

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, DECEMBER 12, 2006

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

Katie Mangle,  
Planning Director  
Gary Firestone,  
Legal Council  
Ryan Marquardt,  
Assistant Planner  
Karin Gardner,  
Temp. Hearings Reporter

**COMMISSIONERS ABSENT**

Catherine Brinkman

1.0 CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- February 14, 2006

**Commissioner Batey moved to approve the minutes of February 14, 2006 as revised. Commissioner Bresaw seconded the motion.**

**Ayes: Klein, Newman, Batey, Bresaw, Churchill, Qutub**

**Nays: None**

**The motion carried 5-0.**

3.2 Planning Commission Minutes -- February 28, 2006

**Commissioner Bresaw** noted a correction on page 8, line 356. The minutes state, "Commissioner Batey asked what neighbors preference would be....". **Commissioner Bresaw** stated that she was the one who made the statement, not Commissioner Batey.

**Commissioner Batey** made note of a correction on page 6, line 240. The minutes state, "Do the owners of the property for sale know that this proposed home would be very close to the front door?" **Commissioner Batey** said that instead of owners, it should say potential buyers or potential purchasers. She said that because the property wasn't sold at the time, the correct wording would be potential ones.

**Commissioner Batey moved to approve the minutes of February 28, 2006 with the two noted corrections. Commissioner Bresaw seconded the motion.**

**Ayes: Klein, Newman, Batey, Bresaw, Churchill, Qutub**

**Nays: None**

**The motion carried 5-0.**

3.3 Planning Commission Minutes – October 24, 2006

**Commissioner Bresaw moved to approve the minutes of October 24, 2006 as written. Commissioner Qutub seconded the motion.**

**Ayes: Klein, Newman, Batey, Bresaw, Churchill, Qutub**

**Nays: None**

**The motion carried 5-0.**

**Chair Klein** welcomed the new Commissioner, Paulette Qutub, and asked her to share any background information about herself. **Commissioner Qutub** told the Commission that she was born in Jamaica. She stated that she has been living in the Milwaukie area for the past 23 years, has been married for 31 years, and has five wonderful children and two grandchildren. She graduated from Marylhurst College where she attended four years of college, spending her junior year abroad in Spain. She worked for the Department of Motor Vehicles for quite a few years interpreting for them because her major was for languages, with a minor in music and an intention to do International Law. She shared the fact that after getting married, she got side tracked and didn't finish those plans. She presently has what she would call an empty nest – her youngest daughter is in her second year of college and her youngest son is in his third year of medical school in Washington D.C. She is now looking to get back into the mainstream and try to get back into civic duties.

**Chair Klein** told Commissioner Qutub that they are very pleased to have her and appreciate her searching the Commission out. **Commissioner Qutub** said it was her pleasure to be involved and thanked the Commissioners for such a warm welcome.

**Mr. Firestone** made the announcement that as of the end of January 2007 he will be leaving Ramis Crew Corrigan and will no longer serve as City Attorney after that point. He will be going to the City of Newport to serve as in-house City Attorney. **Commissioner Churchill** asked Mr. Firestone if there has been a replacement named. **Mr. Firestone** said that Bill Monahan, who has attended a few previous Planning Commission meetings, will be doing a lot of the work as well as others from Ramis Crew Corrigan. He said that he anticipates that the firm will hire another person. **Mr. Firestone** said that Mr. Monahan actually did the job long before he did and then went and served as the City Manager for the City of Tigard for ten years and then went back to being an attorney again.

The Commissioners congratulated Mr. Firestone on his new position in Newport and told him that he will be missed.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings -- None

7.0 WORKSESSION ITEMS

7.1 Downtown Public Area Improvements – Follow-up to Ed Parecki's public comment 11/14/06

**Ms. Mangle** invited Mr. Parecki up to the table to join the group in the discussion. **Ms. Mangle** told those in attendance that if they were at the meeting to hear about the potential rezoning of the Hwy 224 area, they were all welcomed to join everyone at the table after the first agenda item.

**Ms. Mangle** asked the group to refer to the memo in response to Mr. Parecki's questions that he brought to the last Planning Commission hearing. At that time, the Planning Commission asked staff to come back with a little more information on what the code is, how it has been interpreted, and address the questions.

**Ms. Mangle** stated that this was regarding the public area improvements for downtown Milwaukie in Section 19.312.5 – as a part of the downtown area public area requirements that are required not only for new buildings, but also for any renovations, expansions, or alterations, the developer to contribute some portion of the building permit towards implementing the public area improvements. She said that for a big project like North Main, or the Advantis Credit Union building, the project builds the sidewalks and actually implements all of the design called out and the public area requirements. The code also specifies that renovations, expansions or alterations are to contribute up to at least ten percent of the value of the building permit towards implementing the public area requirements. She said that Mr. Parecki's questions were; how does this apply to tenant improvements as well as new tenants in buildings that have already been developed?

**Commissioner Churchill** asked Ms. Mangle for clarification about North Main and how those public area improvements were implemented. **Ms. Mangle** stated that because it was a new development, they actually had to implement the design standards completely on all frontages.

