwise noted in this section.*

B. *Language that addresses the issue of non-conforming uses. The city is evaluating different approaches to addressing the issue of non-conforming situations that may be created by adoption of the overlay zone.*

C. *Additional development standards (beyond what's required in the base zone) that apply to the entire overlay area, if appropriate.*

D. *Statement that transportation requirements and standards as provided in Chapter 19.700 apply. Include reference to street design cross sections in the Station Area Plan.*

E. *Transition area standards to ensure compatibility with such a broad mix of allowed uses. The existing transition area standards in Section 19.504.6 may be sufficient to address transitions in the overlay zone. If not, some clear and objective standards could be added here to strengthen or expand on the existing standards. Parking requirements. See discussion in subsection (iv) below.*

G. *Review process. All new or expanded/modified development in the overlay will be processed through Type I or Type II Development Review consistent with Chapter 19.906.*

19.406.4 Overlay Subareas. *Establishes the intent for dividing the station area into subareas and generally describes the four subareas. Refer again to figure that shows the subarea boundaries.*

19.406.5 Subarea 1: Pendleton Mills site.

A. *Subarea boundary. Subarea 1 is the Pendleton Woolen Mills site located north of Springwater Corridor*

B. *Subarea characteristics/intent. Describes the intended character and mix of land uses for the subarea: combination of retail and commercial uses catering to light rail users.*

C. *Permitted uses. Same as Subarea 3 except as follows:*

1. *Office can be stand-alone with no limits on size and does not need to be accessory to manufacturing or other general employment use*
2. *Multifamily and above-ground residential allowed outright instead of conditionally*
3. *The amount and type of manufacturing uses allowed in this subarea will be limited to smaller, light manufacturing uses that will be more compatible with commercial, office and retail uses.*

D. *Development and design standards. Same as Subarea 3.*

19.406.6 Subarea 2: West of McLoughlin.

A. *Subarea boundary. Subarea 2 is the smaller area of land surrounding Springwater Corridor west of McLoughlin Blvd.*

B. *Subarea characteristics/intent. Describes the intended character and mix of land uses for the subarea: a mix of employment and residential uses, including live/work and possibly other types of residences.*

C. *Permitted uses. Same as Subarea 1 except as follows:*

1. *Allow townhouse-style residential development, with or without ground-floor work/commercial/retail spaces.*
2. *Allow a detached home associated with a commercial or manufacturing use, similar to ADU, as a detached live/work unit.*
3. *The amount and type of manufacturing uses allowed in this subarea will be limited to smaller, light manufacturing uses that will be more compatible with commercial, office and retail uses.*

D. *Development and design standards. Same as Subarea 3 except include standards for townhouse same as or similar to existing rowhouse standards in Section 19.505.5.*

19.406.7 Subarea 3: Mixed Employment.

A. *Subarea boundary. Subarea 3 is the area between Beta Street and Springwater Corridor.*

B. *Subarea characteristics/intent. Describes the intended character and mix of land uses for the subarea: more intensified mixed employment district, primarily office, light manufacturing, research and development, or other general employment uses with retail/commercial located along McLoughlin Blvd and Main; allow potential for institutional (e.g., vocational education or training) uses.*

C. *Permitted uses. Same as those permitted by the base zone, except as noted below:*

1. *Retail and commercial uses can be stand-alone uses (they do not need to be accessory uses as per the base zone). Office uses must still be accessory to a manufacturing or other general employment use.*

2. No limitation on the size or amount of retail/commercial uses. Limits may still apply to office uses.

3. Multi-family residential (stand-alone building) and second-story residential (above a ground floor commercial or office use) allowed as a conditional use or with deed restrictions or other mechanism to reduce potential for conflicts between residential and non-residential uses.

4. Development standards for manufacturing uses will be the standards of the base zone plus additional standards similar to those in the Business Industrial zone (Section 19.310.6).

D. Development standards for non-manufacturing uses. Non-manufacturing uses shall comply with the standards of the base zone except as indicated below:

1. Minimum and maximum density, for residential development only.

2. Street frontage requirements

3. Min lot size for residential development only

4. FAR 0.3:1 minimum and 2:1 maximum (same as Downtown Commercial)

5. Building height, if different from base zone.

6. Minimum setbacks. Front: 0 feet, side and rear: 0 feet unless abutting a residential use (then 10 feet). Possible front setback maximum of 10-20 feet along Main Street.

7. Building orientation and entrances. Orient buildings to public streets/sidewalks, connect main entrances directly with sidewalks. Building entrances should provide weather protection (awnings or recessed entrance).

8. Building signage. Signage should be pedestrian-oriented (blade, awning, building or projecting signs) especially where buildings are transitioning from industrial to commercial/retail.

9. Ground floor window/door requirement. **[would not apply to stand-alone multifamily building; instead would apply existing city design standards for multi-family development to those uses]**

(i) 40-60% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors would vary for manufacturing or other general employment uses

(ii) Clear glazing is required for ground-floor windows

(iii) Doors and/or primary entrances must be located on the street-facing wall

10. Parking, see Chapter 19.600. Surface parking lots not allowed within 50 feet of Main Street. Parking not allowed between a building front and the street.

11. Landscaping, if different from base zone (15%). (For comparison, the Downtown Commercial landscaping requirement is 10%)

12. Design standards for stand-alone multifamily development; see Section 19.505.3, Design Standards for Multifamily Housing.

13. *Design standards for walls facing streets, use same standards as Section 19.304.6 Design Standards (from Downtown Commercial zone).*

14. *Design standards for windows, use same standards as Section 19.304.6 Design Standards (from Downtown Commercial zone).*

15. *Design standards for roofs, use same standards as Section 19.304.6 Design Standards (from Downtown Commercial zone).*

19.406.8 Subarea 4: Manufacturing.

A. *Subarea boundary. Subarea 4 is the area south of Beta Street.*

B. *Subarea characteristics/intent. Describes the intended character and mix of land uses for the subarea: primarily a manufacturing or general employment district with some flexibility in terms of non-manufacturing uses and promoting higher employment densities.*

C. *Permitted uses. Generally, permitted uses in this subarea will include those uses permitted in the base Manufacturing zone. Depending on the type of amendments (if any) that are made to the permitted use lists in the Manufacturing zone itself, this section may include some additional flexibility for non-manufacturing uses to occur, including allowing small scale retail or other commercial uses as primary uses (with size or other limitations).*

D. *Development standards. Development standards for manufacturing uses will be the standards of the base zone plus additional standards similar to those in the Business Industrial zone (Section 19.310.6). The city is evaluating whether or not to apply additional standards (similar to subarea 3) to non-manufacturing uses in this subarea.*

DRAFT

3.

CONSENT AGENDA



3.A.

To: Mayor and City Councilors
Through: Bill Monahan, City Manager
From: Pat DuVal, City Recorder
Subject: Personal Services Agreement for City Prosecutor Legal Services
Date: February 7, 2013 for February 19, 2013 Regular Session

ACTION REQUESTED

Adopt the resolution directing staff to execute a personal services agreement with Rhett Bernstein, Attorney at Law, for City Prosecutor Services.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

October 18, 2011 – City Council concurred with the City Manager’s proposal to review the City Prosecutor contract and consider options for better ways to manage that function. With this structure the hiring function would be with the City Council.

November 1 – December 1, 2011 – The City published a Request for Proposals for City Prosecutor and seventeen proposals were submitted for the position by the December 1 deadline.

December 6, 2011 – Five applicants were selected to advance to the next step of the process by a panel consisting of Councilors Hedges and Miller, Ted Naemura of Jordan Ramis, Police Chief Bob Jordan, Court Operations Supervisor Carla Bantz, and City Recorder Pat DuVal.

January 6, 2012 – An interview panel made up of Councilors Hedges and Miller, Police Chief Bob Jordan, Court Operations Supervisor Carla Bantz, Code Compliance Coordinator Tim Salyers, and City Recorder Pat DuVal interviewed the five applicants. The panel recommended Rhett Bernstein, Attorney at Law, to the City Council for Prosecutor Services.

January 17, 2012 – The City Council adopted Resolution 6-2012 directing staff to accept a proposal and negotiate a personal services agreement at a fixed price for the term of one year. The agreement expired January 31, 2013.

February 1, 2012 – The personal services agreement between Rhett Bernstein, Attorney at Law, and the City of Milwaukie was successfully negotiated.

BACKGROUND

Mr. Bernstein and the City of Milwaukie successfully negotiated an agreement for Prosecutor Services through January 31, 2014. Earlier in the process, the City Recorder requested evaluation information from Police Chief Bob Jordan and Court Operations Supervisor Carla Bantz, and each ranked Mr. Bernstein highly for the accuracy of his legal consultation, legal representation, staff work, cost/fiscal accountability and control, responsiveness, and communication. A number of modifications were made to the agreement based on the previous year's experiences:

1. The annual flat fee was increased from \$42,000 to \$45,000;
2. The authorization procedure for services performed outside the scope of work was clarified;
3. Reference to deferred sentencing in the scope of work was deleted as that will be managed internally; and
4. The case assignment was amended to 75 from 40 – 50 to more accurately reflect the caseload.

FISCAL IMPACT

The expenditure for City Prosecutor services is increased by \$3,000 annually.

WORK LOAD IMPACTS

None.

ALTERNATIVES

The City Council may wish to enter into the Agreement with Mr. Bernstein or decline and direct staff to begin a request for proposal process for City Prosecutor service.

ATTACHMENTS

1. Resolution
2. Personal Services Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
DIRECTING STAFF TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH
RHETT BERNSTEIN, ATTORNEY AT LAW, FOR CITY PROSECUTOR SERVICES**

WHEREAS, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

WHEREAS, the City Council approved a one year contract with Rhett Bernstein on February 1, 2012 as an option for better managing that function; and

WHEREAS, affected City staff were asked to evaluate the City Prosecutor's performance over the past year and found him qualified and capable of continuing to perform this professional service for the City of Milwaukie; and

WHEREAS, staff reviewed the previous agreement with Rhett Bernstein and made several adjustments to the scope of work and annual flat fee; and

WHEREAS, work outside the scope of his prosecutorial duties will be evaluated on a case-by-case basis at an hourly rate;

NOW, THEREFORE, BE IT RESOLVED that the City Council directs staff to enter into an agreement with Rhett Bernstein, Attorney at Law, for City Prosecutor Services at a fixed price for the term of one year.

Introduced and adopted by the City Council on February 19, 2013.

This resolution is effective on February 19, 2013.

ATTEST:

Pat DuVal, City Recorder

Jeremy Ferguson, Mayor

APPROVED AS TO FORM:

Jordan Ramis PC

City Attorney



PERSONAL SERVICES AGREEMENT WITH THE CITY OF MILWAUKIE, OR FOR CITY PROSECUTOR SERVICES

THIS AGREEMENT made and entered into this 1 day of February, 2013 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and Rhett Bernstein, Attorney at Law, hereinafter called Contractor.

RECITALS

WHEREAS City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

WHEREAS City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

1. **SERVICES TO BE PROVIDED**

Contractor shall provide services as specified in the Scope of Work and Performance Expectations, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

2. **EFFECTIVE DATE AND DURATION**

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, by January 31, 2014. All work under this Agreement shall be completed prior to the expiration of this Agreement.

3. **COMPENSATION**

City agrees to pay Contractor not to exceed a flat fee of \$3750 on a net-30 day basis for one year, for a total annual flat fee of \$45,000. The Contractor will provide such services for one year and that the contract between the City of Milwaukie and Contractor will be reviewed after the conclusion of the year. The Contractor will bill the City of Milwaukie for *de novo* trials on a flat fee of \$300 per *de novo* trial. For services not described in the Scope of Work provision, monthly the Contractor will bill the City of Milwaukie on an hourly basis of \$125 per hour on a net-30 day basis for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.

- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.
- I. Contractor shall not permit any lien or claim to be filed or prosecuted against City on account of any labor or material furnished.
- J. Contractor shall pay to the Department of Revenue all sums withheld from its employees pursuant to ORS 316.167.
- K. Payment by City to Contractor for performance of services under this Agreement outlined above is earned when paid and is not deposited in the Contractor's trust account. The City's tender of funds vests interest in the funds to the Contractor immediately on deposit. Payment by City to Contractor for performance of services under this Agreement will not be deposited into the Contractor's trust account and the deposit of the payment by City to the Contractor for performance of services under this Agreement means that the funds are the sole property of the Contractor. If the City otherwise becomes dissatisfied and discharges the Contractor from further performance of services under this Agreement, the City may be entitled to a refund of all or part of the fee if the services under this Agreement for which payment was made are not completed by Contractor.

4. **OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

5. **ASSIGNMENT/DELEGATION**

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

6. **STATUS OF CITY PROSECUTOR AS INDEPENDENT LEGAL COUNSEL**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand

repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.
- E. City requires that attorney services be provided without conflict by the attorney's representation of clients on matters contrary to City's legal interests. Thus, Contractor shall not engage services of other attorneys or other professionals who individually, or through members of a firm, represent one or more clients on matters contrary to City's interests.

Should Contractor, or a professional he or she has engaged, represent a client in a matter contrary to City's legal interests, contractor shall promptly consult with the City Recorder or other designated official about the conflict. Contract shall resolve the conflict to City's satisfaction within 7 days of consulting with the City official. Unresolved conflicts are grounds for termination of this agreement.

7. **INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

8. INSURANCE

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier. Such insurance shall be primary and non-contributory.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	3,000,000
Products-Completed Operations Aggregate	3,000,000
Personal & Advertising Injury	3,000,000
Each Occurrence	2,000,000
Fire Damage (Any one fire)	500,000
Medical Expense (Any one person)	5,000

B. Professional Liability Insurance Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$1,000,000. Annual aggregate limit shall not be less than \$1,000,000. Coverage procured through the Oregon State Bar Professional Liability Fund shall be sufficient to comply with this section.

- C. Additional Insured Provision
The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.
- D. Notice of Cancellation
There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days notice of cancellation to the City.
- E. Insurance Carrier Rating
Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- F. Certificates of Insurance
As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.
- Certificates of Insurance should read "Insurance certificate pertaining to contract for(name of project) . The City of Milwaukie, its officers, directors and employees shall be added as additional insureds with respects to this contract. A notation stating that "Insured coverage is primary" shall appear in the description portion of certificate.
- G. Independent Contractor Status
The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.
- H. Primary Coverage Clarification
The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.
- I. Cross-Liability Clause
A cross-liability clause or separation of insureds clause will be included in the general liability policy.

Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

Office of City Recorder
 City of Milwaukie
 10722 SE Main St.
 Milwaukie, Oregon 97222

Business Phone: 503-786-7504
 Business Fax: 503-653-2444
 Email Address:

Such policies or certificates must be delivered prior to commencement of the work.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

9. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

City	Contractor
City of Milwaukie	Company: Rhett Bernstein, Attorney at Law
Attn: Accounts Payable	Attn: Rhett Bernstein
10722 SE Main St., Milwaukie, Oregon 97222	Address: 1785 Willamette Falls Drive, Suite 4
Phone: 503-786-7524	Phone: 503-723-5566
Fax: 503-786-7528	Fax: 503-722-4549
Email Address: finance@ci.milwaukie.or.us	Email Address: rlbernst@gamil.com

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

10. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

11. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

Contractor may terminate this agreement at any time and without cause, by giving notice to City. If Contractor terminates this agreement, contractor shall observe Oregon State Bar Rule of Professional Conduct 1.16 in its entirety, with particular attention to not causing material adverse effect on the City's interests, informing all pertinent courts of law about any withdrawals from representation.

Contract shall transfer custody of all files to the City upon termination of this agreement, whether for cause or for no cause.

12. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or

- 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

13. **ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

14. **FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

15. **NON-WAIVER**

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

16. **NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

17. **ERRORS**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

18. **EXTRA (CHANGES) WORK**

Only the City Recorder Pat DuVal may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

19. **WARRANTIES**

All work shall be guaranteed by Contractor for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this Agreement.

20. **ATTORNEY'S FEES**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

21. **GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

22. **COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES**

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement

23. **CONFLICT BETWEEN TERMS**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

24. **AUDIT**

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

25. **SEVERABILITY**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

26. **COMPLETE AGREEMENT**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

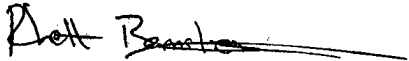
CITY OF MILWAUKIE

Signature

Printed Name & Title

Date

CONTRACTOR



Signature



Printed Name & Title

2/1/13

Date

EXHIBIT A
SCOPE OF WORK AND PERFORMANCE EXPECTATIONS

SCOPE OF WORK

- Manage approximately 75 cases assigned by the Municipal Court that include, but are not limited to: vehicle code, building code, development code, and municipal code violations.
- Attend court session one day per month to conduct attorney-represented trials.
- Respond to discovery requests and pretrial motions, developing and utilizing, as much as possible, a form bank
- Maintain record of cases managed by Contractor and report on the 5th of each month to the City Recorder those cases actively managed in the past 30 days.
- Consult with City Recorder and Court Clerk to discuss statistical information, such as number of cases handled, outcomes, or time spent on cases. Be prepared to draft one three-page report each 6 months, with content and format at direction of City Recorder.
- Answer case questions from client (usually from court staff and police department)
- Conduct trials *de novo* in cases where defendants take an appeal from municipal court to the state courts.

PERFORMANCE EXPECTATIONS NOT IDENTIFIED ELSEWHERE IN THIS SCOPE OF WORK

- **Attendance and dependability:** contractor will report to court at scheduled times; will return phone calls and emails within 24 hours; will work conscientiously, accurately, and thoroughly.
- **Proper attire:** contractor will observe Uniform Trial Court Rule 3.010 and wear court-appropriate attire during all appearances in Municipal Court and any non-appearance work task that may take place on City of Milwaukie government premises.
- **Preparation:** contractor will interview and subpoena all necessary witnesses; conduct pretrial negotiation and site visits, where necessary; prepare exhibits; and conduct any necessary legal research and drafting. Documents needing court signature will be prepared in advance whenever possible.
- **Communication:** contractor must create professional written correspondence and keep file copies of correspondence, either in paper or electronic format.
- **Oregon State Bar Statement of Professionalism:** contractor is expected to abide by the Statement of Professionalism adopted by the Bar, available at this link and incorporated by reference into this RFP: http://www.osbar.org/_docs/forms/Prof-ord.pdf



Agenda Item: Consent 3.B.
Meeting Date: 2/19/2013

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Contract Approval for 2013-2014 Clay Pipe Replacement Project

Prepared By: Matthew Palmer

Dept. Head Approval: Brad Albert, Engineering Director (Acting-in-Charge)

City Manager Approval: Bill Monahan, City Manager

Reviewed by City Manager: 2/8/2012

ISSUE BEFORE THE COUNCIL

Approve construction of the 2013-2014 Clay Pipe Replacement Project.

STAFF RECOMMENDATION

Authorize the City Manager to sign the 2013-2014 Clay Pipe Replacement Project public improvement contract in the amount of \$1,245,510.

KEY FACTS SUMMARY

- The construction project consists of replacement of approximately 6,000 linear feet of existing vitrified clay pipe (VCP), reconnection of approximately 100 service laterals, replacement of three existing manholes, and removal of an existing manhole.
- The construction project will replace portions of the aging wastewater system in and around the downtown area. The pipe sections to be replaced under this project have been prioritized for replacement based on upcoming paving projects scheduled for the Street Surface Maintenance Program.
- Landis & Landis Construction LLC submitted the lowest, responsible bid as part of the City's competitive bidding process.