**Ms. Mangle** read the following from the code: New development shall comply with the public area requirements; renovation, expansion or alteration of an

existing building having development permit value that exceeds fifty percent of the value of the land, shall also comply. She said that this means that if it's a major larger model that they would have to comply by building all of the improvements. **Ms. Mangle** said that if the value of the land is less than fifty percent, that's the category that ten percent of the value of the building permits should be spent on public improvements. **Ms. Mangle** stated that the code has been pretty consistently interpreted and applied. She referred to the listed examples of businesses on page 2 that have contributed in this way.

**Ms. Mangle** stated that with regards to Mr. Parecki's property, there is a little bit of confusion that may have been part of the development of the McLoughlin Project. She said that Mr. Parecki's project should have triggered the public improvement requirement, but didn't. Therefore, the salon that is right now getting the tenant improvements is the first application related to his building for which the City is applying the ten percent requirement.

**Ms. Mangle** was asked to clarify the question about whether every tenant of every building would keep triggering all of this. She said while this is not addressed in the code, staff and counsel have discussed this with regards to Section 1400. This prompted the need to have a proportional Nolan/Dolan test so the exactions are to be proportional to the impacts. **Ms. Mangle** said that even though this is not in the code, staff needs to be implementing this in a way that we are not "double dipping" essentially.

**Ms. Mangle** stated that because it hadn't been applied to the McLoughlin Building Project, then following the code, it would apply to the tenant improvement because renovations are included. **Commissioner Churchill** asked if Mr. Parecki's building had fully done the street improvements, would his tenants not have been required to do the ten percent improvements. **Chair Klein** asked if because this had not been done, if would it mean that each tenant that moves in will be required to do the ten percent improvements.

**Mr. Firestone** said that it is difficult to say how it would be applied in each situation. For example, if the improvements were done for that one tenant space, and then there is a new tenant, the City would have the option of saying the improvements were provided as relates to that space, that space has complied now and for the foreseeable future with a couple of possible exceptions; the original tenant wasn't the type of business that generated a lot of vehicle trips or pedestrian trips and the new tenant is one that generates 100 pedestrians an hour and/or 40 cars an hour. **Mr. Firestone** stated that because of the increased impact, it might prompt a reason for the ten percent street frontage improvements, but generally speaking the concept would be if for this portion of the building they have provided their rough proportional improvements, then it is done for that portion of the building.

**Commissioner Churchill** asked for clarification with regards to Mr. Parecki's property. **Ms. Mangle** said that if the improvements were done for the building,

and the whole building was remodeled, the City would assess the public area improvements for that building. **Ms. Mangle** said that, just to be fair, at staff level and with Mr. Firestone, they did talk about the ability to interpret the code language in a slightly different way. She said for applicability, what the code reads is – applies as follows:

- 1) with new development (which is North Main)
- 2) any renovation, expansion or alteration of the existing building that has a development permit value that exceeds fifty percent...
- 3) if the development permit value is less than fifty percent of the value of the land, then the amount equal to at least ten percent shall be contributed...

**Ms. Mangle** noted that one could read point number two to say that it is the development permit value that is the trigger, not necessarily applying it to renovation, expansion or alteration. However, that is not the way that it has been interpreted over the last five years. It has been interpreted consistently as applying also to tenant improvements as in point number three. She said that examples of this are what Key Bank, Wunderland and St. John's Episcopal Church and other projects have done. A different interpretation is there – but that is not the way previous planning staff interpreted the code.

**Ms. Mangle** asked Mr. Parecki for his comments and questions. **Mr. Parecki** said that he had some comments regarding the discussion. He made reference to the letter/memo, where the last sentence on the first page says “the new section of the zoning code includes using design policies and also the requirement that private property owners construct improvements in the public right-of-way”. He said this would mean that a tenant would not be considered a private property owner. He said that this is one of the problems he has with the way the code reads. **Mr. Parecki** also made note of another problem being when McLoughlin street improvements were done, and the nine trees were planted on the east side of McLoughlin – and during that construction they excluded that block. He felt the very least they could have left the openings for the trees to go in, if those were to be required improvements. Now someone will have to go in and cut out the concrete, which will require a lot of extra labor involved in planting a simple tree.

**Commissioner Batey** asked if they actually constructed anything along in front of Mr. Parecki's building. **Mr. Parecki** responded by telling her that the entire sidewalk (10 feet) has been constructed all the way to Scott Street. **Mr. Parecki** told the Commissioners that he also had to change his plans for the building to accommodate the sidewalk. He said it would have been very simple to block out and not pour concrete where there would have been trees required. He expressed his displeasure about how this was handled and said he felt the code was ambiguous.

**Commissioner Churchill** asked Ms. Mangle if given the scale of improvements that Mr. Parecki did on his building, what would be the value of ten percent of the

improvements? **Ms. Mangle** stated that she did not know. **Commissioner Churchill** asked Mr. Parecki if he knew the amount of improvements. **Mr. Parecki** answered approximately \$300,000-\$350,000. **Commissioner Churchill** noted the ten percent would be approximately \$30,000-\$35,000 of improvements.

**Commissioner Batey** stated that she thinks that Mr. Parecki may well have fallen into clause two, in which case he would have dodged a bullet. **Mr. Parecki** said that he doesn't disagree with that fact.

**Chair Klein** stated that now the situation is upon Mr. Parecki that he has a tenant that is not able to dodge that bullet because this is something that slipped through the cracks. **Commissioner Batey** stated that she felt that this is now a matter between Mr. Parecki and his tenant.