OTHER ALTERNATIVES CONSIDERED

Not Applicable

CITY COUNCIL GOALS

This project is included in the 2013-2017 Capital Improvement Plan and the FY13-14 Biennial Budget adopted by the City Council.

ATTACHMENT LIST

- Staff Report
- Resolution
- Vicinity Map

FISCAL NOTES

- The 2013-2014 Clay Pipe Replacement Project is part of the FY13/FY14 Biennial Budget.
- Project funding includes \$530,000 from the Wastewater Fund.
- The remainder of the project funding includes \$715,510 from the Wastewater Fund. This funding is a portion of the remaining balance from the Pipe Replacement for Light Rail and SSMP project (FY13).



To: Mayor and City Council

Through: Bill Monahan, City Manager
Brad Albert, Engineering Director (Acting-in-Charge)

From: Matthew Palmer, Associate Engineer

Subject: Contract Approval for the 2013-2014 Clay Pipe Replacement Project

Date: February 19, 2013 Regular Session

ACTION REQUESTED

Authorize the City Manager to sign a contract for the construction of the 2013-2014 Clay Pipe Replacement Project with Landis & Landis Construction LLC in the amount of \$1,245,510.00.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 2012: City Council adopted the 2013-2017 Capital Improvement Plan and the 2012-2014 Biennial Budget, including the Clay Pipe Replacement Program.

BACKGROUND

The 2013-2017 Capital Improvement Plan identified the need to replace aging vitrified clay pipe (VCP) throughout the City. A majority of the VCP in the City was installed over 60-80 years ago and is reaching the end of its serviceable life. VCPs are susceptible to chemical attack at their joints. The joints then become brittle and are more prone to infiltration. The goal of the Clay Pipe Replacement Program is to replace all the aging VCP in the City over a 10-year period.

The project includes work shown on the Project Vicinity Map (Attachment 2) and the elements as described below:

- A. Replace approximately 5,400 linear feet of existing 8", 10", 12", 15" and 18" VCP via the pipe bursting method.

- B. Replace approximately 600 linear feet of existing 8", 18" and 24" VCP via open trench replacement.
- C. Reconnect approximately 100 sewer service laterals.
- D. Replace three (3) existing sanitary sewer manholes.
- E. Remove one (1) existing sanitary sewer manhole.

There are three street improvement projects scheduled to be constructed under the Street Surface Maintenance Program (SSMP) over the next three years: Harrison Street Phase II (Highway 224 to Highway 99E), Main Street (Scott Street to Washington Street), and Monroe Street (Main Street to Highway 224). In an attempt to avoid street cuts on newly paved streets due to fixing an aged system, the goal is to replace all aging VCP on these streets.

The 2013-2014 Clay Pipe Replacement Project went through a competitive bidding process in accordance with Chapter 30 of the City's Public Contracting Rules. The City received 7 bids before the January 22, 2013 2:00 PM bid opening. The following table is a summary of all bid amounts as well as the engineer's estimate.

	Contractor	Bid Amount
1	K&R Plumbing Construction Company Inc.	\$ 1,252,715.00
2	Kerr Contractors Oregon Inc.	\$ 1,462,782.00
3	Pacific Excavation Inc.	\$ 1,614,824.00
4	Canby Excavating Inc.	\$ 1,259,948.00
5	Emery & Sons Construction Inc.	\$ 1,327,540.00
6	Moore Excavation Inc.	\$ 1,429,640.00
7	Landis & Landis Construction LLC	\$ 1,245,510.00
-	Engineer's Estimate	\$ 1,505,000.00

Selection of the Contractor was based on the lowest responsive bid submitted in conformance with the contract documents. The lowest responsive bid was submitted by Landis & Landis Construction LLC, a construction firm from Marylhurst, Oregon.

Construction is expected to begin in April 2013. The project duration is 180 days, with an expected completion date at the end of September 2013. During construction, the Contractor will maintain local access to properties within the construction limits at all times. One-way traffic with flaggers can be expected on Harrison Street, Monroe Street, 21st Avenue, and Main Street (south of Jefferson Street) during construction hours, but will be restored to two-way traffic on weekends and evenings. Feeder streets adjacent to these main routes may be closed to through traffic during construction hours during certain portions of the work. Disruptions to traffic will be minimized to the furthest extent practicable.

Sewer service to private properties will not be interrupted during construction. Under the contract specifications, the Contractor is required to maintain service to all properties during sewer pipe replacement. Properties will be notified by the Contractor 48 hours in advance of any work adjacent to the property.

CONCURRENCE

Engineering staff coordinated with Operations staff during the design phases of the project. This project was reviewed and approved by the Citizens Utility Advisory Board (CUAB) and Budget Committee as part of the Capital Improvement Plan and 2012-2014 Biennial Budget process.

FISCAL IMPACT

Funding for the 2013-2014 Clay Pipe Replacement Project is included in the FY13/FY14 Biennial Budget. The project is funded through the Wastewater Fund (540). The project funding will come from two sources within the biennial budget: the Pipe Replacement for Light Rail and SSMP project (FY13) and the Clay Pipe Replacement Program (FY14).

In FY13, \$1,077,325 is remaining under the Pipe Replacement for Light Rail and SSMP project line item. This remaining amount will be combined with the \$530,000 budgeted under FY14 to fund the Clay Pipe Replacement Project. See Table 1 below for the breakdown of the available project funding, project cost, and excess fund balance.

Table 1. Funding for the 2013-2014 Clay Pipe Replacement Project

Project Name	Year	Available Funds
Pipe Replacement for Light Rail and SSMP	FY13	\$1,077,325
Clay Pipe Replacement Program	FY14	\$530,000
Total Available Funding		\$1,607,325
Contract Amount		\$1,245,510
Excess Fund Balance		\$361,815

By utilizing the remaining funds from the Pipe Replacement for Light Rail and SSMP Project, construction cost savings were realized through economies of scale (e.g. more linear feet of pipe installed will result in a lower average unit cost for installation).

WORK LOAD IMPACTS

Engineering staff will provide project management throughout the course of the contract, including the following:

- Enforcement of contract provisions.
- Interpretation of construction plans and specifications.
- Negotiation of changes to contract provisions as necessary.
- Acceptance of furnished materials.
- Ensure conformance with Bureau of Labor and Industries requirements.
- Management and coordination between the Contractor, Light Rail construction, public, City departments, and regulatory agencies.
- Measurement of quantities.
- Issuance of payments for work completed.

Construction inspection will be provided by City Engineering staff for the duration of project construction. This will reduce the cost of the project and slightly increase the workload of the Engineering staff. Construction inspection duties include ensuring the work is performed in accordance with City construction specifications by visually inspecting the materials and installation processes during construction. Also, inspection duties include documenting the work by providing detailed written reports, photographic evidence, and measurement of quantities on a daily basis. Engineering staff work load to provide project management and inspection duties will require approximate 60% of one staff engineer's time for the project duration.

ALTERNATIVES

1. Do not award the project (defer indefinitely)
 - a. If the City Council wishes not to award the project
2. Re-bid the project without amendments.
 - a. If the City Council approves of the project need and design but thinks the project should be re-bid for any reason.
3. Direct staff to modify the project and re-bid
 - a. If the City Council does not approve of the project design and/or thinks that rebidding the project could reduce cost.

ATTACHMENTS

1. Resolution
2. Vicinity Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE 2013-2014 CLAY PIPE REPLACEMENT PROJECT.

WHEREAS, the existing clay pipes in service within the City are deficient in structure and service reliability; and

WHEREAS, wastewater system improvements were approved for funding in the 2012-2014 biennial budget and 2013-2017 Capital Improvement Plan; and

WHEREAS, Landis & Landis Construction LLC is the lowest responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie authorizes the City Manager to sign a contract for the construction of the 2013-2014 Clay Pipe Replacement Project with Landis & Landis Construction LLC, in the amount of \$1,245,510.

Introduced and adopted by the City Council on February 19, 2013.

This resolution is effective on February 19, 2013.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Document1 (Last revised 09/18/07)



2013-2014 Clay Pipe Replacement Project

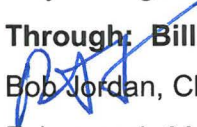
Project Vicinity Map

1 inch = 400 feet

Attachment 2





To: Mayor Ferguson and Milwaukie City Council
Through: **Bill Monahan, City Manager**
From: , Chief of Police
Date: February 4, 2013
Subject: **O.L.C.C. Application – Spring Creek Coffee House – 10600 SE McLoughlin Blvd.**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Spring Creek Coffee House - 10600 SE McLoughlin Blvd.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.

MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
JANUARY 15, 2013

Mayor Ferguson called the work session to order at 5:04 p.m. in the City Hall Conference Room.

Council Present: Councilors Dave Hedges, Mark Gamba, and Mike Miller; Scott Churchill arrived at 5:48 p.m.

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Finance Director Casey Camors, Library Director Katie Newell, Parks and Sustainability Director JoAnn Herrigel, Planning Director Steve Butler, and Senior Planner Ryan Marquardt

Media: Michael Bamesberger, The Oregonian

City Manager's Report

Mr. Monahan provided a map and detailed list of downtown property owners to aid Council members' awareness of potential conflicts of interest when responding to citizen questions. He reviewed the agenda and the process for consent agenda items.

Mr. Monahan discussed the Statewide Transportation Improvement Program (STIP), and **Councilor Hedges** stated there would not be a lot of public support if funds from the Walk Safely Milwaukie Program (WSMP) were used for the match. There was consensus to put forth the Kellogg Dam pedestrian walkway as the City's priority project.

He discussed Les Poole's request made at a recent City Council meeting to combine certain properties into Kronberg Park. **Councilor Hedges** thought it was an effort to stop light rail and to prevent the draining of Kellogg Lake. He questioned tying the City's hands by taking such an action. There would likely be a citizen addressing the Council on an issue with TriMet and problems with accessing his property. It was agreed the group would listen to his comments and determine what the City might do.

Council Goal Setting was scheduled for the January 22, 2013, work session, and it was decided the Council would get an overview of the previous session, continue the discussion to develop a rough draft, and hear audience comments. Finally, the City Council would polish and prioritize the goals. It was agreed the draft goals would be posted on the City's website to solicit public input. Adoption of the goals would be scheduled for February 19, 2013, regular session when public comment would be accepted.

Other announcements were the Mayor's Forum on Emergency Preparedness on February 12 when Milwaukie Police Captain Dave Rash would provide a report on the City's updated Emergency Operations Plan; Clackamas Cities Monthly dinner meeting on January 24; and anticipated Police Department Accreditation spearheaded by Capt. Rash.

Michael Bamberger was introduced as the new *Oregonian* reporter.

Mr. Monahan handed out guidelines on elected official email usage and public records in preparation for the January 29, 2013, study session.

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Community Development, Engineering and Planning Active Projects

Ms. Herrigel provided an update on three matters beginning with neighborhood park completion that included master plans and Comprehensive Plan amendments for Kronberg Park, Wichita Park, Balfour Park, and Bowman and Brae. She provided a matrix of what had been done, what remained to be done, consultant needs, and consultant costs.

Mayor Ferguson approved of moving forward with Wichita Park as there was an expectation of park work being done now that Monroe Street was repaved, and the Councilors concurred. Ms. Herrigel would come back to the City Council if there were associated costs.

Councilor Hedges asked the status of Spring Park in the Island Station Neighborhood, and **Councilor Miller** and **Ms. Herrigel** responded the Parks District was working on that project.

Ms. Herrigel was in the process of updating the City sustainability plan and would make a report at the February 26, 2013, study session.

She discussed the most recent discussions with Water Environment Services (WES) regarding Riverfront Park access. A new option using Washington Street was being reviewed by WES's consultant Kittelson and Associates. **Mayor Ferguson** commented on the space needed for trucks entering McLoughlin Blvd. The group discussed a presentation before the RiverHealth Advisory Board.

Mr. Butler attended the Historic Milwaukie Neighborhood District Association (NDA) meeting and gave a brief presentation on the Metro Population/Employment 2035 Forecast Data. He reported on the refresh of the Transportation System Plan (TSP) in order for the City to comply with State and regional transportation planning requirements. TSP amendments are schedule for City Council adoption in June after NDA briefings, Planning Commission recommendation in February, and an April open house.

Mr. Butler discussed the Metro construction excise tax (CET) Commercial Core Enhancement Program (CCEP) and recent changes in scope. Metro awarded the grant to Milwaukie in 2010, and City Council decided not to proceed with the grant in 2012 because of potential impacts on the ability to proceed with other City projects and concerns about the project scope including the urban renewal element. The Program scope was modified based on discussions between Metro and Milwaukie staffs. The Planning Department recommended that the City Council reconsider its position and support acceptance of the CET grant after renewed negotiations and review of the proposed intergovernmental agreement (IGA) had taken place. The project launch would be March to June 2013. Phase I, downtown code and plan refresh, opportunity site planning, and implementation strategy, would be June 2013 to March 2014. Phase II, neighborhood commercial area enhancement, opportunity site planning, and implementation strategy, would be January 2014 to July 2014. The final Phase III, implementation, would be July 2014 to December 2014. The opportunity sites were the Texaco site, the transit oriented development/triangle site, 2 or 3 downtown sites to be determined, the Murphy site, and the McFarland site. The grant amount was \$224,000 with a direct match of \$30,000 which was in the adopted budget. After assessing staff time, the Planning Department felt it had capacity to take on the program.

Councilor Gamba understood this would help move forward some of the projects the Planning Commission had identified.

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Mr. Butler hoped to have the downtown code and plan refresh done by the end of the first quarter along with opportunity site planning and implementation strategy development. He felt there was a benefit in combining them.

Councilor Churchill asked if there were concerns about project scope and duration creep and asked Mr. Butler to identify areas of risk. What might be dropped in order to make the deliverables?

Mr. Butler replied the goal was to make sure the scope was realistic, and he would provide more detail in the final scope when it came to the City Council for review. Although unspoken items typically came up, he hoped to avoid them by putting in additional upfront time. Schedule creep could occur if the community and/or the City Council wanted to take more time on the process. He felt that could be avoided by carefully building in checkpoints and by making sure the cost issues were clear.

It was the consensus of City Council that Mr. Butler should move forward with the negotiations with Metro staff on an IGA.

It was reported that the Engineering Department held the Stormwater Master Plan open house on December 5, 2012. Three citizens attended and provided input on localized flooding areas. The preliminary Capital Improvement Plan (CIP) was made available for citizen input.

Clackamas County Road Maintenance Plan

Because of time constraints, this topic was moved to the regular session.

Tacoma Station Area Plan

Mr. Marquardt and **Matt Hastie**, Project Manager with Angelo Planning, provided the City Council with an overview of the Tacoma Station Area Plan (TSAP). Earlier identified redevelopment scenarios included a large civic entertainment use (baseball stadium) with modest supporting commercial and retail uses. The second scenario was intensive commercial, office, and retail uses with some housing. The third scenario repurposed two opportunity sites, Pendleton and the historic Oregon Department of Transportation (ODOT) building. The preferred redevelopment scenario was a hybrid that retained the transportation improvements and incorporated future design standards within the study area. Mr. Hastie reviewed the potential elements of the two opportunity sites that included improved connectivity to light rail and the Springwater Trail.

Mayor Ferguson asked if TriMet would be amenable to using some parking for the commercial and retail users.

Mr. Hastie would address that question with TriMet

Councilor Hedges heard from the Ardenwald Neighborhood that people might park in the residential area and use the walking path to access light rail.

Mr. Hastie felt that would be limited. There was an existing path, but the one being planned was much better designed.

Mr. Hastie discussed the ODOT property that could include several plazas, renovation of the historic building as an eating or drinking establishment, improved walkability and bike paths, intensified mixed employment development, and a new street connection. On west side of McLoughlin Boulevard some mix of residential and employment uses was recommend and assumed continued industrial uses south of Beta Street while allowing for supporting uses. The goal was to intensify employment and attract higher

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paying jobs. A broad mix of employment uses was envisioned on the east side of McLoughlin Boulevard. The general recommendations included improved transportation connections.

An expert advisory committee recommended working with what was there with a greater focus on employment with some residential and retail and less focus on mixed use. They felt it was important not to take energy from the Milwaukie downtown as a destination or for office, commercial, and retail uses. The large scale civic and entertainment proposal was no longer appropriate for the ODOT site. The committee felt it was important to be flexible for existing and future businesses as well as the property owners. They felt the area could see an influx of employers relocating from SE Portland when light rail opened.

Councilor Churchill asked Mr. Hastie to address the Anderson Die and Manufacturing property on SE Moores Street.

Mr. Hastie replied the Anderson Co. had made some major investments in the facility, and it was not looking to doing anything in the near future. The company had been very involved with the process and offered a number of suggestions but was not opposed to recommendations in the short term. There were some concerns over the amount of parking. He reviewed a number of transportation proposals including improvements to Main Street, connections to adjacent neighborhoods, improved crossings over McLoughlin Boulevard, improved connections to the Springwater Corridor, and better truck access and signage at Ochoco. He gave a brief overview of site design that included building setbacks, corners, landscaping, and building orientation and entrances. Building design addressed materials and articulation, variation of building facades, weather protection, and signage. He showed slides of existing buildings that illustrated an enhanced pedestrian experience.

Mr. Hastie discussed parking strategies. A high utilization rate was identified particularly in the northern part of the study area. If redevelopment occurred and use intensified either more parking would be needed or the demand would have to be managed to reduce parking needs. The project would investigate potential uses of the park-and-ride for businesses and future public parking. Some shared parking arrangements might be implemented, and, if necessary, parking requirements could be adjusted. Code amendments could be considered to reduce the percentage of non-industrial uses allowed south of Beta Street. He noted the parking analysis was based on the potential uses being discussed and possible transportation improvements and effects of the mix of uses being proposed.

Councilor Churchill asked if it were fair to say the demand for more mixed use competed with parking and was why the mix of uses was not being recommended.

Mr. Hastie responded it would drive the parking need a little higher, but it was more of a market recommendation. There would be some code recommendations for the portion that would still be generally industrial. He briefly commented on street designs that would include Main Street improvements to better accommodate all modes of transportation balanced with right-of-way constraints. In terms of implementation strategies, staff was currently working on development code changes. Infrastructure improvement funding would depend a lot on redevelopment and public/private partnerships. The area would be promoted as a home for employment uses with a higher job density and strategic parking supply and management. Opportunity site B will be marketed for appropriate future uses. He reviewed next steps that included a draft Tacoma Station Area Plan in January that would be refined in February after

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additional Planning Commission and City Council briefings with a large public open house at the end of February. Public meetings and public hearings were planned for March through June.

Business Registration Program Revisions

Due to time constraints, the item was postponed to a future agenda.

LightSpeed Networks, Inc. Franchise Agreement

Ms. Camors discussed the proposed LightSpeed Networks, Inc. (LSN) franchise agreement and introduced Robin Smith, LSN's Legal and Compliance Director.

Ms. Smith reviewed LSN's background and explained it was currently operating as a competitive exchange carrier and competitive local exchange carrier in Oregon and Washington. It was founded in 2005 by five rural electric cooperatives and a tribal entity to provide internet to rural areas. She briefly reviewed the services being offered. The company hoped to provide network services to the Milwaukie area by placing privately owned assets in the public right-of-way through a franchise agreement. She noted LSN did not provide services directly to people's homes. The City gains franchise fees, pole attachment fees, and permit fees so the revenue impacts could be significant. She discussed the Telecommunications Act of 1996 that was adopted to encourage competition.

Ms. Camors noted this agreement was consistent with other franchises.

Councilor Churchill asked how one might differentiate the proposed Milwaukie franchise agreement with that of the City of Eugene.

Ms. Smith replied both would conform to what was statutorily allowed.

Councilor Miller asked how this compared with the Clackamas County agreement.

Ms. Smith said LNS was working with Clackamas County and would likely be co-leasing and sharing equipment.

Councilor Gamba asked how redundant this would be.

Ms. Smith responded by leasing and sharing various lines, a greater segment of the population could potentially be served. She explained that LNS will sell service to area internet providers.

Councilor Miller was concerned about street cuts and asked if LNS would follow existing lines.

Ms. Smith replied LNS hoped to stay on the existing poles.

Mayor Ferguson added there was a 5-year moratorium on cutting into newly paved streets.

Mayor/Council Communication Agreement

Ms. Bankhead reviewed the options for City Council consideration.

Mayor Ferguson said there were elements of each with which he agreed. It was important to be able to state one's disagreement with a decision without being critical.

Councilor Gamba agreed there needed to be some thought toward respect and generosity. He expressed his concern that often the public was not aware of decisions that were being made and often contacted those who had not supported the decision. He wanted people to feel they had someone to talk to and not limit the democratic

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process. Three people can make a bad decision, and he felt those in the minority should be able to have an open conversation and express their views.

Mayor Ferguson felt one could support a decision while also expressing in a non-critical his disagreement.

Councilor Hedges felt that was the crux of the agreement, and this was very important to him. He felt there should be a level of common courtesy.

Councilor Miller agreed with Councilor Hedges, and he commented on the number of contacts that were made after the first goal setting session.

Mayor Ferguson commented that the photo radar decision was an example of a split vote. He felt there needed to be some kind of modification to keep the Council members mindful of how they communicated and care with which they reported back to others.

Councilor Gamba thought it was critical to inform constituents about potential mistakes in the offing and give them an opportunity to provide input.

Councilor Hedges had a problem with the perception that he killed Kellogg for Coho and was concerned there was something wrong with the way Councilors were working together.

Mayor Ferguson recessed the work session at 6:50 p.m. which was reconvened at 9:05 p.m. to continue the discussion of the Mayor/Council Communication Agreement.

Councilor Gamba agreed with language regarding respect and felt individual members should be allowed to have open, substantive conversations with citizens when there were disagreements.

Councilor Miller said a majority of the City Council had made decisions with which he did not agree, but he had not actively work against them. Councilors should treat one another as they wished to be treated. He was concerned about Councilors being bombarded with phone calls and emails when there was a disagreement.

Councilor Gamba replied emails were public record and Council email addresses were available on the City's website.

Mayor Ferguson encouraged people to send emails to the Office of the City Recorder and express their views to the City Council as a whole and for public records purposes. He felt the dialogue was important.

Councilor Churchill hoped that all Councilors would participate in open discussions and encourage questions on any topic that was being debated and discussed. He further hoped to encourage respect and trust through a transparent review process. He added that certain issues, like those discussed in the first goal setting work session, had not yet come to a vote. The comments made at the work session were questions about the project in general and any agreement that might involve City funds.

Councilors Hedges and **Churchill** had considerable problems with the clause being taken out which Council President Chaimov said was the heart of the agreement.

Councilor Gamba wanted to be able to respond to citizens if he were on the losing side.

Councilor Hedges replied when he had been on the losing side he expressed his reasons for voting as he did. He was concerned that people not go out and put words in his mouth.

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Councilor Gamba spoke specifically of the Kellogg for Coho project which had been a Council goal for 14 years but not achievable because of the cost. Now there was a funding option. He felt the dam removal and creek restoration should remain a goal as information was being gathered and a contract with Wildlands negotiated. He felt removing it from the list of goals was going in the wrong direction, and he would let those of similar beliefs know about the issues.

Mayor Ferguson had been surprised at the direction of the conversation in the goal setting session and thought he should have stepped in before it became emotional. He now had a better understanding of how the questions came about and hoped to move on. He felt one could express disagreement without being critical.

Councilor Gamba felt as the loyal opposition it was his duty to engage courteously in the disagreement. In the case of the Council goals, there had been no vote.

Councilor Churchill recommended the City Council be addressed as a body and not identified as individuals.

The group discussed communication with staff and addressing unresolved issues with the City Manager.

Ms. Bankhead reviewed her notes on the changes, and the Mayor and City Council agreed to go back into regular session to approve the resolution adopting the Mayor/Council Communication Agreement.

Respectfully submitted,

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 15, 2013**

CALL TO ORDER

Mayor Ferguson called the 2142nd meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson and Councilors Scott Churchill, Dave Hedges, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Assistant to the City Manager Teri Bankhead, Finance Director Casey Camors, Planning Director Steve Butler, Associate Planner Li Alligood, and Associate Planner Kari Svanstrom

Media: Michael Bamesberger, *The Oregonian*

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Student of the Month for January 2013 Ryan Bailey

Mayor Ferguson and Councilors recognized Milwaukie High School Student of the Month for January 2013 Ryan Bailey.

CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Churchill to approve consent agenda items B.1 – 3 and remove item A for discussion.

~~A. A Resolution of the City Council of the City of Milwaukie, Oregon, Adopting the Mayor/Council Communication Agreement and Repealing Resolution No. 03-2012~~

B. City Council Minutes:

1. December 18, 2012 Regular Session;
2. January 2, 2013 Work Session; and
3. January 2, 2013 Regular Session

Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported two speakers made announcements during audience participation at the January 2, 2012, City Council meeting so there was no follow up report.

William Corti, Milwaukie, owned a house on Monroe Street, and he was concerned that access to his property would be impacted by light rail construction making it landlocked. He asked for a meeting with TriMet to discuss driveway construction.

Mayor Ferguson replied Mr. Monahan or a designee would work with Mr. Corti on the matter.

Mr. Monahan said Mr. Butler would get more information for a better understanding of negotiations with TriMet.

Councilor Churchill asked if this were the same access to the City parking lot, and **Mr. Corti** confirmed that it was.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Election of Council President

Councilor Miller stated he felt it was important for the Council President to be a seasoned City Council member.

It was moved by Councilor Miller and seconded by Councilor Churchill to nominate Councilor Hedges as City Council President to serve as presiding officer in the absence of the Mayor. Motion passed with the following vote: Councilors Hedges, Churchill, Miller, and Gamba and Mayor Ferguson voting “aye.” [5:0]

B. Presentation of the Audit

Ms. Camors reported an audit was an annual requirement and expressed her appreciation to Assistant Finance Director Rina Byrne who managed the process single-handedly. She noted two deficiencies: expenditures exceeded appropriations in the Transportation Fund by approximately \$41,000, and the Water fund had a deficit balance at June 2012. The proposed resolution set forth corrective measures to address these deficiencies.

Mayor Ferguson expressed his appreciation for the work done by the Finance Department to make the budget easy to read and a plan that all could follow.

Councilor Gamba referred to the staff report and asked why street lighting costs exceeded budget.

Ms. Camors responded she would have to research that question.

Council President Hedges appreciated her recent presentation to the Budget Committee.

Councilor Churchill appreciated the financial transparency exhibited by the City.

Councilor Miller appreciated the Finance Departments' hard work and was pleased to the City was on track.

It was moved by Council President Hedges and seconded by Councilor Churchill to adopt the resolution setting forth proposed corrective measures pertaining to deficiencies noted in the annual audit report. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION NO. 04-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FORTH PROPOSED CORRECTIVE MEASURES PERTAINING TO DEFICIENCIES NOTED IN ANNUAL AUDIT REPORT.

C. LightSpeed Networks, Inc. Franchise Agreement – Ordinance

Ms. Camors provided the staff report in which the City Council was requested to adopt the ordinance granting LightSpeed Networks, Inc., dba LS Networks (LSN) a franchise.

Robin Smith, LSN Legal and Compliance Director, joined Ms. Camors. The Company had been in business since 2005 to present. This franchise agreement was necessary for LSN to use the public right-of-way.

Ms. Camors added this was consistent with other franchise agreements and had been vetted through Public Works Operations.

It was moved by Councilor Churchill and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance granting to LightSpeed Networks, Inc., dba “LS Networks” an Oregon Corporation, a franchise to construct, operate, and maintain a telecommunications network within the City of Milwaukie. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

ORDINANCE NO. 2054:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, GRANTING TO LIGHTSPEED NETWORKS, INC., DBA “LS NETWORKS” AN OREGON CORPORATION, A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS NETWORK WITHIN THE CITY OF MILWAUKIE, OREGON.

D. Expedited Annexation in Northeast Sewer Extension Project Area – Ordinance

Ms. Alligood provided the staff report in which the City Council was requested to approve the ordinance annexing 31 properties into the City of Milwaukie. The goal of the assisted annexations was to incentivize property owners to annex sooner than later by the City’s absorbing the fees. This was the final batch of properties for the program that expired at the end of 2012. She gave a brief overview of the program and noted that more than 90 properties had annexed since City Council authorized the program May 2010. She explained that one property had not qualified so would be removed from the proposed ordinance. Subsequently, the ordinance would have a second reading at the February 5, 2013, regular session.

Councilor Miller asked why there was no address for lot 32 and why in two cases multiple tax lots had a single address.

Ms. Alligood replied lot 32 was vacant so it had no address, but it did have a tax lot number. In the other case, two properties were owned by the same people and grouped under same ownership.

It was moved by Councilor Gamba and seconded by Councilor Churchill for the first reading by title only annexing multiple tracts of land into the City limits of the

City of Milwaukie and withdrawing them from several service districts as described. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

Mr. Monahan read the ordinance one time by title only. The second reading and adoption would be on the February 5, 2013, regular session agenda.

E. Expedited Annexation Petition for 8926 SE 58th Drive

Ms. Svanstrom provided the staff report in which the City Council was requested to approve by ordinance an expedited annexation for one tax lot at 8926 SE 58th Drive. She explained the property owner sought annexation in order to connect to City sewer services and added this property was not eligible for the assisted annexation program. The owners plan to continue using the single family dwelling as a residence which upon annexation will become a legal nonconforming use subject to the City’s zoning review. The application met all relevant criteria and interested persons, necessary parties, and residents and property owners within 400 feet of the site were notified.

It was moved by Councilor Churchill and seconded by Council President Hedges for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as 8926 SE 58th Drive into the City limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights (File #A-12-05). Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

ORDINANCE NO. 2055:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 8926 SE 58TH DRIVE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS (FILE #A-12-05).

F. Amend Milwaukie Municipal Code Chapter 2.11.020, Citizens Utility Advisory Board Membership Qualifications – Ordinance

Mayor Ferguson prefaced the report by explaining a Milwaukie utility customer had applied for the Citizens Utility Advisory Board (CUAB) who was not a resident.

Ms. Bankhead provided the staff report in which the City Council was requested to adopt an ordinance amending Milwaukie Municipal Code (MMC) Chapter 2.11.020 regarding Citizens Utility Advisory Board (CUAB) qualifications for membership. The individual applying lived in the Northeast Sewer Extension Area and had learned about the vacancy while attending the Lewelling Neighborhood District Association meeting.

It was moved by Councilor Gamba and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.11.020 to revise the qualifications of members of the Citizens Utility Advisory Board. Motion passed with the following

vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

ORDINANCE NO. 2056:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.11.020 TO REVISE THE QUALIFICATIONS OF MEMBERS OF THE CITIZENS UTILITY ADVISORY BOARD.

G. City Council Regional Committee Assignments

Mayor Ferguson introduced the topic which had been discussed at an earlier session.

Councilor Miller spoke with Councilor Churchill who had agreed to attend the Milwaukie Rotary meeting.

It was moved by Council President Hedges and seconded by Councilor Miller to approve the 2013 City Council Regional Committee Assignments with that modification. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

H. Council Reports

Council President Hedges attended the Clackamas County Coordinating Committee (C4) meeting in October where the County Road Maintenance Program was discussed. The two options remaining from the four alternatives discussed at that time were a gas tax and vehicle registration fee. He was seeking direction from Council before taking a position. It seemed gas tax revenues were going down because people were driving less and vehicles were more fuel efficient. He was also concerned that Milwaukie already had its own gas tax, and he was not sure how the County gas tax would impact City revenues. The vehicle registration fee was fixed and would not have a bearing on what Milwaukie was already doing.

It was Council consensus that it needed more information before taking a position.

Mr. Monahan said staff will work with Council President Hedges to create a better understanding of the impacts on Milwaukie. He understood the County Road Maintenance Program would be on the September ballot.

The Mayor and Councilors reported on events they had attended on behalf of the City and announced upcoming events.

Mayor Ferguson provided an overview of the Kellogg Good Neighbor Committee and distributed a draft resolution. He asked that Councilors provide Ms. Bankhead with feedback in order to finalize the resolution and appointments could be made. He briefly discussed the Oregon Department of Transportation’s (ODOT) study on intercity passenger rail services between Portland and Eugene. He encouraged residents to be involved and provide input on the alignment options.

Mayor Ferguson recessed the regular session at 9:00 p.m. to continue the work session discussion on the Mayor/Council Communication Agreement. The City Council would return to regular session to take any action necessary.

Mayor Ferguson adjourned the work session at 9:36 p.m. and reconvened the regular session at 9:39 p.m.

Ms. Bankhead reviewed the revisions to the Mayor/Council Communication Agreement based on the work session discussion.

It was moved by Council President Hedges and seconded by Councilor Gamba to approve the resolution adopting the amended Mayor/Council Communication Agreement. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0].

ADJOURNMENT

It was moved by Councilor Gamba and seconded by Council President Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

Mayor Ferguson adjourned the regular session at 9:43 p.m.

Respectfully submitted,

Pat DuVal, Recorder

MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
GOAL SETTING
JANUARY 22, 2013

Mayor Ferguson called the work session to order at 5:02 p.m. in the City Hall Conference Room.

Council Present: Councilors Dave Hedges, Mark Gamba, and Mike Miller; Scott Churchill arrived at 5:48 p.m.

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Finance Director Casey Camors, Assistant Finance Director Rina Byrne, Human Resources Director Gary Rebello, Library Director Katie Newell, Parks and Sustainability Director JoAnn Herrigel, Planning Director Steve Butler, Operations Director Gary Parkin

Media: Michael Bamesberger, *The Oregonian*

Mr. Monahan provided an overview of the previous goal setting session.

Goals Summary

1. Funding to prevent loss of services
2. Complete Riverfront Park
3. Complete Adams Street Connector
4. Complete Quiet Zones Summer 2013
5. Library Expansion – completion 2015
6. Analysis of outsourcing vs. in-house maintenance of parks, open spaces, areas around City facilities, new development (bioswales, medians); continue to get services from North Clackamas Parks and Recreation District (NCPRD) but develop our own plan for other areas. District - either takes it all or we plan on how we take care of everything they do not.

Mayor Ferguson and **Mr. Monahan** reviewed various options for the goal setting process, ranking, and departmental focus. Mayor Ferguson noted the unprioritized list of goals developed last year that would be done when the timing was right.

Councilor Gamba suggested a list of 20 goals in order for the City have the flexibility to take advantage of funding opportunities.

Councilor Churchill said the list would depend on availability of funds, and the group agreed that some evaluation needed to be taken into account. Members talked about the ranking process.

Councilor Hedges suggested a shorter priority list this year.

Councilor Miller agreed. Some goals had been achieved while others had not and should stay on the list until completed and given priority.

Mayor Ferguson asked if there might be value in developing a long term list and a short term list. Using Riverfront Park as an example, he suggested setting benchmarks rather than setting the goal as completion.

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Councilor Churchill suggested earmarking the goals.

Councilor Gamba was interested in keeping an historical awareness and not drop goals because a new City Council was seated. He recommended making a conscious decision about what did and did not remain on the list. He liked consensus, but it might be very time consuming.

The group agreed to use a voting process using dots.

Councilor Miller suggested a list of 6 goals with several of unprioritized goals.

Councilor Churchill suggested 15 goals maximum on the full list that could be ranked top, middle, and low.

Mayor Ferguson outlined the process beginning with a discussion of the goals identified at the last session.

Councilor Hedges said the first goal was greater than the TriMet payment and was more about protecting the reserves.

Mr. Monahan added the other element was loss of service if the City did not identify replacement funding or bring in additional resources through another activity.

Councilor Hedges said additionally the City was looking at ways to reduce spending.

Councilor Gamba felt the Transportation System Plan (TSP) goals should be reviewed and noted several people had expressed interest in the Monroe Street Bike Boulevard.

Mr. Monahan suggested a goal might be for the Planning Department to allocate some of its time in implementing the TSP if there was something the City Council wanted to accelerate.

Councilor Gamba said from the TSP projects he would select the bike boulevard and 28th Ave access to the Springwater Corridor.

The group discussed the Monroe Street Bike Boulevard in terms of the recently completed paving project in the existing right-of-way.

Mr. Butler discussed the range of things that could be done given the parameters.

Councilor Miller hoped to see a complete revision of the downtown code including the public area requirements (PAR). The City needed to get the zoning under control with buildings in an appropriate scale to Milwaukie.

Councilor Hedges suggested a goal of negotiating with Wildlands to carry out a feasibility study for the Kellogg for Coho Project.

Councilor Churchill suggested tasks that supported the programs like the TSP and appropriate capital investments on the public building infrastructure including the Public Safety Building and City Hall.

Mayor Ferguson suggested annexation of the 3-Creeks Triangle.

Mr. Monahan suggested language to the effect that annexation could be used as a strategy to start to achieve growth into the Urban Growth Management Area (UGMA).

Councilor Miller suggested the goal could be to complete the UGMA process, and in 2013 to develop and initiate an annexation strategy of the 3-Creek and industrial area up to Hwy 224 and to Clackamas Town Center. He thought it would be a good strategy to begin speaking with commercial and industrial property owners about the benefits of annexing to the City of Milwaukie.

Mayor Ferguson suggested a goal to prepare and carry out a program that combined emergency preparedness and volunteerism as a key component.

Councilor Gamba put forward the goal of seeking Tree City USA status and developing a tree protection ordinance. He further suggested a review of the business tax registration program with an eye toward revenue generation as a subsection of first goal mentioned.

Councilor Miller wanted the continuation of the connectivity program for commercial cores from the neighborhoods and funding for the Walk Safely Milwaukie Program (WSMP).

Councilor Hedges wanted to revisit the no new evidence rule applied to land use appeals to the City Council. Additionally, he asked that *The Pilot* newsletter be brought back, even if done bi-monthly, in a printed version for distribution.

Councilor Gamba suggested a goal of exploring how the City can participate in helping the community help itself in addressing hunger and particularly school children.

Mayor Ferguson thought the first step was to determine which students were coming from outside the City limits and work with the North Clackamas School District to clarify needs. He suggested looking at it on a personal level for the first year and subsequently considering it as a future goal.

Councilor Churchill discussed City support for a downtown business growth plan driven by existing businesses with the goals and objectives established by a downtown business association. The goal could be phrased that the City will support businesses in their efforts to have a vibrant downtown through a business directed growth plan.

Mayor Ferguson discussed the role of the Rotary, which was service based, and the North Clackamas Chamber of Commerce.

Mr. Monahan said the goal could be stated that the City wished to support downtown businesses in their efforts to create a directed business plan.

Councilor Hedges expressed concern about what might become of the downtown if the Clackamas Town Center were annexed into the City of Milwaukie.

Mr. Monahan replied that type of evaluation could be part of the City's long term annexation strategy. Should there be a central area to look at as a strategic place to locate certain facilities to be more efficient?