**Mr. Parecki** said that he feels that the code is ambiguous and that is his problem. He feels that the City interprets the code the way they want and he wants to interpret the code the way he wants. He feels that there should be some resolution where the code is not ambiguous. He pointed out that if the code says the owner has to make the improvements, the responsibility is his. He pointed out that the value of the ten feet of sidewalks for 100 feet on his property was more than the \$30,000 that he would have been required to do. Therefore, he feels that he didn't really dodge a bullet – the work got done, it just wasn't by him.

**Mr. Firestone** stated to clarify the code, the provision just talks about the public area requirements, which would be imposed on the applicant, which could be the owner or could be a tenant with the permission of the owner. **Mr. Parecki** said that again, that is the way the City is interpreting it. **Ms. Mangle** suggested that with regards to Mr. Parecki's situation, there might be an opportunity to instead use that money to buy bike racks or benches or something less intrusive and less work.

**Mr. Firestone** said that it is not the City's position to say you must do a specific thing when that specific thing would be inordinately expansive as compared to other options that would provide improvements. **Ms. Mangle** said that the smartest way to spend the ten percent of the building permit would be to go to the fourth priority when fourth priority makes the most sense under the circumstances. **Ms. Mangle** noted that updating and doing a check on the public area improvements code in the Downtown Plan is on the Planning Commissions work plan, so that if this is a policy that Planning Commission or Council would like staff to readdress, the time will come for that.

**Commissioner Newman** asked for clarification on what the code actually says in comparison to the letter to Mr. Parecki. **Chair Klein** asked if we're making a decision tonight with regards to Mr. Parecki's tenant. **Ms. Mangle** said that the current status is that it is on hold pending a decision. The decision at this time is based on precedent, which is important because this is the way that other businesses in downtown have been contributing, that the code would apply to this

tenant. **Ms. Mangle** said that we are willing to work with them to make sure that we are spending the funds in a smart way.

**Chair Klein** said that this is an isolated incident and it sounds like Mr. Parecki is willing to work with the City in trying to come up with something that will work and benefit him rather than just going out and throwing money on the street. **Ms. Mangle** said we need to do a better job of communicating this policy with developers and tenants on the front end so that it is not a surprise. **Mr. Parecki** said he has another project in downtown Milwaukie, and he's rather scared about it. He said he is not sure if he is actually going to do it.

**Mr. Firestone** said that for example, if there are four spaces in an existing building, space 1 comes in and pays it's ten percent, later there is another change in space 1 and space 2; space 1 doesn't pay, space 2 would pay – that would be the concept. He noted that once all four have paid, and then it's done. **Commissioner Batey** noted another example would be is if all three tenants have paid before the fourth tenant came in and all improvements have been made, the fourth tenant would not pay. **Mr. Firestone** said that there is an argument that this requirement can extend off frontage, but it is essentially a policy call for the City. It would be supportable to say once the frontage improvements adjacent to the property meet all the public area requirements, and then certainly the City could say it is done.

**Commissioner Bresaw** said that the ten percent seemed like a lot to her (\$35,000). **Commissioner Batey** said that the streets improvements are expensive but that is the only way that the City is getting all of the improvements in downtown. She said that she is supportive of the way the code is right now. **Mr. Firestone** noted that eventually the downtown area will be developed to the plan so that all the public area requirements are met throughout downtown.

**Chair Klein** summarized by saying the City will continue to work with Mr. Parecki to try to come to some resolution. **Mr. Parecki** asked Ms. Mangle if they could meet sometime before then and she answered that she could.

**Mr. Parecki** asked if the \$3,400 in this case would be paid to the City or just to do the work. **Mr. Firestone** said that the City will do an estimate upfront, and if the property owner can meet the standard and do it for less, that is fine. **Mr. Firestone** said that, for example, if the job costs less than the \$3,400, for example, \$3,000, and the standards are met, that is acceptable.

## 7.2 Land uses in Hwy 224 commercial area

**Ms. Mangle** asked those in attendance to introduce themselves.

Katie Mangle, Planning Director  
Jeff Klein, Planning Commission Chair  
Dick Newman, Planning Commissioner

Scott Churchill, Planning Commissioner  
Paulette Qutub, New Member (Planning Commissioner)  
Mary Dorman, Angelo Planning Group  
Theresa Bresaw, Planning Commissioner  
Debbie Crock, Land Owner in Milwaukie (Myrtle)  
Karin Gardner, Temp. Hearings Reporter  
Lisa Batey, Planning Commissioner  
Gary Firestone, City Attorney  
Ryan Marquardt, Assistant Planner  
Jim Bernard, Mayor  
Tim Park, Land Owner  
Ed Zumwalt, Citizen  
Sara Manougian, Citizen (Dancevolve)  
Debra Barnes, City Council  
Joe Loomis, City Council  
David Aschenbrenner, Chair of the Hector Campbell Neighborhood

**Ms. Mangle** started the discussion saying that this would be a very preliminary, very informal conversation about potential rezoning on a few parcels. She asked if everyone had a copy of the staff report that referred to the areas. She pointed out the three different areas on a map, making note that they are three different areas with slightly different issues.

**Ms. Mangle** said what prompted this discussion was that conditions have changed generally since zoning was put into place and that the planning office staff gets inquiries from property owners or from developers stating that they have a great idea, but it would require rezoning, what do you think or when are you going to rezone my property?