Mayor Ferguson discussed the issue of place-making and defining an area by certain attributes.

Mr. Monahan suggested thinking about identity and branding when it came time to update the community vision.

Mayor Ferguson read through the list of goals prior to taking public testimony.

Public Comment:

Carl Larson, advocate for the Bicycle Transportation Alliance (BTA). The Monroe Bike Boulevard project was an exciting opportunity for a safe east – west bike and pedestrian route to downtown Milwaukie and light rail. He noted there was a lot of fast moving traffic on King Road which was not conducive to walking and biking with the family. Monroe Street had two key elements: slow moving traffic and few vehicles. Treatments like speed bumps, lower speeds, and traffic diversion might be considered. This would be a relatively inexpensive project. He described BTA's role, which included project

initiatives in the tri-county area, policy work in Salem, and education throughout the State.

Val Hubbard, Milwaukie Arts Committee (artMOB) member, advocated for putting the mural program on the Council's list of 2013 goals. She noted that art brings economic development into cities. Although there are some obstacles, she believed there were solutions.

Jennifer Finn, Ardenwald resident and artMOB member, discussed art and its impact on making other goals come true. It was about active engagement and interaction with each other. She hoped the City Council would consider putting art at the top of its 2013 list of goals.

Kirsten Westrom, Clackamas County, echoed the earlier comments made about the City's bike infrastructure. As a mother of a teenager, they put their bikes on a bus and seem to bypass downtown Milwaukie. She would rather support local businesses.

Jean Baker, Milwaukie, congratulated the City Council on its priorities. She asked if the Town Center went along with 3-Creeks. She was concerned that a cost benefit analysis be done before annexing the Town Center. It was an example of terrible planning. They built a ghetto and were now turning their backs on it. She thought it would be wonderful to take in the 3-Creeks area.

JoAnne Bird, Milwaukie, was disappointed master planning for parks was not on the list. The master plan for Kronberg Park needed to be done yesterday because of light rail. She also advocated for a tree ordinance, pedestrian and bike facilities on River Road, and installing sidewalks on arterials.

Lester Garrison, Milwaukie Presbyterian Church (MPC), was a strong supporter of the Kellogg for Coho Project. He noted he had submitted his comments in writing prior to this session. As the second largest property owner on the Lake, MPC looked forward to the restoration of the Kellogg Creek streambed.

Matt Menely, Milwaukie, thought the list of goals was good and encouraged the City Council to review the projects prioritized in the TSP. He hoped the City would continue its work with Wildlands on the removal of the Kellogg Dam and reaffirm its opposition to the Sunnybrook Extension. Residents who had participated in long term planning processes like the TSP would like to see those priorities included in the Council goals.

Greg Baartz-Bowman Milwaukie, felt as the County TSP was getting closer and closer it was important for the City to comment. He supported bike boulevards and if feasible the removal of Kellogg Dam by 2016. He asked about the feasibility of a skateboard park to help build community in a place that was safe and fun.

Councilor Hedges said people supported the Dam removal as long as it did not cost any money, and it was a matter of what credits could be sold related to the Portland Harbor Superfund site.

Councilor Miller added the biggest issue was if the Oregon Department of Transportation (ODOT) would remove the dam

Mayor Ferguson commented on 3-Creeks and his position on the desire of RiverHealth Advisory Board for Water Environment Services (WES) to purchase the property in order to protect it and the water quality.

Mr. Monahan referred to goal #9 which might include the WSMP and implementing some of the TSP projects. Staff was working on a fee structure to support these types of improvements.

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Councilor Gamba thought since the TSP was being updated it would make sense to review the Plan projects, be more involved with the process, and then looking at the projects for capitalization.

The group discussed Americans with Disabilities Act (ADA) compliance.

Councilor Hedges thought certain committees were driving a number of programs like the parks master plans and the mural program. Staff liaisons could be given direction without the projects' being disadvantaged by not being on the list of goals.

Councilor Miller will meet with NCPRD Board to discuss the 5-year master plan and talk especially about those parks that are undeveloped.

Mayor Ferguson would like to hear more about the 1% for art proposal. He was comfortable not carrying some of the goals over based on staff and committee understandings.

Councilor Gamba wanted to ensure the committee work would continue.

Mayor Ferguson asked if there were a way to capture the Monroe Street Bike Boulevard and Tree City USA as goals.

Councilor Miller discussed the current landscape improvement program. Some of the parks were being cared for, but there was a big hole. The goal could be to fill the gap and make the City look good while fulfilling its contracts and getting the services from NCPRD for which Milwaukie citizens pay.

Councilor Gamba went back to the Kellogg for Coho goal and making the long term goal removal of the Dam. Negotiations with Wildlands would be a task.

Councilor Churchill thought feasibility was an important piece.

Councilor Hedges saw the Dam removal as part of the entire goal of restoring the area.

Councilor Miller had a number of questions that needed to be answered regarding the Wildlands project.

Mayor Ferguson felt the Dam was an impediment to 27-miles upstream. He was pleased about negotiating with Wildlands but did not want to lose sight that Milwaukie had taken on a leadership role in removing the dam.

Councilor Gamba had a strong preference for the removal of the Kellogg Dam as the City Council goal.

Mayor Ferguson tallied the dots. The next steps would be for Ms. Bankhead to finalize the list of 18 with 11 prioritized goals. Once the City Council had reviewed it, the proposed goals would be posted on the City's website for public input with the intent to adopt the goals by resolution on February 19, 2013. Unranked goals would also be posted with the explanation that they were important and would be addressed as resources became available.

Mayor Ferguson adjourned the work session at 7:50 p.m.

Respectfully submitted,

Pat DuVal, Recorder

5.
PUBLIC HEARING



To: Mayor and City Council

Through: Bill Monahan, City Manager

**From: Casey Camors, Finance Director
Richard Seals, Finance Director**

Subject: Supplemental Budget Adoption

Date: February 1, 2013 for February 19, 2013 Council Meeting

ACTION REQUESTED

Adopt supplemental budget and revise appropriations for the 2013-2014 biennium budget.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 2012 – The City Council adopted the approved 2013-2014 biennium budget.

January 2013 – The Budget Committee passed a motion 4 to 3 recommending adoption of the attached supplemental budget adjustments and revision to the 2013-2014 biennium appropriations to Council.

BACKGROUND

Oregon Revised Statute 294 allows for supplemental budget adjustments when a condition arises which was not known at the time the budget was adopted. A supplemental budget requires a public hearing.

The City's budget for the 2013-2014 biennium totaling \$88,390,000 was adopted by Council on June 5, 2012. Since this initial adoption, certain conditions and situations have arisen that necessitate changes in financial planning. These adjustments are presented in the attached draft Supplemental Budget Adoption Resolution and significant conditions are as follows:

- General Fund:
 - Reallocation of Community Services Department budgets to the City Manager's Office, Community Development Department and Public Access Studio Department to more accurately reflect changes in the City's organizational structure.

- Refunded prior costs received for the Riverfront project budgeted to the Community Development Department for use in the associated project.
- Funding for the purchase of a new handheld parking ticket unit for use in the Code Enforcement Department to replace the existing outdated and unsupported unit.
- Funding for the purchase of a new online business registration program for the Finance Department to facilitate efficient and effective business registration processing and delivery.
- Funding for Information Systems Technology Department contract for system assessment and ongoing management assistance, project implementation and assessment.
- Funding for an Information Systems Technology Department contract for implementation of disc array server replacement.
- Revenue generated by Photo Radar has surpassed estimates which in turn, has caused increases in some associated costs that require funding.
- Funding for unanticipated increases in personnel costs including medical insurance premiums, workers compensation and unemployment.
- Library Fund:
 - Funding to pay off the Pond House loan, saving the City \$90,000 over the next 9 years.
 - Funding for unanticipated increases in personnel costs including medical insurance premiums, workers compensation and unemployment.
- Transportation Fund:
 - Funding to rebudget for completion of the Lake Road Multimodal Improvements Phase 1 out of Fee in Lieu of Construction funds previously collected.
 - Funding for the Union Pacific Mainline Railroad Quiet Zone project for costs in excess of that anticipated, to be provided out of Fee in Lieu of Construction funds previously collected.
 - Funding for contractual services not anticipated during the initial budget process.
 - Funding to support appropriate reallocation of interfund charges based on other supplemental budget items.
- Water Fund:
 - Funding for unanticipated increases in personnel costs including medical insurance premiums, workers compensation and unemployment.
 - Funding to support appropriate reallocation of interfund charges based on other supplemental budget items.
- Wastewater Fund:
 - Funding to fulfill City wastewater treatment contract with Clackamas County Service District No. 1 including expert rate analysis performed to ensure wastewater utility rates commensurate with the increased costs of the utility.

- Funding for unanticipated increases in personnel costs including medical insurance premiums, workers compensation and unemployment.
- Funding to support appropriate reallocation of interfund charges based on other supplemental budget items.
- Systems Development Charges Fund:
 - Stormwater:
 - Funding for completion of the Stormwater Master Plan originally budgeted in fiscal year 2012.
 - Transportation:
 - Funding to complete the Transportation SDC Update Study.

The attached draft resolution makes the appropriate budget appropriation adjustments as itemized above.

FISCAL IMPACTS

Overall, most additional budget authority requested would be funded by anticipated increases in corresponding revenue streams. Based on the supplemental budget, Library Fund Contingency would increase by \$104,000 to compensate for lower than expected Beginning Fund Balance. Transportation Fund Contingency would be reduced by \$62,000, Wastewater Fund Contingency would be reduced by \$163,000 and Systems Development Charges Fund Contingency would be reduced by \$75,000. Other adjustments do not affect Contingency.

WORK LOAD IMPACTS

N/A

ALTERNATIVES

Do not adopt or adopt only in part, the draft supplemental budget resolution.

ATTACHMENTS

1. Supplemental Budget Adoption Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADJUSTING THE BUDGET FOR THE 2013-2014 BIENNIUM BY ADOPTING THIS SUPPLEMENTAL BUDGET AND REVISING APPROPRIATIONS

WHEREAS, certain conditions and situations have arisen since the initial adoption of the 2013-2014 biennium budget that necessitate changes in financial planning; and

WHEREAS, a hearing to discuss the supplemental budget adjustments was held before the City Council on February XX, 2013; and

THEREFORE, the supplemental budget adjustments for the 2013-2014 biennium and for the purposes shown below are hereby appropriated as follows:

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>General Fund</u>			
Resources:			
Property Taxes	\$ 11,926,000	\$ 11,647,000	\$ (279,000)
Fines & Forfeitures	2,801,000	3,234,000	433,000
Franchise Fees	3,488,000	3,442,000	(46,000)
Interest	118,000	158,000	40,000
Miscellaneous	137,000	159,000	22,000
Transfers to Other Funds	8,800,000	9,080,000	280,000
			<u>\$ 450,000</u>
Requirements:			
City Manager	\$ 1,005,000	\$ 1,185,000	\$ 180,000
Community Development & PW Admin	7,728,000	8,780,000	1,052,000
Engineering Services	1,235,000	1,181,000	(54,000)
Finance	1,408,000	1,430,000	22,000
Fleet Services	1,733,000	1,750,000	17,000
Human Resources	717,000	696,000	(21,000)
Information Systems Technology	1,930,000	2,120,000	190,000
Municipal Court Services	708,000	699,000	(9,000)
Planning Services	1,246,000	1,195,000	(51,000)
Community Services	1,244,000	-	(1,244,000)
Code Enforcement	415,000	420,000	5,000
Public Access Studio	143,000	263,000	120,000
Police Administration	1,016,000	1,036,000	20,000
Police Field Services	10,404,000	10,632,000	228,000
Police Support Services	722,000	689,000	(33,000)
Nondepartmental	1,890,000	1,918,000	28,000
			<u>\$ 450,000</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>Library Fund</u>			
Resources:			
Property Taxes	\$ 1,684,000	\$ 1,947,000	\$ 263,000
Miscellaneous	-	6,000	6,000
			<u>\$ 269,000</u>
Requirements:			
Personal Services	\$ 2,829,000	\$ 2,905,000	\$ 76,000
Materials & Services	400,000	394,000	(6,000)
Debt Service	70,000	195,000	125,000
Transfers to Other Funds	1,440,000	1,410,000	(30,000)
Contingency	100,000	204,000	104,000
			<u>\$ 269,000</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>Building Inspection Fund:</u>			
Resources:			
Fees & Charges	\$ 667,000	\$ 652,000	<u>\$ (15,000)</u>
Requirements:			
Personal Services	\$ 424,000	\$ 429,000	\$ 5,000
Transfers to Other Funds	160,000	140,000	(20,000)
			<u>\$ (15,000)</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>Transportation Fund</u>			
Resources:			
Fees (Street Maint. Fee)	\$ 1,202,000	\$ 1,212,000	\$ 10,000
Franchise Fees (External)	354,000	374,000	20,000
Franchise Fees (Internal)	1,126,000	1,213,000	87,000
Fees (Other)	72,000	487,000	415,000
Intergovernmental Grants	2,900,000	2,946,000	46,000
Other	14,000	29,000	15,000
			<u>\$ 593,000</u>
Requirements:			
Materials & Services	\$ 962,000	\$ 1,062,000	\$ 100,000
Transfers to Other Funds	1,960,000	2,050,000	90,000
Capital Outlay	6,327,000	6,792,000	465,000
Contingency	500,000	438,000	(62,000)
			<u>\$ 593,000</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>Water Fund:</u>			
Resources:			
Water Charges	\$ 5,807,000	\$ 5,960,000	<u>\$ 153,000</u>
Requirements:			
Personal Services	\$ 1,125,000	\$ 1,167,000	\$ 42,000
Materials & Services	1,360,000	1,381,000	21,000
Transfers to Other Funds	1,880,000	1,970,000	90,000
			<u>\$ 153,000</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>Wastewater Fund</u>			
Resources:			
Wastewater Charges	\$ 676,000	\$ 2,367,000	\$ 1,691,000
Miscellaneous	20,000	10,000	(10,000)
Proceeds from Reimb. District	188,000	261,000	73,000
			<u>\$ 1,754,000</u>
Requirements:			
Personal Services	\$ 813,000	\$ 854,000	\$ 41,000
Materials & Services	7,338,000	8,956,000	1,618,000
Transfers to Other Funds	1,860,000	1,950,000	90,000
Capital Outlay	2,355,000	2,523,000	168,000
Contingency	200,000	37,000	(163,000)
			<u>\$ 1,754,000</u>

	<u>Adopted</u>	<u>Revised</u>	<u>Difference</u>
<u>SDC Fund</u>			
Requirements:			
Materials & Services	\$ 55,000	\$ 130,000	\$ 75,000
Capital Outlay	800,000	725,000	(75,000)
			<u>\$ -</u>

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MILWAUKIE, OREGON THAT:

1. The budget appropriations adjustments itemized in this Resolution are hereby approved.
2. The additional requirements were not anticipated at the time of the budget preparation for the 2013-2014 biennium.

Introduced and adopted by the City Council on February XX, 2013.

This resolution shall be deemed effective upon adoption.

Jeremy Ferguson, Mayor

Attest:

Pat DuVal, City Recorder

Tim Ramis, City Attorney

6.
OTHER BUSINESS



Agenda Item: 6.A.
Meeting Date: 2/19/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Downtown Code Amendments

Prepared By: Ryan Marquardt, Senior Planner
Dept. Head Approval: Steve Butler, Planning Director
City Manager Approval: Bill Monahan
Reviewed by City Manager: 2/14/13

ISSUES BEFORE THE COUNCIL

Adoption of the proposed amendments to Title 19, Zoning Ordinance (File #ZA-12-02)

STAFF RECOMMENDATION

Approve the proposed amendments.

KEY FACTS & INFORMATION SUMMARY

On 2/5/13, Council voted 4-1 to adopt an amended version of the ordinance for File #ZA-12-02, and had a first reading of the ordinance. The amendment shortened the period of time for which a building is allowed to expand its floor area and be exempt from frontage improvements from once every 10 years to once every 5 years. The attached ordinance incorporates the change, and is presented for a second reading.

OTHER ALTERNATIVES CONSIDERED

None.

CITY COUNCIL GOALS

2. Pursue economic development initiatives: a. promote small business investment and development that capitalize on making Milwaukie a unique destination; and c. promote downtown as a special place

ATTACHMENT LIST

- 1) Ordinance
 - Exhibit A: Findings
 - Exhibit B: Amendments - Underline/Strikeout version
 - Exhibit C: Amendments – Clean version

FISCAL NOTES

Minor fiscal impacts related to revising zoning code; PAR exemption may increase the share of public funding needed in building downtown street improvements.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AMEND MILWAUKIE MUNICIPAL CODE TITLE 19, ZONING ORDINANCE REGARDING USES ALLOWED IN DOWNTOWN ZONES AND PUBLIC FACILITY IMPROVEMENTS REQUIRED FOR CERTAIN TYPES OF DEVELOPMENT IN DOWNTOWN. (FILE #ZA-12-02).

WHEREAS, the City Council has established goals to promote small business investment and development and to promote downtown as a special place; and

WHEREAS, certain provisions in the Zoning Ordinance hinder the ability of businesses to locate, develop, and invest in downtown Milwaukie; and

WHEREAS, City Council passed resolution #53-2012 directing city staff to prepare amendments to the Zoning Ordinance to address the issues created by such policies; and

WHEREAS, city staff has drafted amendments to address these issues and have made the drafts of such amendments available for public review since September 2012; and

WHEREAS, the proposed amendments have been processed pursuant to a Type V Legislative Review per Milwaukie Municipal Code Section 19.1008, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes, and have held duly advertised public hearings on the proposed amendments before the Planning Commission and City Council; and

WHEREAS, the Planning Commission voted unanimously at the January 8, 2013 Planning Commission meeting to recommend that City Council approve the proposed zoning amendments;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. Findings of fact in support of the proposed amendment(s) to Title 19 are attached as Exhibit A.

Section 2. Title 19, Zoning Ordinance, Text Amendment. Title 19, Zoning Ordinance, is amended as described in Exhibit B – underline/strikeout amendments, and Exhibit C – clean amendments.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Findings in Support of Approval

1. The City of Milwaukie (“applicant”) proposes to amend portions of Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application for these amendments is ZA-12-02.
2. The purpose of the proposed code amendments is to relieve changes of use and minor additions in downtown Milwaukie from requirements for street frontage improvements, allow a wider array of uses for ground-floor storefronts along portions of Main Street, allow greater flexibility for retail and restaurant uses in the Downtown Office zone, ensure that new development along Main Street constructs ground-floor spaces that facilitate future conversion to restaurant and retail uses, and to improve the clarity of the downtown zoning regulations . The amendments are proposed to the following portions of Title 19:
 - Subsection 19.304, Downtown Zones
 - Chapter 19.700, Public Facility Improvements
3. The proposed amendments are subject to the following provisions of the MMC:
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on October 19, 2012, pursuant to City Council Resolution #53-2012.
 - B. MMC Section 19.1008 establishes requirements for Type V review.
 - i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff distributed drafts of the proposed amendments electronically starting in September 2012 and notified the Historic Milwaukie NDA and other downtown interested parties. The Planning Commission and Design and Landmarks Committee held a worksession to review the proposed amendments on October 23, 2012. An additional opportunity for comment was provided to all city Neighborhood District Associations and downtown interested parties for a second version of the amendments in December 2012. In addition, all worksessions and hearings on this matter were broadcast multiple times on local access cable television by Willamette Falls Media Center and also available on the city’s internet page.
 - ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission’s November 13, 2012, hearing was posted as required on October 12, 2012, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council’s February 5, 2013 hearing was posted as required on January 4, 2013, at the same locations.

- iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. All downtown property owners were notified of the hearing date via a Measure 56 notice.
 - iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. Notice of the proposed amendments was sent to Metro on September 28, 2012. DLCD requires notice 35 days prior to the first evidentiary hearing, and notice was provided to DLCD on October 5, 2012. The first evidentiary hearing was held on November 13, 2012.
 - v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. Because the proposed amendments would affect uses and development on some downtown properties, the City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all downtown property owners in the city on October 24, 2012.
 - vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on November 13, 2012, November 27, 2012, and January 8, 2013 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on February 5, 2013 and had a first reading of the ordinance, and held a second reading of the ordinance on February 19, 2013 to adopt the amendments.
- D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.
- i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.
The amendments are consistent with other provisions of the Milwaukie Municipal Code. The amendments to Subsection 19.304.5 help clarify the connection between Public Area Requirements and the provisions of Chapter 19.700. The other text proposed for amendment involves modifications to existing sections of Subsection 19.304 and Chapter 19.700, and will maintain the consistency between these portions of code and the other provisions of the Milwaukie Municipal Code.
 - ii) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.
There are multiple Comprehensive Plan sections and ancillary documents concerning downtown Milwaukie. The amendments are found to not be applicable or have no appreciable effect on policies or objectives not identified below.
 - a. *Relevant sections of the Comprehensive Plan are in Chapter 4 –Land Use:*
 - i. *Residential Land Use and Housing Element – the proposed amendments do not affect any regulations related to dwelling unit capacity or housing design, so the goals and policies of this element are not applicable.*
 - ii. *Economic Base and Industrial/Commercial Land Use Element, Objective #12, Town Center -*

1. *Policy #2: “Through adoption of the Downtown and Riverfront Land Use Framework Plan, implementing zones and other measures, opportunity for mixed use development will be ensured to establish downtown Milwaukie as a Town Center.” The amendments are consistent with the basic policy of encouraging mixed use development and further the policy by facilitating the placement of a variety of uses within downtown.*
 2. *Policy #4: “Downtown public improvements will be coordinated with private improvement efforts by local property owners, consistent with the Downtown and Riverfront Public Area Requirements. The aim of all public improvements will be to stimulate and support private investments in the area.” The amendments are consistent with this policy in that exempting small project from frontage improvements encourages private investment for utilization of existing storefronts and buildings while maintaining the policy of obtaining public improvements with larger downtown development projects.*
- b. *The Milwaukie Downtown Riverfront and Land Use Framework Plan is a Comprehensive Plan ancillary document.*
- i. *Item 1.7, Fundamental Concepts – Main Street “Retail Armature” – the proposed amendments are consistent with the concept of Main Street presented in this plan. The Framework Plan calls for establishing an environment in which people can shop, work, live, and socialize on Main Street. The proposed amendments ensure that retail and restaurant uses will be the predominant uses along the majority of Main St, and that new development would be required to construct space conducive to restaurant and retail uses and include doors and fenestration consistent with this concept. The amendments maintain consistency with the fundamental concept of creating a lively pedestrian street by requiring uses that invite pedestrian activity and maintaining requirements for ground floor windows and doors, having buildings with no street setback, and requiring window views into active areas such as storefront, lobbies, or working areas.*
 - ii. *Item 1.9, Key Land Use Features – the amendments are consistent with the statement about revitalizing Main Street by having uses that are predominantly retail and restaurant use.*
 - iii. *Item 1.13, Storefront Main Street Area – the proposed amendments are consistent with the vision for this area in that structures are required to be built so as to accommodate retail and restaurant uses, and that the plan includes retail and restaurant uses along Main Street.*
- c. *The Downtown Public Area Requirements plan is a Comprehensive Plan ancillary document. The amendments are consistent with this document in that they do not affect or alter the streetscape improvements envisioned for downtown.*

- iii) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments.

- iv) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD was supportive of the increased flexibility afforded for properties downtown. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

The Oregon Department of Transportation (ODOT) contacted staff via telephone regarding ODOT's comments. ODOT requested a finding regarding changes to use allowances for the Downtown Office zone and the compliance of these changes with the State Transportation Planning Rule (Oregon Administrative Rules 660-012-0060). Analysis from Metro with regard to the Regional Transportation Plan indicated that the impacts of the amendments related to retail and restaurant use in the Downtown Office zone are materially insignificant in comparison to existing zoning, and would have little or no economic impact and no significant change in travel behavior. The proposed zoning amendments will not affect the trip generation of the downtown zones and does not affect compliance with the State Transportation Planning Rule

- v) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City has not identified any Federal Regulations that are relevant to the proposed amendments.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, ~~and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street.~~ Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail or restaurant uses are required as the predominant uses on the ground floors of buildings fronting on Main Street. ~~Office and/or residential~~ Residential uses are allowed only on upper floors. Warehousing and industrial ~~Industrial~~ uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets ~~a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses.~~ These uses include rowhouses and multifamily buildings.

B. Downtown Commercial (DC)

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

Proposed Code Amendment

C. Downtown Office (DO)

The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. ~~Retail commercial uses are limited to support the primary uses (office, entertainment, and hotel establishments) and encourage retail development along Main Street.~~ The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area ~~a defined portion of the Downtown Residential Zone~~ to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

19.304.3 Uses

A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Single-family detached	N	N	N	N	N
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office⁺					
Automobile service station	N	N	N	N	N

Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
<u>Manufacturing and production</u>	<u>L[11]</u>	<u>L[11]</u>	<u>L[11]</u>	<u>L[11]</u>	<u>N</u>
Industrial	N	N	N	N	N
Other					
Adult entertainment	N	N	N	N	N
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
<u>Day care/childcare</u>	<u>L[9]</u>	<u>L[9]</u>	<u>L[9]</u>	<u>L[9]</u>	<u>N</u>
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N

⁴ Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

B. Limited Uses

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

C. Nonconforming Uses

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

D. Prohibited Uses

Uses listed in Table 19.304.3 with an “N₁” or uses not listed above, are prohibited as new uses.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

F. Similar Uses

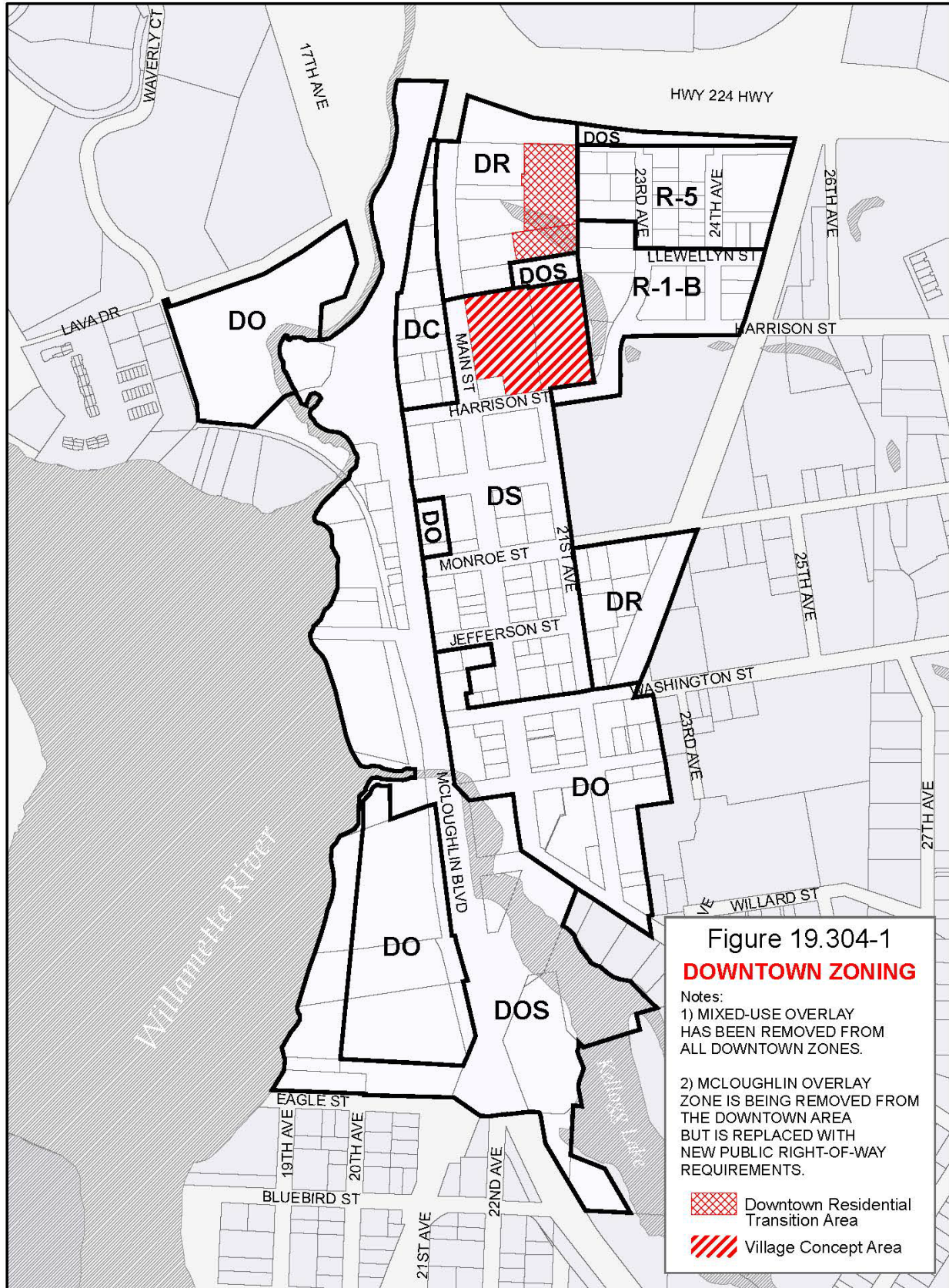
The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

G. Limited Uses Limitations

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Downtown Residential Transition Area ~~Transitional Residential Area~~” on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”
2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with, and accessory to, eating or drinking establishments or retail trade uses. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. ~~These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).~~
4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.
5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail uses may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.
8. ~~New~~ A new community service uses, or expansion/alteration of an existing community service use, ~~in the downtown zones~~ may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. ~~Transit centers shall comply with the public area requirements for transit centers.~~

9. Day care and childcare uses are limited to 3,000 sq ft.
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.



19.304.4 Development Standards

A. Purpose

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

Table 19.304.4 Downtown Zones—Development Standards					
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft ¹	None
2. Minimum street frontage	15'	30'	30'	15'/30' ¹	None
32. Floor area ratio Minimum Maximum	1:1 4:1	0.3:1 2:1	0.5:1 3:1	NA NA	NA NA
43. Building height (see Figure 19.304-3) Minimum Maximum	35' 45'-55'	25' 55'	25' 65'	None 45'-65'	None None
54. Residential density Minimum Maximum	None None	None None	None None	10-30 U/Acre None	None None
65. Street setback (see Figure 19.304-4) Minimum Maximum	0' 10'	0' 50'	0' 10'	0' None	0' None
76. Other setbacks (side and rear)	None	None	None	15' ²	None
87. Ground-floor retail with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
98. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
109. Drive-through facilities	No	No	No	No	No
114. Off-street parking required	No	Yes	No/Yes ³	Yes	Yes
124. Landscaping	None	10%	None	15%	20%

¹ Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

² Setbacks are required only where the DR zone abuts a lower-density residential zone.

³ Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

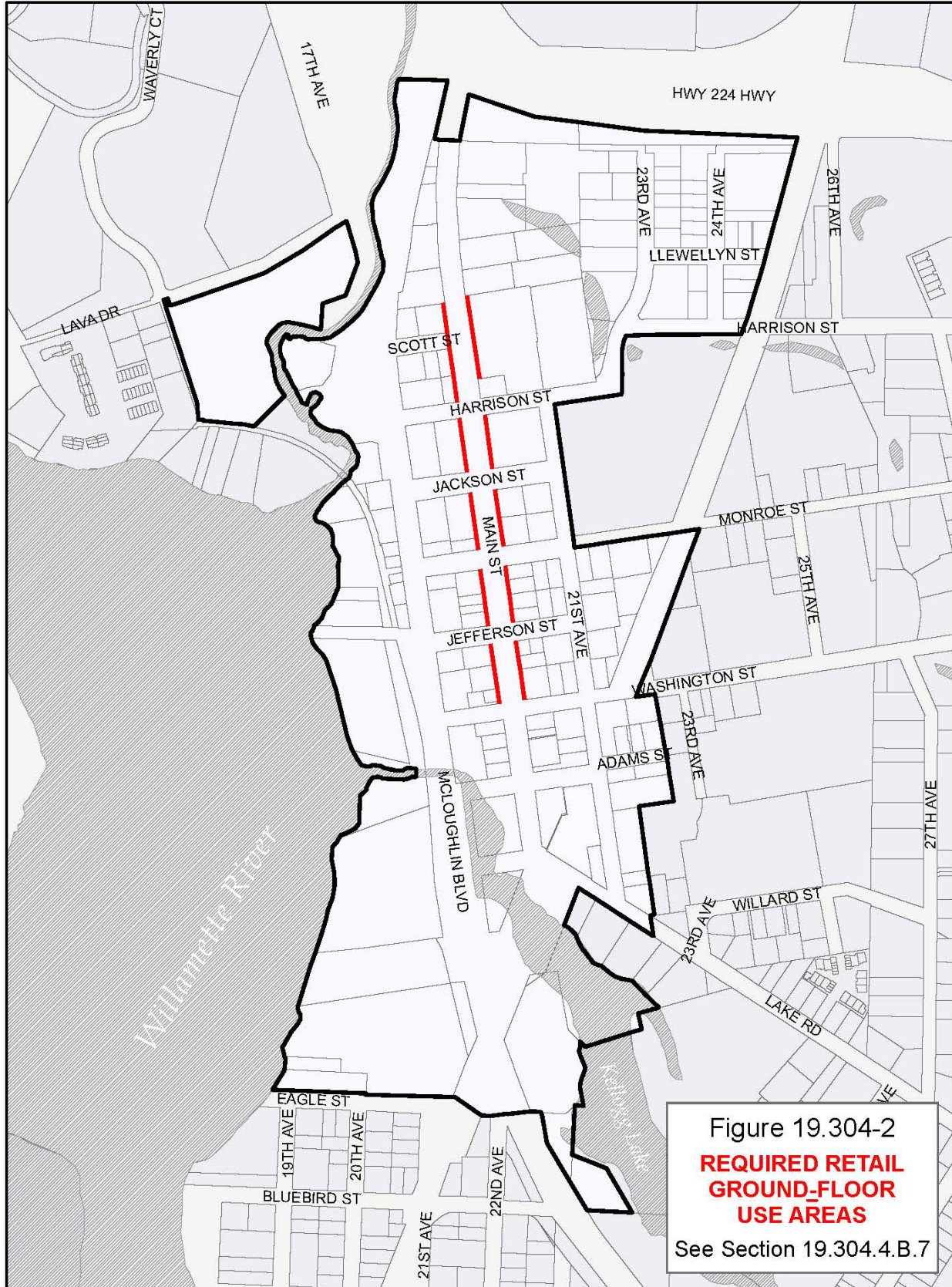
Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

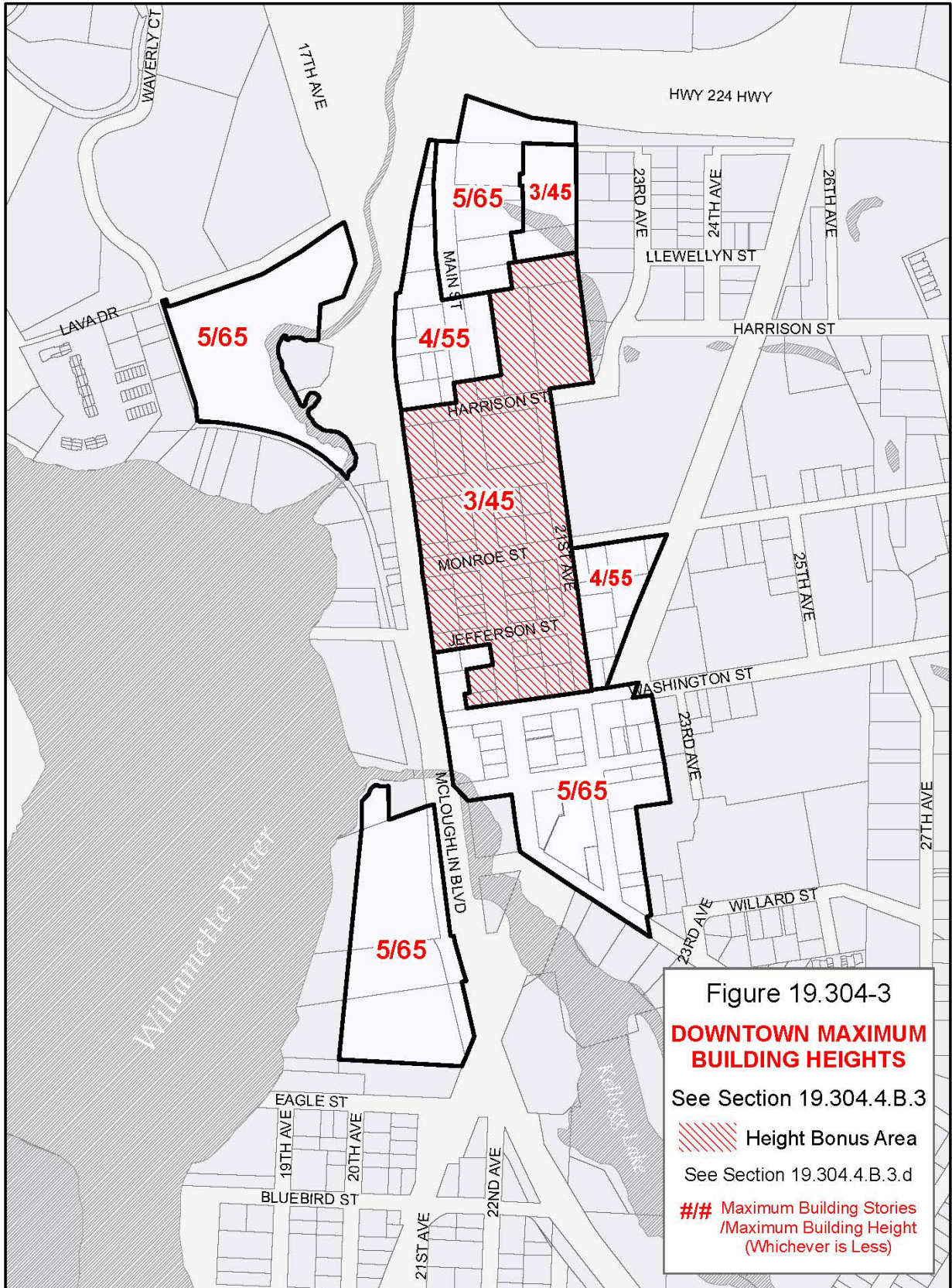
Figure 19.304-2—Required Retail Ground-Floor Use Areas