**Ms. Mangle** said that this is a very complex area with a complex planning history in this area and these changes could go in a number of different directions. This is something that the Mayor has wanted us to push forward; it is already on the Planning Commission's work plan for the year. We wanted to start by just having a conversation with the community leaders, on these issues at Council and Planning Commission to give us some direction on what we should be looking at. In the context also for this is the Transportation System Plan (TSP). The area we are looking at is right near the sensitive intersections with Hwy 224. The TSP is starting up and will go through next August. If we do want to think about rezoning, especially to commercial, and some zones that may have different traffic impacts, we just want to make sure that within the modeling that we do for the TSP we at least are sure that we are using the right kinds of projections with land use.

**Ms. Mangle** announced that the City has hired Mary Dorman to help the City on the technical end, making sure that we understand what policies are in place, but also to advise us so that we have a better sense of what goals we might have for these areas and help advise us with the different solutions. For example, if we say

we want some commercial in one area, she might ask what kind of commercial. Or, if we want to change the zoning, for example, to support a proposal that a developer brings in; do we wait for the developer to do that or does the City initiate that? Ms. Dorman will be helping the City with some of these questions. **Ms. Mangle** said that we are interested in feedback with regards to these issues.

**Ms. Mangle** asked Mary Dorman to come up to the map and explain the zones so that everyone can understand the different zones. **Ms. Dorman** said that she was involved with the City when the Downtown Plan was adopted and helped to draft those specific downtown zones. There is some relevance to this because downtown also had the Mixed Use Overlay. **Ms. Dorman** said that the downtown had the McLoughlin corridor overlay on top of a lot of different base zones and through that process, we tried to simplify the code and remove those overlays and instead adopt specific base zones for the downtown.

**Ms. Dorman** stated that there are only two sites that still have the Mixed Use Overlay on them. They have the similar characteristics, the Residential-Office-Commercial zone is a mixed use zone which allows quite a bit of flexibility when it comes to developing different types of uses, but then when it has the Mixed Use Overlay on top of it, it gets complicated and confusing and there are specific requirements that you have fifty percent of it be residential, etc. The area along Myrtle Street is different, not having the Mixed Use Overlay applied to it, and it is a high-density residential zone. She showed the third section of land that sits between Hwy 224 and the railroad in the whole corridor that is not commercial. She showed where the Gramor Development came forward and submitted an application to rezone that property to Commercial-General. She said this makes the area unique because it sits between the existing development and the major transportation corridors.

**Ms. Dorman** said that all three areas were being looked at at once as part of the study. **Ms. Dorman** explained the difference between each of the types of commercial zones, pointing out each on the map. She said that the CG zone has no design standards in it. She said that the only zone that triggers the design review right now is the downtown zone, with the exception of Mixed Use Overlay needing to go through Planning Commission.

**Mayor Bernard** stated that he could not ever see any housing going in a couple of those areas because of the railroad tracks. He would like to see some design standards; for example, when he goes by some areas he would like to see it built up to the road with the parking in the back. He said the City did not have the ability to have that done at the time. He would like to see all of those areas cleaned up into CG or similar with street access up to the road (Oak Street, Myrtle Street) with the parking in behind or in the middle so that people are drawn down the street. **Chair Klein** said that someone may have brought that up before, but it unfortunately didn't happen.

**Mr. Aschenbrenner** interjected saying that there was another part of that. It was the residential block behind there – and the concept was that they wanted to be able to flow through the Walgreen's lot into that next commercial lot when it is zoned commercial. That is why there are three separate buildings with space between so you can go from one site to the other site. That was the concept they were kicking around when they were looking at changing that one to commercial; so the back of Walgreen's doesn't block out the next block of commercial.

**Chair Klein** said that his hope was that Myrtle Street would be absorbed into the parking lot and that would be the entrance to the parking lot and that those buildings would be designed in such a manner that it enabled the growth to go into the residential block that was there. **Mr. Aschenbrenner** said that the problem at the time was that Gramor was not willing to buy another block of property and get the zone changed. He said that he thought that everyone would agree that that block of residential needs to be changed to Commercial-General. **Ms. Mangle** stated that her sense is that is what she has been hearing from people that she has talked to.

**Ms. Mangle** was asked if the City has sent out a mailer to people living in those areas. She said that there will be something sent out once the framework to put the conversation in is in place. She noted that there were two interested property owners that had contacted the planning staff that were invited to this work session.

**Mr. Firestone** asked whether or not the area northeast of Campbell will be included in this rezoning. There was a brief discussion about the area that is owned by the railroad between the railroad tracks, Campbell and Railroad Avenue. **Mr. Aschenbrenner** said that there is just no room to do much with this property that the railroad owns. **Mr. Churchill** said that he would like to see the zoning cleaned up in that area. He also stated that he would like to see design standards imposed on all commercial projects.

**Ms. Mangle** said that she is still new with the City and a lot of this meeting is about everyone educating her. One thing that she has heard about the Gramor project is essentially through the Planning Commission review process; there were a lot of pedestrian oriented conditions that were put on that project. Therefore, the City was able to increase the design quality of that project through Planning Commission review. Maybe there are some things that we can learn from that project and instead of reinventing the wheel every time; we can include some of that into zoning.