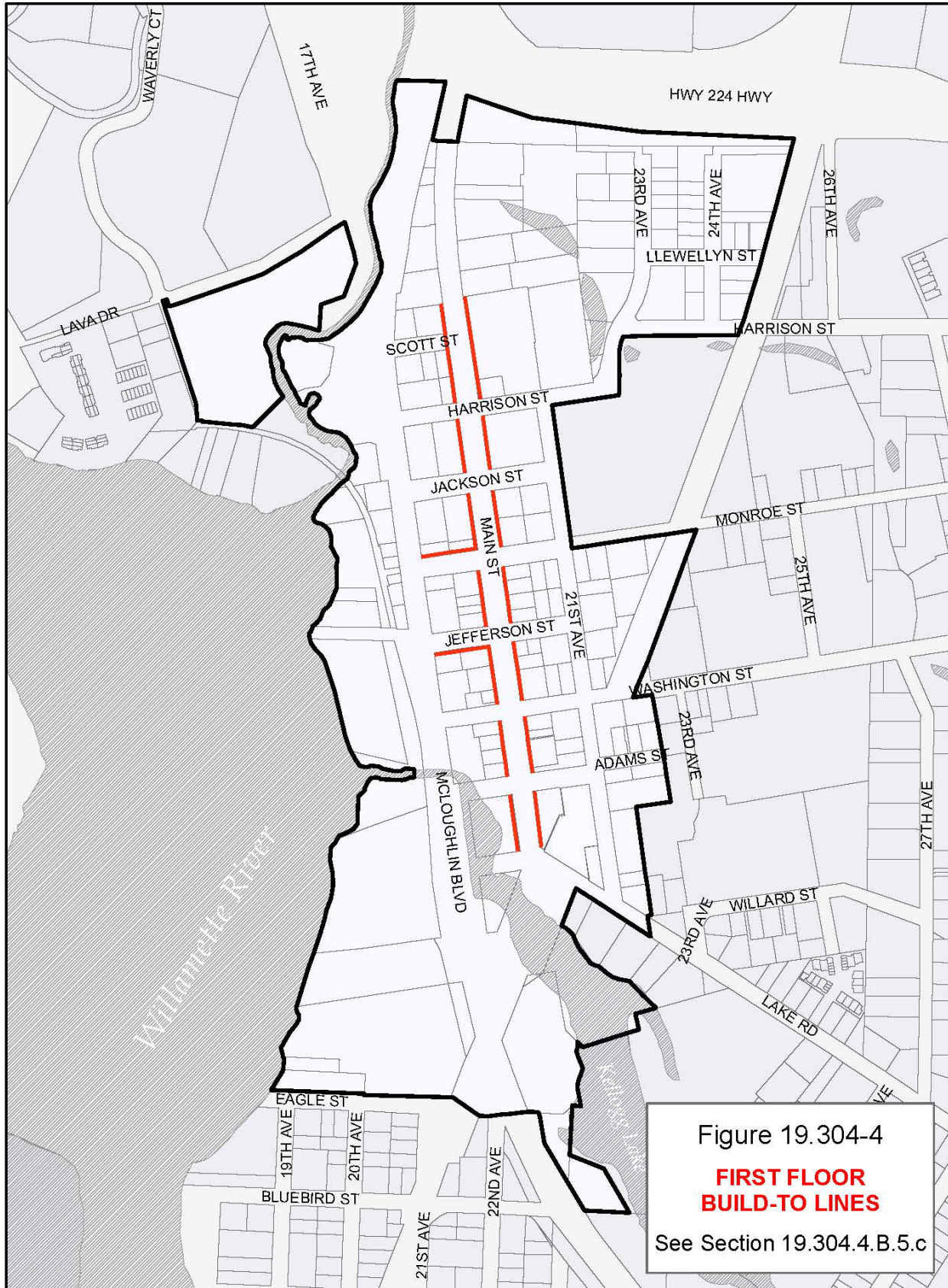
Figure 19.304-3—Maximum Building Heights

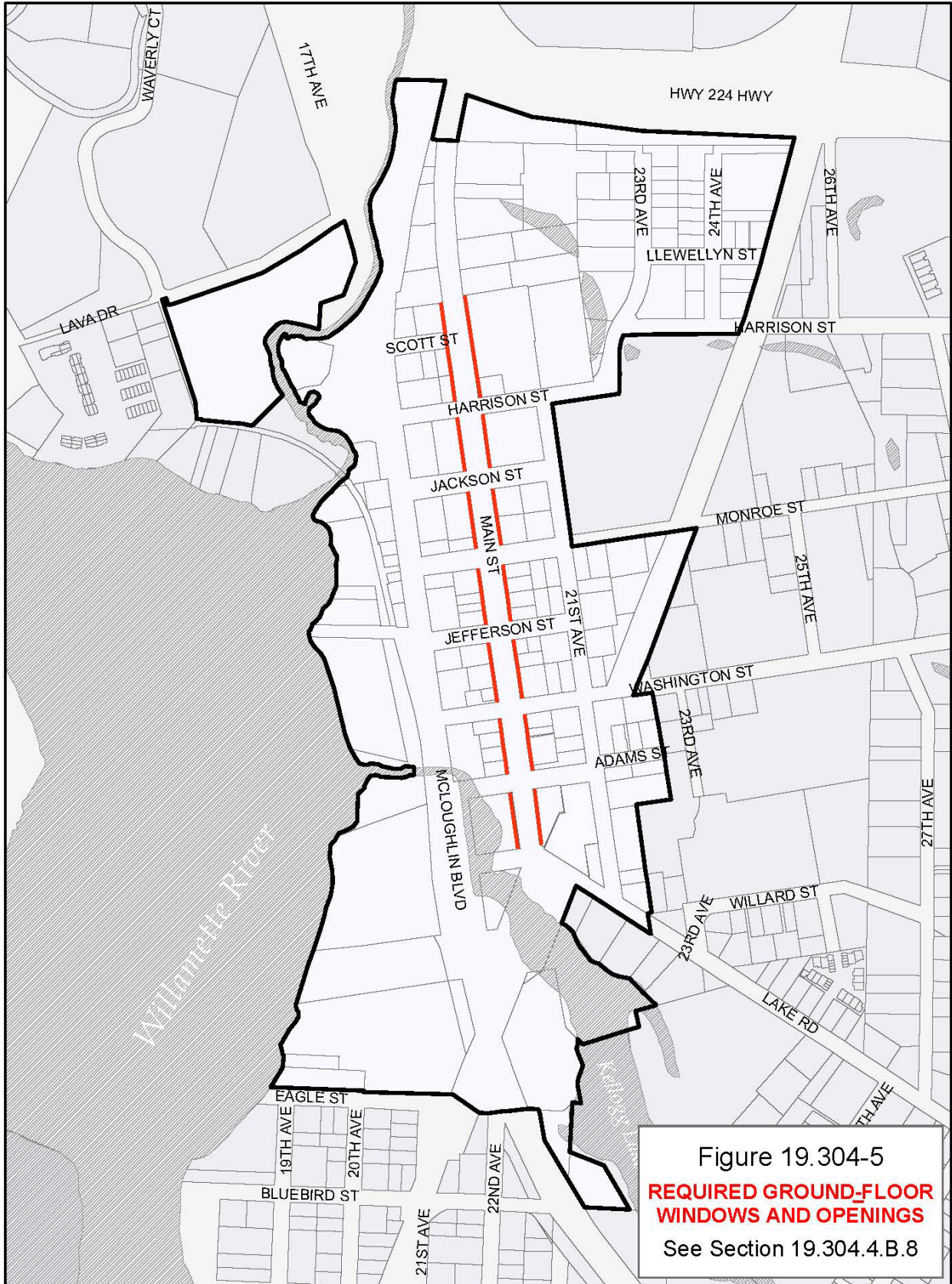
Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground-Floor Windows and Openings









B. Explanation of Development Standards

1. Minimum Lot Size

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zones (in the Downtown Residential Transition Area ~~transitional residential area~~ only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area ~~transitional residential area~~) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: ~~transit centers, public parks and plazas, and~~ commercial parking facilities and public parks and plazas.

3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.
- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
 - (1) Projections or recesses of up to 18 in are allowed.
 - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown

Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

7. Ground-Floor Retail/Restaurants

Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are limited uses that are allowed to occupy a maximum of 25% of the ground-floor area within these buildings.

New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.

b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-Floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.

b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

10. Off-Street Parking

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:
 - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
 - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
 - (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the public area requirements Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

12. Right-of-Way Projections

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

19.304.5 Public Area Requirements

A. Purpose

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an ancillary document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

~~The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design.~~

B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along rights-of-way included in the PAR shall be consistent with the PAR as implemented in the Milwaukie Public Works Standards.

~~All downtown development projects that meet the applicability provisions of Section 19.702 are subject to Chapter 19.700 in its entirety, with the exception of specified portions of Section 19.708 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.~~

C. ~~Review Process~~

~~All downtown development projects that meet the applicability provisions of Section 19.702 shall submit all appropriate applications per Subsection 19.703.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use~~

applications for downtown development projects shall be submitted in accordance with Subsection 19.703.2 and processed in accordance with Chapter 19.1000.

~~D. Street Design Standards~~

~~If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.704, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.705. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.703.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.703.5.B.~~

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure ~~(including single-family residential expansions as described in Subsection 19.702.2)~~ or a change or intensification in use that results in any one of the following: See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
 - 1. A new dwelling unit.
 - 2. Any increase in gross floor area.
 - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

B. Exemptions

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, frontage improvements are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 5 years. The 5-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 1,500 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.43 Exemptions

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

19.703.4 Determinations

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the ~~public area requirements plan~~ PAR per Subsection 19.304.5.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the ~~Milwaukie Downtown and Riverfront Plan: Public Area Requirements~~ PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the ~~Milwaukie Downtown and Riverfront Plan: Public Area Requirements~~ PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The City will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

A. The expenditure is required as a prerequisite to obtaining a development or building permit.

B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.

C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.

D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2013, the effective date of Ord. # _____.

E. The development or change in use would have been exempt under Subsection 19.702.3.B.

F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement or the successors in interest of such parties.

19.710.2 Reimbursement Amount

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
1. The total amount paid to the City by the party or parties requesting reimbursement as a fee in lieu of construction for right-of-way improvements on the property's frontage.
 2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: system development charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

19.710.3 Reimbursement Process

A property owner in a downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
1. The address or tax lot number of the property in question.
 2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
 3. Documentation of current ownership of the property in question.
 4. The amount of the requested reimbursement.
 5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
 6. A copy of the decision requiring the construction of the subject right-of-way improvements, or a receipt for the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2013, the effective date of Ord. # _____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

Clean Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail or restaurant uses are required as the predominant uses on the ground floors of buildings fronting on Main Street. Residential uses are allowed only on upper floors. Warehousing and industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets. These uses include rowhouses and multifamily buildings.

B. Downtown Commercial (DC)

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

C. Downtown Office (DO)

Proposed Code Amendment

The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

19.304.3 Uses

A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office					
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N

Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Manufacturing and production	L[11]	L[11]	L[11]	L[11]	N
Other					
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Day care/childcare	L[9]	L[9]	L[9]	L[9]	N
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P

B. Limited Uses

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

C. Nonconforming Uses

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

D. Prohibited Uses

Uses listed in Table 19.304.3 with an “N,” or uses not listed above, are prohibited as new uses.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

F. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

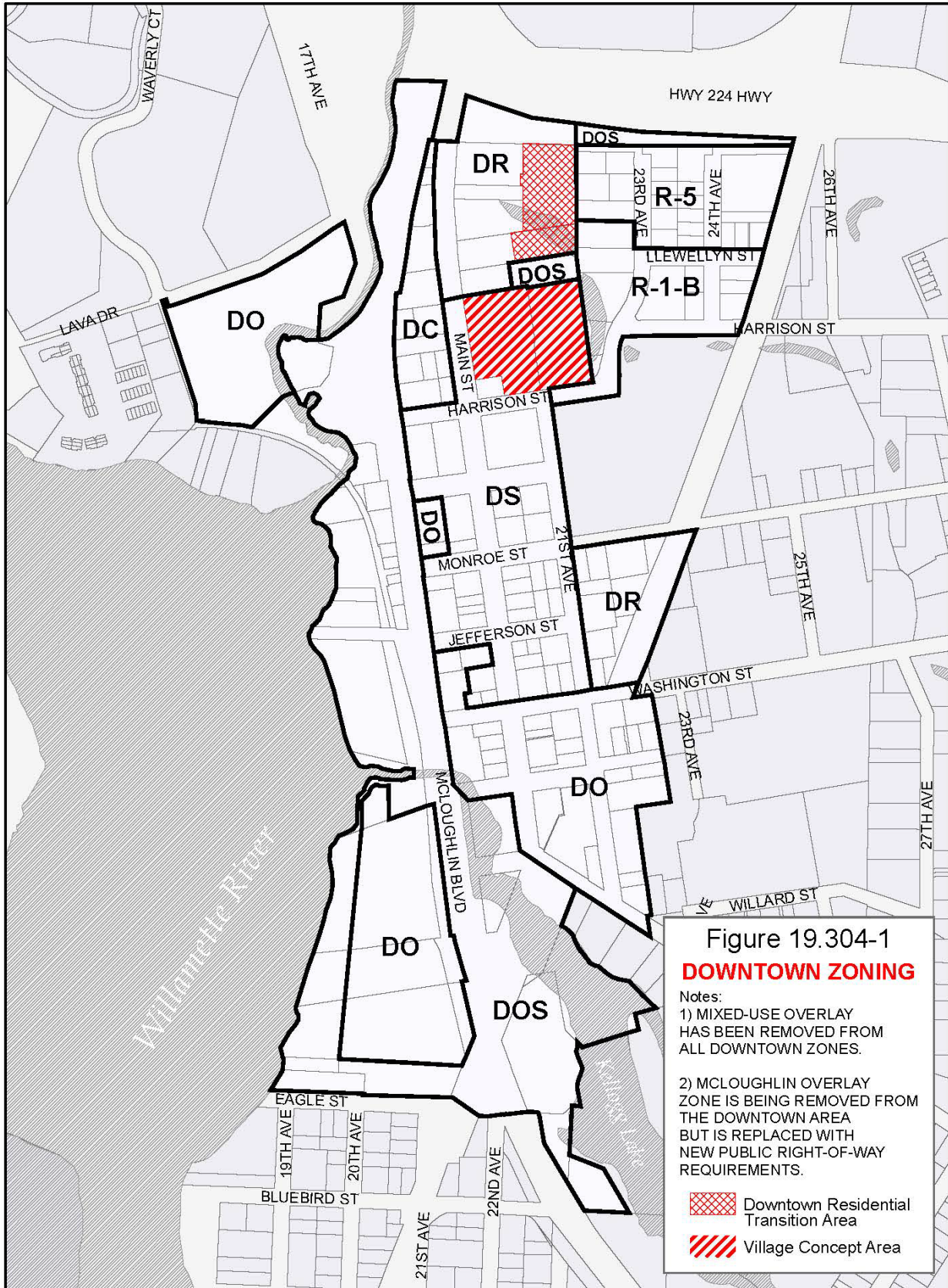
G. Use Limitations

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Downtown Residential Transition Area” on Figure 19.304-1). This limited use provision is intended to provide

an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”

2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with, and accessory to, eating or drinking establishments or retail trade uses. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production.
4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.
5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail use may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.
8. A new community service use, or expansion/alteration of an existing community service use, may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Day care and childcare uses are limited to 3,000 sq ft.
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.



19.304.4 Development Standards

A. Purpose

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

Table 19.304.4 Downtown Zones—Development Standards					
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft ¹	None
2. Minimum street frontage	15'	30'	30'	15'/30' ¹	None
3. Floor area ratio Minimum Maximum	1:1 4:1	0.3:1 2:1	0.5:1 3:1	NA NA	NA NA
4. Building height (see Figure 19.304-3) Minimum Maximum	35' 45'-55'	25' 55'	25' 65'	None 45'-65'	None None
5. Residential density Minimum Maximum	None None	None None	None None	10-30 U/Acre None	None None
6. Street setback (see Figure 19.304-4) Minimum Maximum	0' 10'	0' 50'	0' 10'	0' None	0' None
7. Other setbacks (side and rear)	None	None	None	15' ²	None
8. Ground-floor retail with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10. Drive-through facilities	No	No	No	No	No
11. Off-street parking required	No	Yes	No/Yes ³	Yes	Yes
12. Landscaping	None	10%	None	15%	20%

¹ Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

² Setbacks are required only where the DR zone abuts a lower-density residential zone.

³ Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

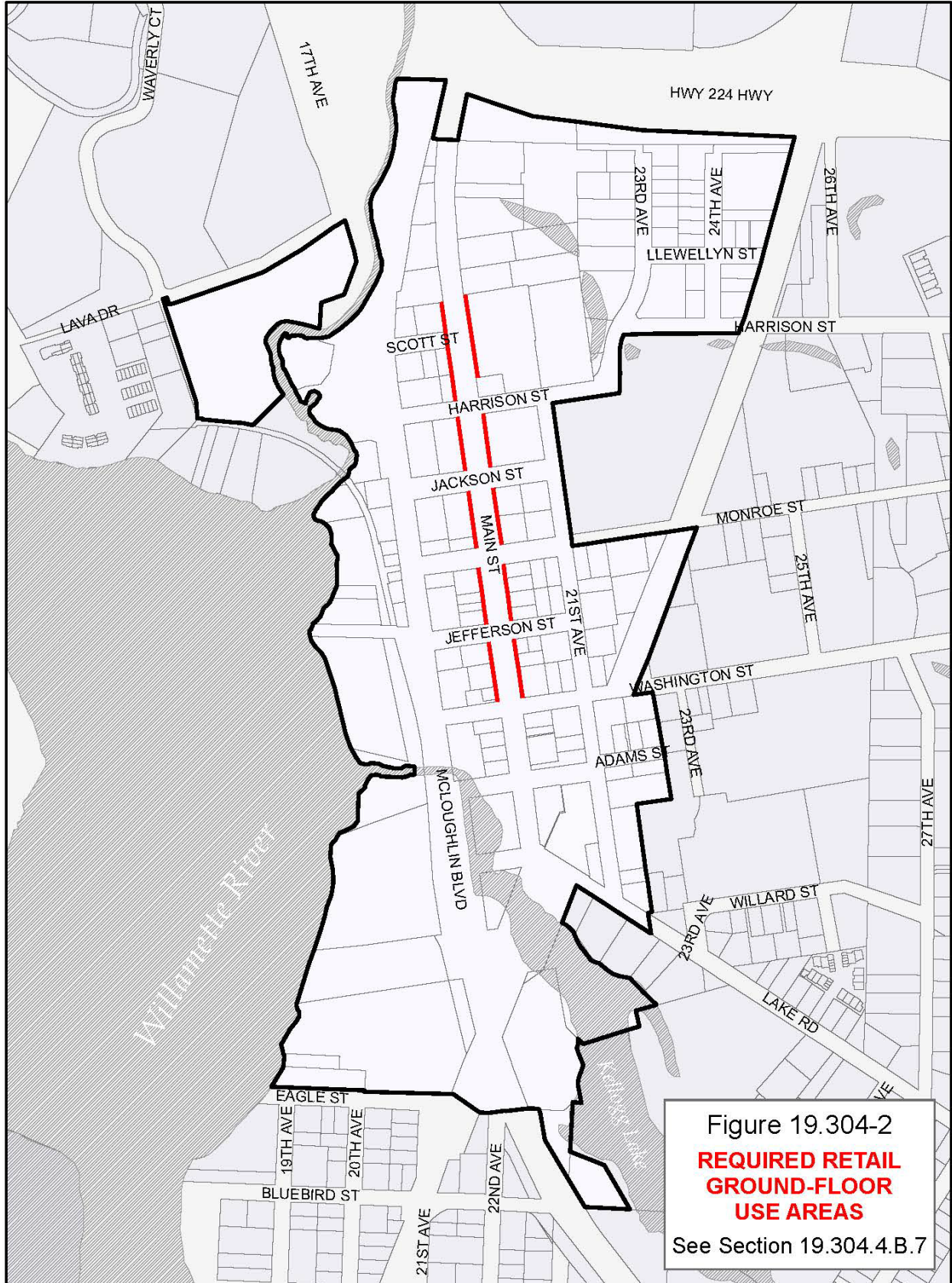
Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

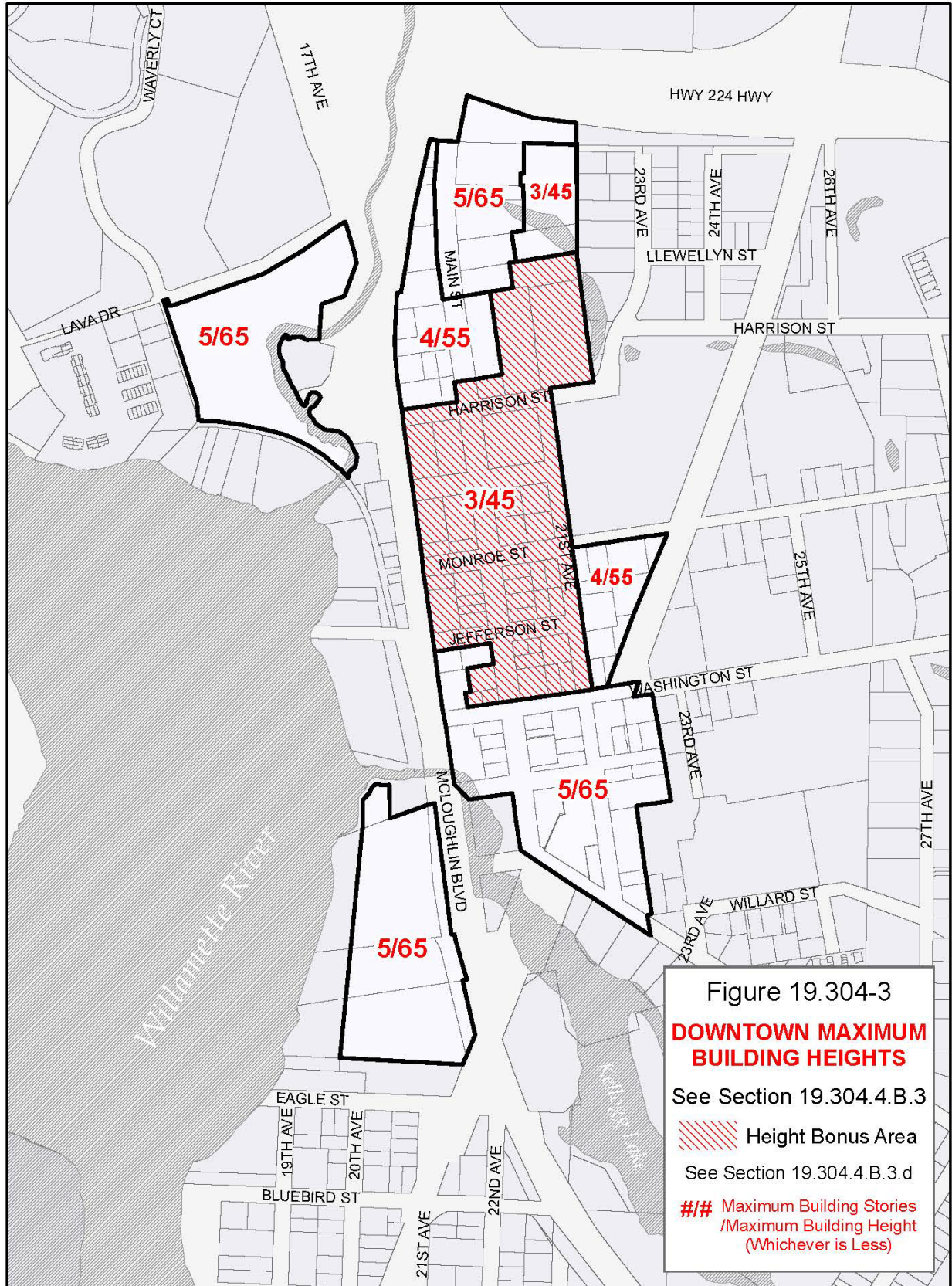
Figure 19.304-2—Required Retail Ground-Floor Use Areas

Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground-Floor Windows and Openings





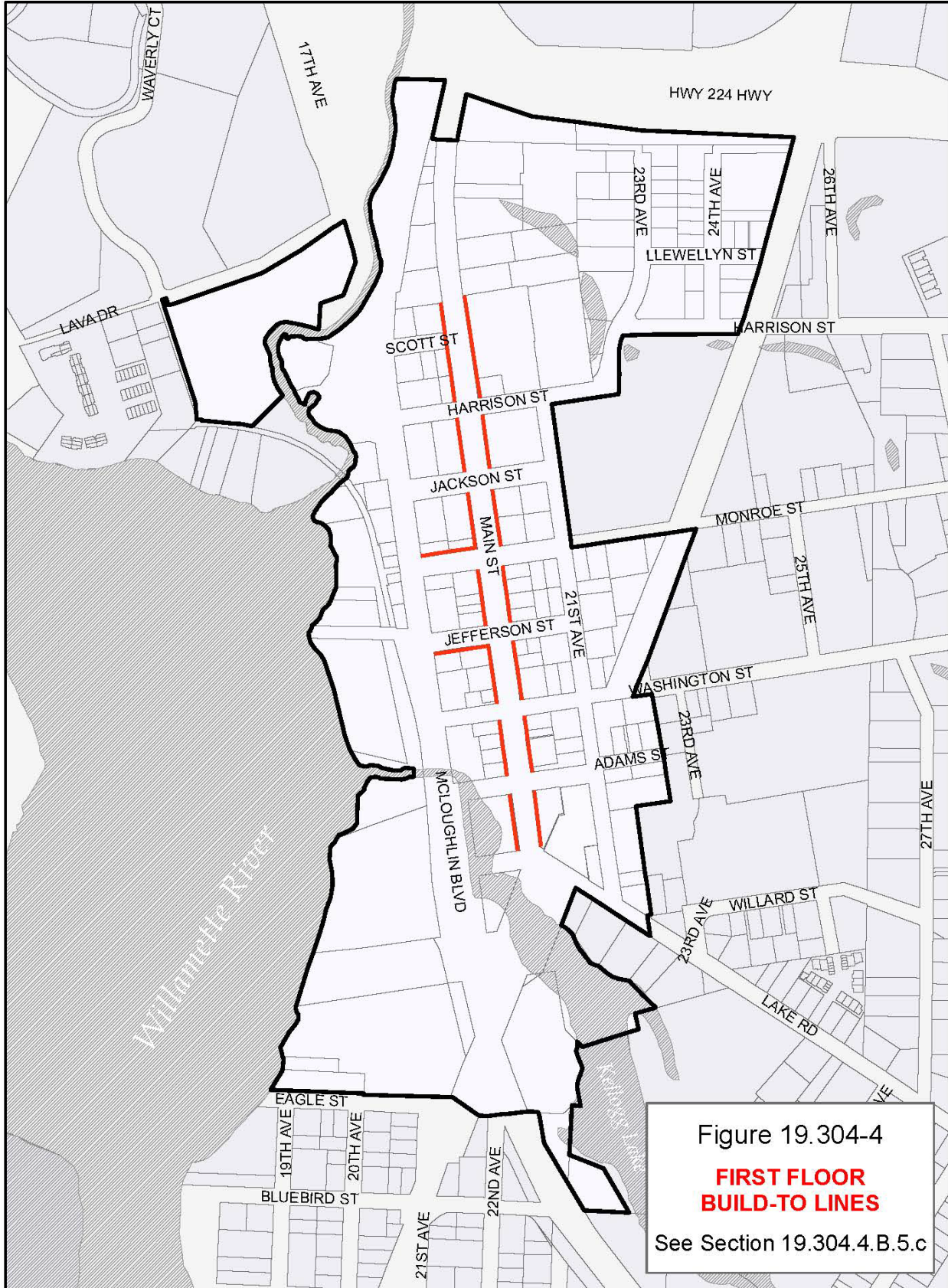
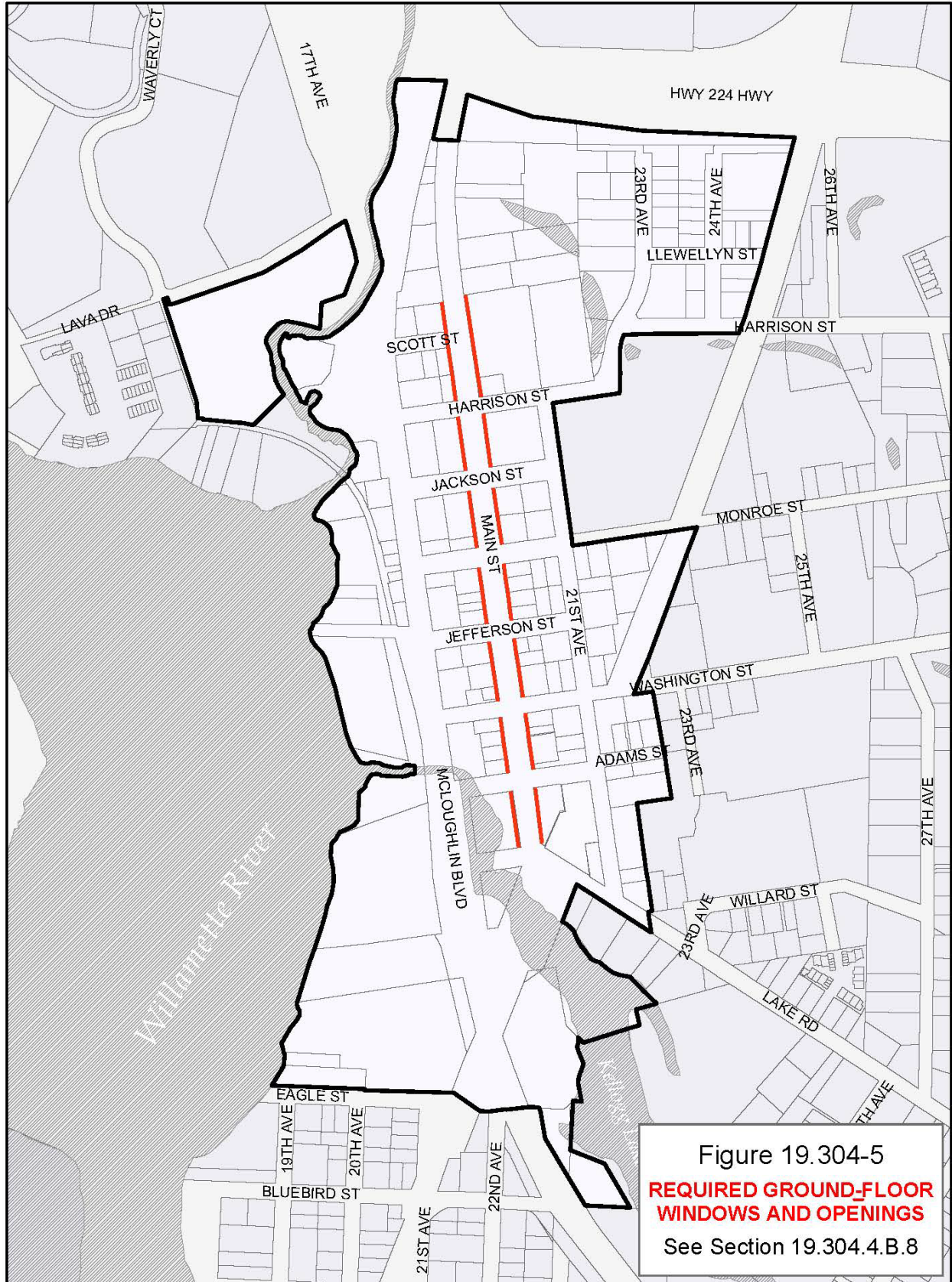


Figure 19.304-4

**FIRST FLOOR
BUILD-TO LINES**

See Section 19.304.4.B.5.c



B. Explanation of Development Standards

1. Minimum Lot Size

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zone (in the Downtown Residential Transition Area only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: commercial parking facilities and public parks and plazas.

3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.
- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.

- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
 - (1) Projections or recesses of up to 18 in are allowed.
 - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

7. Ground-Floor Retail/Restaurants

Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are limited uses that are allowed to occupy a maximum of 25% of the ground-floor area within these buildings.

New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

- a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.
- b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-Floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50%

of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

10. Off-Street Parking

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:
 - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
 - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
 - (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.
- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

12. Right-of-Way Projections

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

19.304.5 Public Area Requirements

A. Purpose

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an ancillary document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along rights-of-way included in the PAR shall be consistent with the PAR as implemented in the Milwaukie Public Works Standards.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
 - 1. A new dwelling unit.
 - 2. Any increase in gross floor area.
 - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in

downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

B. Exemptions

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, frontage improvements are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 5 years. The 5-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 1,500 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.4 Exemptions

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

19.703.4 Determinations

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage

improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the PAR per Subsection 19.304.5.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The City will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

- A. The expenditure is required as a prerequisite to obtaining a development or building permit.
- B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.
- C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.
- D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2013, the effective date of Ord. #_____.
- E. The development or change in use would have been exempt under Subsection 19.702.3.B.

- F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement or the successors in interest of such parties.

19.710.2 Reimbursement Amount

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
 - 1. The total amount paid to the City by the party or parties requesting reimbursement as a fee in lieu of construction for right-of-way improvements on the property's frontage.
 - 2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: system development charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

19.710.3 Reimbursement Process

A property owner in a downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
 - 1. The address or tax lot number of the property in question.
 - 2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
 - 3. Documentation of current ownership of the property in question.
 - 4. The amount of the requested reimbursement.
 - 5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
 - 6. A copy of the decision requiring the construction of the subject right-of-way improvements, or a receipt for the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2013, the effective date of Ord. #_____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.



Agenda Item: 6.B.
Meeting Date: 2/19/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Expedited Annexation for 10025 SE Wichita Ave – File #A-12-06

Prepared By: Kari Svanstrom
Dept. Head Approval: Stephen Butler
City Manager Approval: Bill Monahan
Reviewed by City Manager: 2/11/13

ISSUES BEFORE THE COUNCIL

The site is composed of 1 tax lot which the owner would like to annex to allow for future connection to City services, namely City sewer services.

STAFF RECOMMENDATION

Approval

KEY FACTS & INFORMATION SUMMARY

This item was first heard by Council at the February 5, 2013, regular meeting. Council approved the attached ordinance unanimously by first reading at that meeting. Due to concerns about how the trees on the adjacent private property might be protected in the event of a sewer connection, Council wanted to give the adjacent property owner additional time to study his options. It should be noted that the property meets the City's adopted criteria for annexation. A second reading of the ordinance is required to approve the annexation.

OTHER ALTERNATIVES CONSIDERED

Council can approve, approve with conditions, or deny the requested annexation.

CITY COUNCIL GOALS

N/A

ATTACHMENT LIST

1. Annexation Ordinance
2. Annexation Site Map
3. Applicant's Annexation Application

FISCAL NOTES

Minimal fiscal impact is expected. It is expected that property taxes received by the City for this property will be roughly offset by the cost of providing services to the property.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 10025 SE WICHITA AVE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-12-06).

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land in the territory proposed for annexation; and

WHEREAS, the territory proposed for annexation lies within the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1104.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

WHEREAS, the City conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. Property Descriptions. The tract of land described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. Withdrawal from Service Districts. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. Zoning and Land Use Designations. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use

designation of Low Density Residential (LD) and a zoning designation of Residential Zone R-10 (R-10).

Section 5. Effective Date of Annexation. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Document1 (Last revised 09/18/07)

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 10025 SE Wichita Ave, the “Annexation Property”), the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.30 acres (Tax Map 1S2E 30DD 03400). The tax lot is contiguous to the existing city limits via Wichita Ave. The Annexation Property is also within the City’s urban growth management area (UGMA).
Tax Map 1S2E 30DD 03400 is developed with a single family dwelling. The surrounding area consists of residential uses.
2. The property owner seeks annexation to the City to access City services, namely sewer services.
3. The annexation petition was initiated by Consent of All Owners of Land on December 21, 2012. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1104.
5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.
6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Property based on its existing land use and zoning designations in the County, which are Low Density Residential (LDR) and Residential Zone R-10 (R-10) respectively. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use designation for the Annexation Property is Low Density Residential (LD), and the automatic zoning designation is Residential Zone R-10 (R-10).
7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.
 - A. The subject site must be located within the City’s urban growth management area (UGMA);
The Annexation Property is within the City’s UGMA.
 - B. The subject site must be contiguous to the existing city limits;
The Annexation Property is contiguous to the existing city limits along Wichita Ave.
 - C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

The Clackamas County Assessment and Tax Department and Clackamas County Elections Department have verified that that the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the Annexation Property.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services and (2) requiring annexation in order to receive a City service. City sewer service is available to the Annexation Property on Wichita Ave. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding 8.

8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

- A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City completed construction of a public sewer system in this area in 2010. The proposed annexation is in keeping with the City's policy of requiring property to annex to the City in order to connect to City services such as the new sewer line.

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission (LCDC) for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

- Sanitary Sewerage Services*
- Storm Drainage*
- Transportation Element*
- Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Sewer: The City is the identified sewer service provider in the area of the proposed annexation and recently completed construction of a public sewer system that can adequately serve the Annexation Property.

Storm: The Annexation Property is not connected to a public stormwater system. Treatment and management of on-site stormwater will be required when new development occurs.

Transportation: The City will require public street improvements along the frontage of the Annexation Property when new development occurs.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible service provision changes with CRW. In the meantime, CRW will continue to provide water service to the Annexation Property.

- (5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify

the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of the Wichita Ave right-of-way adjacent to the proposed Annexation Property.

B. Consider whether the boundary change would:

- (1) Promote the timely, orderly and economic provision of public facilities and services;

The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to the Annexation Property.

The City has recently expanded City sewer service into this area via Wichita Ave. The area is currently served by CRW, and the City does not propose to duplicate CRW's water system to serve the Annexation Property.

- (2) Affect the quality and quantity of urban services; and

The Annexation Property tax lot is developed with a single family dwelling. Annexation of the property is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

- (3) Eliminate or avoid unnecessary duplication of facilities and services.

The Annexation Property will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed property and is in keeping with the City's Comprehensive Plan policies relating to annexation.

Wastewater: The Annexation Property is within the City's sewer service area and is served by the City's 8-inch sewer line in Wichita Ave.

Water: The Annexation Property is currently served by Clackamas River Water (CRW). Pursuant to the City's IGA with CRW, the site should not be withdrawn from this district at this time.

Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Fire: The Annexation Property is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation, since the entire City is within this district.

Police: The Annexation Property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the Annexation Property should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). As of July 1, 2011, an intergovernmental agreement between the City and the District transfers operational responsibility to the City for the street lights and street light payments in the NESE area, though the properties themselves remain in the District until they annex to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The Annexation Property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, etc.