**Mayor Bernard** said he would like to see an opportunity to address some intersection issues and fix such areas as Harrison Street, Monroe, and a light at Oak Street, should we move these changes forward. He said he thought there was going to be a left hand turn lane at Oak Street and Hwy 224. **Mr. Aschenbrenner** said that the process of getting a protected left turn light – the process they go to decide how to do that is a step that will come up in our TSP.

**Ms. Mangle** reminded everyone that the TSP is currently in the process of being updated.

**Ms. Crock** voiced her concern about turning left, crossing over from Walgreen's to Albertson and how dangerous it is. **Commissioner Batey** stated that the issue was extensively discussed before the Walgreen's went in. She said that it was a concern as well about exiting left out of Albertsons, heading towards Hwy 224. It was noted that putting a signal in that area was not an option because of the proximity to the railroad tracks. **Chair Klein** felt that the idea of exiting out the back onto Campbell Street and coming back around to get to Albertsons would be an option. **Mr. Park** stated that his property is on Monroe Street on the north side, right on the corner of Campbell and Monroe. His property is in the commercial zone and he is more interested in the overall project.

**Ms. Mangle** talked about the research that has been going on in the Planning Department with all the history – the zoning was changed after first the Regional Center Master Plan was adopted, which then changed to the Town Center Master Plan. She talked about development readiness – thinking about how we can set up these sites for a little bit more success of development in contributing to the City in a way that doesn't make traffic worse. She said that she has heard a range of ideas, one being 37 condo town homes – which the residential mixed-use zone did not allow. She said that Mr. Dant was working on a bank/office that would maybe have a little bit of a residential component – but the current zoning doesn't work for that either. She said that moving other potentially quasi-industrial land uses to the area doesn't work either.

**Commissioner Batey** asked for clarification on what ROC means. She asked if the Mixed Use Overlay was more of the problem than the ROC; does the ROC mean mixed use in of itself or does it mean any one of those uses? If it was just ROC without the Mixed Use Overlay, could just residential go in or just office? **Ms. Dorman** stated that even the base zone requires a mix.

**Mr. Aschenbrenner** shared some history about the McFarland site with the group. He said that the first concern was when light rail was going to come through that area; there was a big plan to put a big massive residential area on that site. The neighborhood's concern was how are all those people going to get in and out of that area without either going through the neighborhood or clogging up the Oak Street and 37<sup>th</sup> Avenue intersections? The idea of a massive amount of housing in there is not really well looked upon by the neighbors next to it, which are all mostly in R5 and R7 zones. This raises the question of what do you do with it. He said he has had discussions about everything from green space, tennis courts and/or basketball courts with a park space in part of it, or some commercial/doctors offices. He stated that what concerns the neighborhood are massive amounts of housing. He said with the railroad mainline with many trains a day (on the whistle all the way through) it is going to be tough to sell townhouses or condominiums in an area like that. He said the feeling that he is getting from the neighborhood right there next door is some use of commercial, business and open/green space (park related space) or something along that line.

**Mr. Aschenbrenner** threw out the idea to move a business that is in downtown Milwaukie onto the brownfield of that site. He said that there is a brownfield on the south end of that property that has to be capped – which means you cannot build residential on top of it unless you elevate the residential above the brownfield after you cap it. The downtown Milwaukie business that he is referring to is the Milwaukie Lumber yard. He stated that the downfall is that 37<sup>th</sup> Avenue has to be rebuilt next to Minthorn and the shopping center because there is a weight limit on that road. He said he believes that it is because when they built the shopping center they didn't put in heavy duty piping to Minthorn. The other question is where do the trucks come in and out – 37<sup>th</sup> Avenue would be a good one; Oak Street would be another intersection. The concern is you have to do something with the brownfield – no matter what, you can't put residential on there without capping it and elevating the residential above the parking. He said it would be fine for a parking lot.

**Chair Klein** asked for ideas from Mr. Zumwalt. **Mr. Zumwalt** voiced his concern about the noise from the trains. He said he wondered how many businesses would want to go in there with the traffic problems with the trains. He mentioned that years ago there was talk about retirement homes going in there. He wonders if there is anything that would fit at the far end of the Marketplace. **Mr. Aschenbrenner** mentioned that the trains also create vibration as well as noise. **Chair Klein** reminded people that Railroad Avenue has been there for many years and houses came in after the railroad was already there. **Mr. Aschenbrenner** made note that some of the newer houses along Home Avenue that were put in are having quite a bit of turnover. He said that, for him, commercial just seems to make the best sense.

**Mr. Firestone** made reference to the earlier question, "must it be mixed use in the ROC zone?"...he said it can be residential only, but there must be a residential component, so it can't be office or commercial under the existing zoning. Therefore, to put in purely commercial, we either need to change the provisions in the ROC zone or change the zoning. **Ms. Dorman** said that fifty percent of the floor area has to be residential.

**Ms. Mangle** said she is hearing about big changes to these zones – to maybe get away from residential, maybe mixed use, maybe including some mixed use, if a developer thinks it makes sense. **Chair Klein** said he didn't think we should rule anything out at this point – because the property owners all want to get a return off of their investments. **Ms. Mangle** encouraged the group to think big and throw out any ideas. She said that there will be a lot of things that will need to be figured out as time goes on.

**Mayor Bernard** said he feels this is the perfect opportunity to find zones where nothing is happening and actively changing them to make something happen.

**Commissioner Churchill** stated that he gets the feeling that the shopping center is turning its back to the neighborhood association. He said we need to turn a

different face to the neighborhood to integrate them into the area. He asked Mr. Aschenbrenner if he was thinking of light retail with residential for the area. **Mr. Aschenbrenner** said that the main concern is the brownfield area; that was the reasoning why he was thinking light Commercial-Industrial. He said he wondered if developers would be looking at that and saying that this is something we would want to build and invest into. **Ms. Mangle** said the City has had two pre-application conferences with developers who were proposing residential in the last six months. She said there are things that don't work with our code, but it's not that the interest isn't there.

**Ms. Mangle** said that with the town homes, it was a problem with the combination of the height restriction with the lot coverage being very low (you can cover only fifty percent of the lot, with pretty high minimum density requirements; the mixed use requirements). **Ms. Dorman** said once you put all those things together, she is not sure you could even draw a development that would meet the requirements. **Commissioner Churchill** said that is where a floor area ratio works better than lot coverage.

**Mr. Aschenbrenner** said that from the neighborhood standpoint, if we did get something in this area, we would be able to get sidewalks on 37<sup>th</sup> Avenue taken care of, work on getting the railroad crossing intersection fixed and the Oak Street side street issues fixed on the north. He feels that it is the high density that is the concern of the neighborhood and the impact it would have.

**Ms. Mangle** said that one of the goals she is hearing is to try and not introduce more traffic problems into the area; at least anything that couldn't be mitigated. **Chair Klein** said to alleviate some traffic problems down the road, we need to look further into the future and realize that we can plan for the development, make adjustments and make road improvements for the new development that will push down Hwy 224.

**Mr. Firestone** commented on traffic impacts saying that everything that goes there would likely increase traffic, however, it may reduce overall traffic impact if it keeps people from going elsewhere. He said that if it provides a service that is needed by the residents in the neighborhood they are going to travel less to get to it. If it provides housing that is closer to where people work then cuts down also. **Mr. Firestone** said that you could put almost anything in the area as long as it meets certain standards. **Chair Klein** said that he likes the idea of letting the word out to the development public and saying we are open to ideas here. We would like a say on what goes in there, but feel free to think outside the box come to us and bring us your ideas.

**Mr. Zumwalt** said that we are looking at another little problem within the next 10 years or sooner, would be the bowling alley. **Mayor Bernard** said that the bowling alley actually wants to retire. He said they Walgreen's had already made a deal to buy the bowling alley when the other project came through.

The conversation shifted to the northern area on the map (Murphy Plywood area). **Mr. Aschenbrenner** said that he felt that this area falls a bit more into a housing type of use as compared to the southern area (McFarland area). **Mayor Bernard** said he thinks it's more Providence Hospital. **Commissioner Newman** said that due to the problem of the transit center being downtown, he was wondering about doing away with Oak Street, moving the light down to Monroe Street and turn Monroe into a four or five lane intersection and have the transit center in that bottom ROC area. This way we could move the transit center out of downtown. **Mayor Bernard** said that this discussion is close to describing the light rail plan. They are planning on knocking down a block and run rail – which he said the issue would be wiping out the neighborhood because the streets are so narrow.

**Mr. Aschenbrenner** said that Purdy's Car Wash has already made arrangements to move into the old gas station across the street. The reason is because they know that Harrison Street has to be fixed, and the Car Wash is in the way. **Mayor Bernard** said that he thought Mike's Drive In would like to probably move also. This would leave the little grocery store still. **Mayor Bernard** said that he would like to see is somebody come in and have an opportunity to present some ideas that are less than ten stories.

**Mr. Firestone** asked Ms. Mangle how Milwaukie did with Metro's requirements for having the housing supply, if we can loose that much residential with both of those areas. **Ms. Mangle** said that any kind of rezoning would prompt us to make sure that we are checking the requirements for Metro for the housing allocation for Milwaukie as well as the DLCDD. She noted that there are a lot of process and coordination that we will need to do with any of these kinds of zone changes.

**Chair Klein** said that he felt that of the two sites that the northern site would be a place more for residential. He said that would be a place for assisted living because of its proximity to Providence. He said you could certainly still meet the ROC, where you could have the mixed use, doctor's offices, and residential above it. **Mr. Firestone** said that at least this site is somewhat away from the railroad. **Ms. Dorman** stated that the northern area that is vacant is approximately 6.2 acres. This is in comparison to the southern vacant area of 7.3; not knowing exactly how much of it is brownfield.

**Mr. Aschenbrenner** said he would like to see some basic design guidelines applied to all commercial development. **Chair Klein** made reference to 42<sup>nd</sup> and King Road as being an area that he would like to see downtown design guidelines used as well.

**Ms. Mangle** asked the group for feedback about the Gramor project – because it was a rezone in response to developer application – and if there were any lessons learned from the process. **Commissioner Newman** said that he felt that the process was frustrating for him because all the Planning Commission could do was to rule on what met the criteria. **Chair Klein** said that having design

guidelines is certainly one of the things that we should have in place. **Mr. Aschenbrenner** said that with Gramor we did express a lot of our hopes to them.

**Chair Klein** said he feels that we need to be careful not to be too restrictive with these guidelines. **Commissioner Churchill** said that we should explore other commercial zones and their language. **Mr. Aschenbrenner** said that his neighborhood association was hoping to get a nice restaurant along Hwy 224 that groups could have a place to eat and hang out and not feel like you have to eat and get out. **Mayor Bernard** said that he would like to see these areas developed sometime within the coming year.

**Mr. Firestone** said that Chair Klein asked if Measure 37 would affect what we do. He said that it would affect what we do, but it doesn't prevent the City from doing things. He said that if the City rezones any area in a way that restricts the use that is currently allowed, the current property owner could either develop under the new regulations or under the regulations that were in effect when the property owner acquired the property. It doesn't hurt to rezone, it is just that as to the current property owner that rezoning may not be effective. He is assuming that the City will waive rather than pay compensation. He said that as soon as the property is sold the new regulations are in effect.

**Ms. Mangle** said that all the scenarios that we are talking about here would either be taking something from residential to commercial or reducing the restrictions on some of these properties. Therefore, these changes would most likely not decrease the value of these properties; it would actually increase the value – in which case Measure 37 would not apply.

**Ms. Mangle** thanked Council and the Mayor for coming to join the meeting because it is very important that this be a broader discussion. She said that she felt like she got a lot of really good information from the group. **Ms. Mangle** stated that she will be working with Mary Dorman to provide a summary of what was heard at the meeting tonight. She said that we can plan on talking about it at the first Planning Commission meeting in January.

**Ms. Dorman** asked the group if because this is close to downtown, are there any concerns with expanding the commercial zone here that you are going to be competing with what you want in downtown in any way, or do you want something different – in terms of scale of commercial uses or types of commercial uses.

**Mayor Bernard** said, in his opinion, the reason downtown failed is because they gave up. He stated that downtown offers different challenges, versus this area. He said it is not big enough to create a new downtown – it will create its own character. He feels the whole downtown design creates its own character. His vision of downtown is an area where you go meet your neighbors and build friendships. This is an area alongside a freeway, along railroad tracks, where you

go get your teeth worked on or your eyes examined; it's not the same kind of area as downtown.

**Commissioner Batey** said that she originally felt that this was going to be an area that might compete with revitalizing downtown. She said she does think now at the point that we have the Gramor, we should move forward with the Myrtle Street for sure because having that residential block there makes no sense. Personally, she would like to see residential and non-commercial use for the factor of not competing with downtown. She said that she would like to see neither one of them be fully commercial. **Chair Klein** said he would like to see something come before them, regardless, without ruling anything out.

**Mr. Zumwalt** asked if there were plans to have more of these meetings in the future. **Ms. Mangle** said that this was the first kind of thing that she has done like this, but when the opportunity arises, she would definitely do it again.

**Mr. Aschenbrenner** asked a favor for his little neighborhood – if the little corner park on 37<sup>th</sup> & Monroe could stay.

**Ms. Mangle** summarized while pointing to the map that she is generally hearing a consensus on exploring commercial in the Myrtle Street area, maybe some mixed use more into towards housing in the Murphy Plywood area but still interested in seeing what developers might come up with, and the McFarland area, residential doesn't make sense, maybe if a developer wants to do that it might be OK, but probably commercial, but probably office might be making more sense with traffic a big concern. She said also generally to be concerned about quality of design for both but also development readiness and balancing those two things.

**Mr. Zumwalt** said that he has been hearing that there is not much demand for office space these days. **Ms. Mangle** said that one of the new proposals that Bob Dant is thinking about right now includes an office for a bank.

At 8:20pm there was a short break taken before the work session continued.

### 7.3 Harmony Road Environmental Assessment Project Briefing

**Ms. Mangle** stated that Commissioner Batey had requested that she cover this project. She referred them to the pamphlet that was handed out at the open house in October. Generally there are two projects; one is the Harmony Road project (the County is doing an environmental assessment that runs between 82<sup>nd</sup> Avenue and Hwy 224) and the other one is the Sunnybrook Boulevard extension. However, when the County started this project a few months ago, it was with the intent of linking the two projects together. They were hoping to do the environmental assessment for Harmony Road, which is required because there is federal money in it, and then run that also in the course of the study for Sunnybrook Boulevard, which does not have Federal money in it, and is not subject to the same kinds of study requirements.

**Ms. Mangle** stated that even though they were planning on linking these two projects together, but because of some schedule requirements for Sunnybrook Boulevard related to that development at CCC and OIT, the schedule was moving too quickly. She said that what has happened over the last month is that they have separated the schedules for the two projects

**Ms. Mangle** said that the Sunnybrook Boulevard project and Harmony Road project simply cannot happen on the same schedule – and that it's to the county's credit that they slowed the schedule down. She let the Commissioners know that she is the staff on this project with the assistance of Zach Weigel.

**Ms. Mangle** made an announcement that Gary Parkin is the City's new Engineering Director. She said he will be formally introduced at the meeting in January. She stated that she might be asking him to help work on this project in the future.

8.0 DISCUSSION ITEMS – None.

9.0 OLD BUSINESS – None.

10.0 OTHER BUSINESS / UPDATES – None.

**Chair Klein** asked Commissioner Batey to give some high points about the LUBA hearing for the TriMet Park and Ride. **Commissioner Batey** said that the hearing took place in a school classroom at Lewis and Clark College. She said she felt it went well and Gary Firestone and the attorney for TriMet split the time. She said truthfully, for her, she felt that the more interesting part was after the actual argument, because it was for a class, we got to ask questions of the LUBA members, not about this case, but about how LUBA works. She learned that there were only three of them and they have 225 cases per year – of which, a third fall out from various procedural issues or get remanded.

**Commissioner Churchill** said he was surprised that there was only a three-person board to handle the entire state. **Mr. Firestone** said that LUBA was unusual because it is the first of its kind. He said that Washington State doesn't have anything comparable. He stated that he thinks it works extremely well. You have three people who know what they are doing – they do nothing but decide land use cases.

**Commissioner Churchill** asked if they have appointed positions. **Mr. Firestone** said that the Governor appoints them. **Chair Klein** asked how long the appointment is. **Commissioner Batey** said that one person has been on it for about 15 years. **Mr. Firestone** said that they know what they are doing and it is a very quick and economical process. A LUBA brief might cost the City about

\$5,000 to prepare the brief and to go through an oral argument, compared to going through a court with a minimum of \$50,000. He feels that the LUBA process works well.

**Commissioner Batey** asked Mr. Firestone his feelings as for the merits of the case, and if he was making any predictions. **Mr. Firestone** said that he went in thinking that this is a case we should win. **Mr. Firestone** said that a decision is expected by December 29, 2006. **Commissioner Batey** said that someone had noticed that they were starting to tear down Southgate. **Ms. Mangle** said that they are – and they can start to do that just with a demolition permit.

**Ms. Mangle** told the commission that the City is has being sued about the sign code. She said that the planning staff has spent the last four or five months working on amendments to the sign code – partly in reaction to a court decision in March. She stated that how the City is allowed to regulate signs has changed.

**Ms. Mangle** said that when we knew that there were problems with the sign code, and that things were unconstitutional, Mr. Firestone initiated the project to amend the sign code. The Planning Commission worked on this during three sessions and recommended approval of the amendments in September and had the first hearing on the amendments to the City Council in October. The hearing was continued until December where a few concerns were addressed.

**Ms. Mangle** stated that the Council was planning to approve the amendments almost entirely with a few minor changes on December 5, 2006. The hearing was scheduled to start at 7:00pm on Tuesday, December 5, 2006. At 4:30pm on that afternoon, we simultaneously were served with the summons with complaint at City Hall while we got an application for six very large freestanding signs (otherwise known as billboards) out at the Johnson Creek Boulevard Public Works Facility. The signs were at the Hannah Harvester property on 99E and on Main Street on 40<sup>th</sup> near International Way.

**Ms. Mangle** stated that they sued assuming that we would deny them because the signs are too big. She said that they want financial damages and they want the court to throw out the entire sign code. **Mr. Firestone** said that it is standard practice by sign companies to say because parts of your sign code are unconstitutional you have to throw out the whole thing – even those regulations that are not unconstitutional, such as size limitations.

**Mr. Marquardt** asked Mr. Firestone why the sign code doesn't have a severability clause in it. **Mr. Firestone** answered, assuming that it doesn't, arguably everything is severable, and we shouldn't have to put it in everything. **Ms. Mangle** told the Commission that the City is awaiting the attorney's advice on the lawsuit at this time.

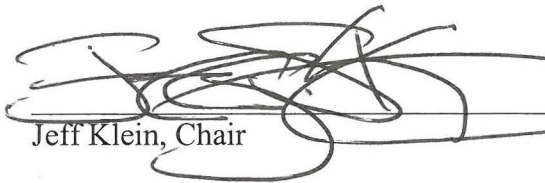
**Ms. Mangle** said that Council adopted the sign code with an emergency ordinance and was effective immediately. She advised the Commission that

planning staff will be getting new copies of the code for their ordinance notebooks to them sometime in January. In the meantime, she told them that they can find both the strikeout version and the clean version available in the planning section of the City website.

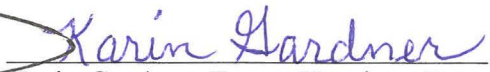
11.0 NEXT MEETING – January 9, 2007 (Work session / illegal lot policy discussion)

**Commissioner Churchill** moved to adjourn the meeting of December 12, 2006. **Commissioner Batey** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:55p.m.



Jeff Klein, Chair



Karin Gardner, Temp. Hearings Reporter

# MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL  
10722 SE MAIN STREET

## AGENDA TUESDAY, DECEMBER 12, 2006 6:30 PM

		ACTION REQUIRED
1.0	<b>Call to Order</b>	
2.0	<b>Procedural Matters</b> If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. Thank You.	
3.0 3.1 3.2 3.3	<b>Planning Commission Minutes</b> February 14, 2006 February 28, 2006 October 24, 2006  Approved PC Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Motion Needed
4.0	<b>Information Items – City Council Minutes</b> City Council Minutes can be found on the City web site at: <a href="http://www.cityofmilwaukie.org">www.cityofmilwaukie.org</a>	Information Only
5.0	<b>Public Comment</b> This is an opportunity for the public to comment on any item not on the agenda	
6.0	<b>Public Hearings - None</b>	Discussion and Motion Needed For These Items
7.0 7.1 7.2 7.3	<b>Worksession Items</b> Downtown public area improvements – Follow-up to Ed Parecki's public comment 11/14/06 Land uses