Exhibit B

Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-12-06

Property Address: 10025 SE Wichita Avenue, Portland, OR 97222

Tax Lot Description: 1S2E30DD 03400

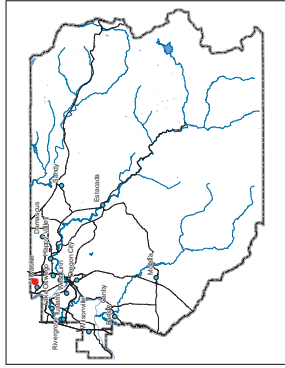
Legal Description: Part of the Hector Campbell D.L.C. No. 41 in the Southeast One Quarter of the Southeast One Quarter of Section 30, T1S, R2E, W.M., Clackamas County, Oregon, more particularly described as follows.

Beginning on the Westerly line of Wichita Road which is 794 feet Northerly from the Southeast corner of that tract conveyed to School District No 119 in Book 109, page 128, deed records, said point being the Southeast corner of that tract sold to Brian C. Kincaid, ET UX, by contract recorded Nov. 4, 1981, as Recorder's Fee No. 81-38085 Deed Records. From the true point of beginning thence N 0-56-09 W 15.00 feet to an iron rod; thence S 89-43-00 W parallel with the Southerly line of the Kincaid Tract, 158.60 feet to an iron rod; thence N 0-48-25 W 68.00 feet to an iron rod on the Northerly line of the Kincaid Tract; thence S 89-43-00 W along the said Northerly line 125.26 feet to an iron rod at the Northwest corner of the said tract; thence S 0-48-25 E 83.00 feet to a P.K. nail and washer at the Southwest corner; thence along the South line of the Kincaid Tract, N 89-43-00 E 283.90 feet more or less to the true point of beginning of the tract herein described. Containing 12,755 square feet more or less.

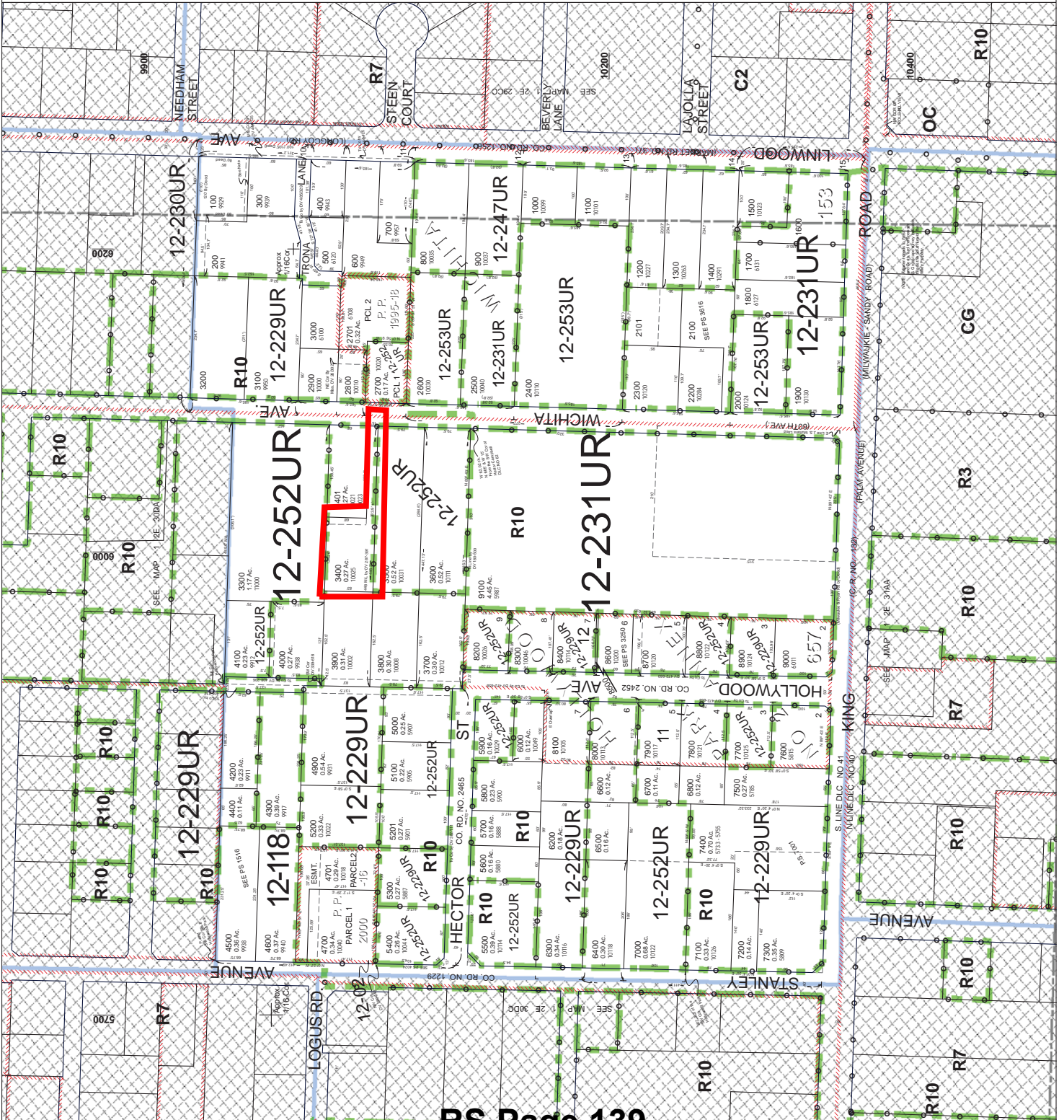
D. L. C.
 HECTOR CAMPBELL NO. 41

Cancelled Taxlots
 4800
 5401
 6100
 6800
 7501

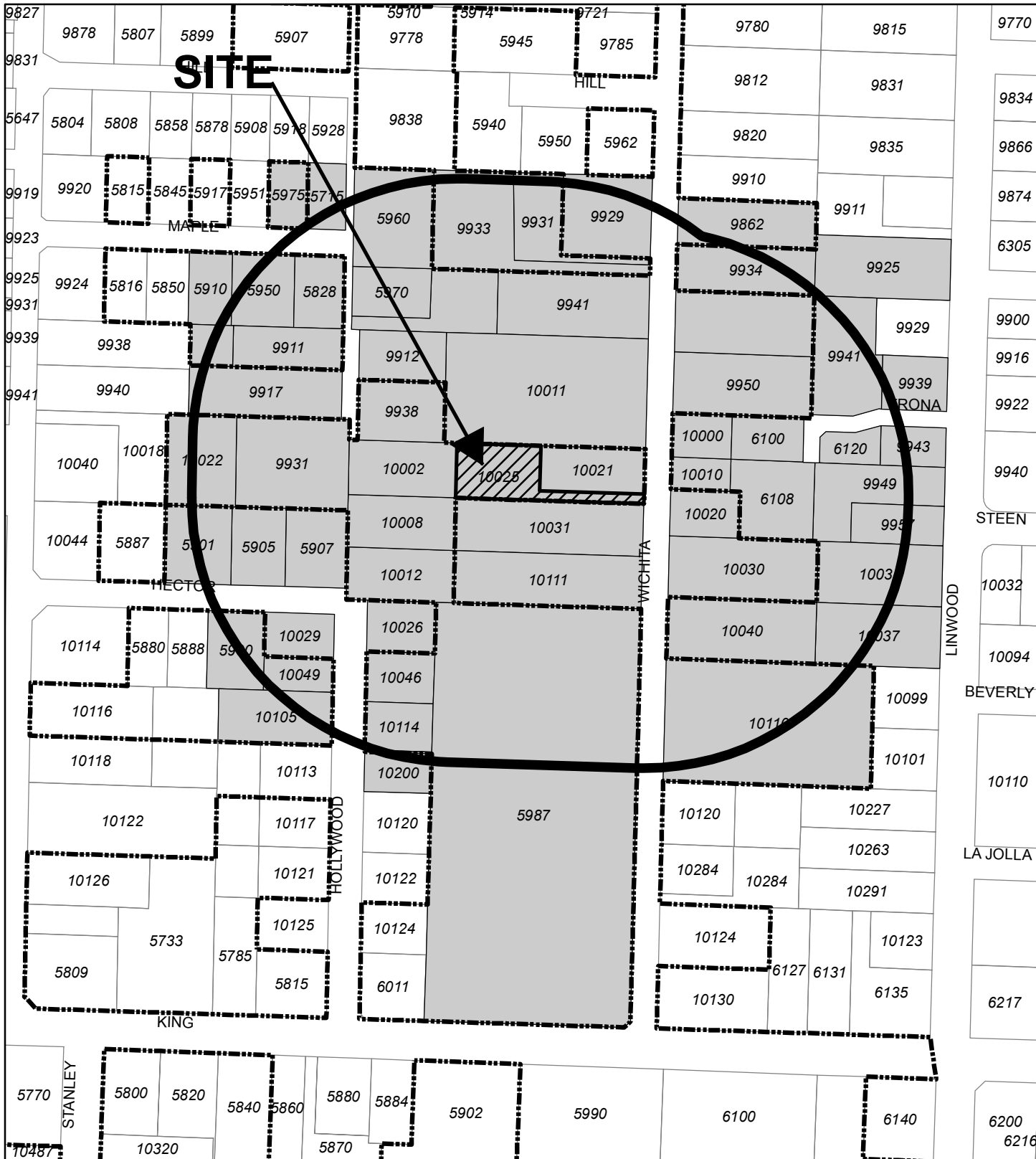
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Mesander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'







THIS MAP IS FOR ASSESSMENT
 PURPOSES ONLY



ATTACHMENT 2



Site Map
10025 SE Wichita Ave
(12E30DD03400)
File# A-12-06

- Legend**
-  Site
 -  Lots Receiving Notice
 -  Tax Lots
 -  City Limit





PLANNING DEPARTMENT
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206

PHONE: 503-786-7630
 FAX: 503-774-8236
 E-MAIL: planning@ci.milwaukie.or.us
 WEB: www.cityofmilwaukie.org

Expedited Annexation Application

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): <i>Tracy Taylor</i>	
Mailing address: <i>4207 SE Woodstock Blvd #184 Portland</i>	Zip: <i>97206</i>
Phone(s): <i>503-927-2086</i>	E-mail: <i>starfishpdx@gmail.com</i>
APPLICANT'S REPRESENTATIVE (if different than above):	
Mailing address:	Zip:
Phone(s):	E-mail:

SITE INFORMATION:

Address(es): <i>10025 SE Wichita Ave</i>	Map & Tax Lot(s): <i>12E300003400</i>	Property size: <i>0.27 ac</i>
Existing County zoning: <i>R10</i>	Proposed City zoning: <i>R-10</i>	
Existing County land use designation: <i>LDR</i>	Proposed City land use designation: <i>LDR</i>	

PROPOSAL (describe briefly):

<i>Annex SFR</i>

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: _____ Date: _____

THIS SECTION FOR OFFICE USE ONLY:

File #: <i>A-12-06</i> Fee: \$ <i>150</i> Receipt #: _____ Rcd. by: <i>USA</i> Date stamp: _____
Associated application file #'s: _____
Neighborhood District Association(s): <i>Levelly</i>
Notes (include discount if any): _____

RECEIVED

MAY 21 2012

CITY OF MILWAUKIE
PLANNING DEPARTMENT

PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
<i>Tracy Taylor</i>	Tracy Taylor	✓			12/19/12
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
10025 SE Wichita Ave					

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

*PO = Property Owner RV = Registered Voter OV = Owner and Registered Voter

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E3000 03A00) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name DS Stain
Title GIS Cartographer 2
Department A&T
County of Clackamas
Date 12-19-2012



CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least a majority of the electors registered in the territory proposed for annexation as described in the attached petition.

NO REGISTERED VOTERS.
FA

Name FLOYD THOMAS

Title DEPUTY CLERK

Department ELECTIONS

County of CLACKAMAS

Date 12-19-12

Floyd Thomas



CLACKAMAS COUNTY ELECTIONS
SHERRY HALL, COUNTY CLERK
1710 RED SOILS CT, SUITE 100
OREGON CITY, OR 97045

NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

Name of Owner/Voter	Mailing Street Address	Property Address
	Mailing City/State/Zip	Property Description <small>(township, range, ¼ section, and tax lot)</small>
1	Tracy Taylor 4207 SE Woodstock Blvd #184 Portland OR 97206	10025 SE Wichita Ave
2		
3		
4		
5		
6		
7		
8		
9		
10		



EXHIBIT ONE

GAYLORD LAND SURVEYING
15000 S.E. LINDEN LANE
MILWAUKIE OREGON 97267

MARCH 1, 1987

MINOR PARTITION
FILE NO. 78-86-V-M

PARCEL 1

PART OF THE HECTOR CAMPBELL D.L.C. NO. 41 IN THE SOUTHEAST ONE QUARTER OF THE SOUTHEAST ONE QUARTER OF SECTION 30, T1S, R2E, W.M., CLACKAMAS COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

POST! 12E30DD 03400

BEGINNING ON THE WESTERLY LINE OF WICHITA ROAD WHICH IS 794 FEET NORTHERLY FROM THE SOUTHEAST CORNER OF THAT TRACT CONVEYED TO SCHOOL DISTRICT NO 119 IN BOOK 109, PAGE 128, DEED RECORDS, SAID POINT BEING THE SOUTHEAST CORNER OF THAT TRACT SOLD TO BRIAN C. KINCAID, ET UX, BY CONTRACT RECORDED NOVEMBER 4, 1981, AS RECORDER'S FEE NO 81-38085, DEED RECORDS. FROM THE TRUE POINT OF BEGINNING THENCE N 0-56-09 W 15.00 FEET TO AN IRON ROD; THENCE S 89-43-00 W PARALLEL WITH THE SOUTHERLY LINE OF THE KINCAID TRACT, 158.60 FEET TO AN IRON ROD; THENCE N 0-48-25 W 68.00 FEET TO AN IRON ROD ON THE NORTHERLY LINE OF THE KINCAID TRACT; THENCE S 89-43-00 W ALONG THE SAID NORTHERLY LINE 125.26 FEET TO AN IRON ROD AT THE NORTHWEST CORNER OF THE SAID TRACT; THENCE S 0-48-25 E 83.00 FEET TO A P.K. NAIL AND WASHER AT THE SOUTHWEST CORNER; THENCE ALONG THE SOUTH LINE OF THE KINCAID TRACT, N 89-43-00 E 283.90 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED. CONTAINING 12,775 SQUARE FEET MORE OR LESS.

*CONTACTS LEGAL DEPT.
OF 2004-049922*

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Frederick M. Gaylord

OREGON
JULY 17, 1870
FREDERICK M. GAYLORD
929

3

2006-049922

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, Internet, and/or Phone:	<input checked="" type="checkbox"/> Comcast	<input type="checkbox"/> Qwest		
Energy:	<input checked="" type="checkbox"/> PGE	<input checked="" type="checkbox"/> NW Natural Gas		
Garbage hauler:	<input type="checkbox"/> Waste Management	<input checked="" type="checkbox"/> Mel Deines	<input type="checkbox"/> Deines Brothers	<input type="checkbox"/> Pearl Deines
	<input type="checkbox"/> Wichita Sanitary	<input type="checkbox"/> Oak Grove Disposal	<input type="checkbox"/> Clackamas Garbage	
<input type="checkbox"/> Other (please list):				



Agenda Item: RS 6.C.
Meeting Date: 2/19/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Adoption of 2013 Council Goals

Prepared By: Teri Bankhead, Asst. to the City Manager

Dept. Head Approval: Bill Monahan, City Manager

City Manager Approval: Bill Monahan, City Manager

Reviewed by City Manager: 2/14/13

Issue Before the Council

Adoption of the 2013 Council Goals

Staff Recommendation

Approve the goals and direct staff to proceed with setting work plans

Key Facts & Information Summary

Council met on December 5, 2012 and January 22, 2013 to set goals for the upcoming year. Council prioritized 11 goals based on a ranking process used during the goal setting meeting. Another seven unranked goals were also listed, to be addressed as resources become available. Public comment was taken at both meetings. Following the January 22nd meeting, the draft goals were posted on the City's website for additional public feedback. Comments will be accepted until 4:00pm on February 19th, either through the electronic email ocr@ci.milwaukie.or.us or by mailing comments to the City Recorder.

Other Alternatives Considered

Revise the goals

City Council Goals

2013 Council Goal Lists Attached

Attachment List

2013 Council Goal Lists

Fiscal Notes

2013 CITY COUNCIL GOALS

Top 11 as ranked by Council at goal setting January 22, 2013

1. Funding to prevent loss of services. Options could include:
 - a. Bond
 - b. Reduce spending
 - c. Determine other revenue streams
 - i. Review business tax program
2. Complete Riverfront Park
3. Analysis of outsourcing vs. bringing in-house the maintenance of parks, open space, areas around city facilities, new development (bioswales, medians), etc.
4. Advance the Kellogg for Coho project by negotiating with Wildlands a contract to undertake the project, the first part of which will be a study to ascertain the feasibility and viability of doing so for all parties.
5. Library expansion completion 2015
6. Allocate resources within the Capital Improvement Plan to:
 - a. Improve livability in the neighborhoods
 - b. Conduct an analysis of a possible sidewalk maintenance/improvement fee program – considering sidewalk walkability in neighborhoods and designation of safety corridors in school zones
 - c. Consider making Monroe Street a bike boulevard
7. Complete the UGMA process and in 2013 develop and initiate an annexation strategy within the boundaries of Highway 224 to the south, Interstate 205 to the east, Clatsop to the North, south down 82nd Avenue and west along Harmony Rd. to the City limits
8. Complete quiet zones by Summer 2013
9. Complete revisions of the downtown code
10. Support our downtown businesses in their efforts to create a business directed growth plan
11. Seek Tree City USA status and develop a tree protection ordinance

**Goals important to the City to be addressed as resources become available.
Not in a ranked order.**

1. Explore how the City can participate in addressing issues related to hunger within our community, particularly school children
2. Complete Adams Street connector
3. Capital infrastructure of public buildings and ongoing maintenance
4. Combine emergency preparedness with volunteerism and carry it out
5. Continue the connectivity program of connecting neighborhoods to commercial areas – Walk Safely Milwaukie Program
6. Revisit the “no new evidence” rule applied to land use appeals heard by Council
7. Bring back the Pilot newsletter in some printed form for distribution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
ADOPTING ITS COUNCIL GOALS FOR 2013.**

WHEREAS, the City Council periodically establishes Council goals to guide it in carrying out the work of the City; and

WHEREAS, the Council met in a work session on December 5, 2012 to begin discussion of potential goals; and

WHEREAS, the Council met again on January 22, 2013 to discuss the potential goals and added details to define its expectations and prioritized the goals; and

WHEREAS, audience participation was accepted at both meetings; and

WHEREAS, the Council directed that staff advertise the draft goals on the City web page to solicit input from the public before Council considered the goals for adoption; and

WHEREAS, the staff advertised the goals and compiled comments from citizens prior to the Council meeting of February 19, 2013; and

WHEREAS, the Council reviewed the written comments received from citizens, accepted public testimony at the regular Council meeting that evening, and provided further direction to staff; and

WHEREAS, staff incorporated Council's modifications into a list of eleven prioritized goals and an additional unranked seven goals that were reviewed by Council at the February 19, 2013 Council meeting; and

WHEREAS, on February 19, 2013, the Council adopted the list of eighteen (18) goals.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, that:

Section 1. That the list of City Council Goals adopted at the February 19, 2013 Council meeting are the Council Goals for 2013 and are attached as Exhibit A.

Section 2. This resolution is effective immediately.

Introduced and adopted by the City Council on February 19, 2013.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney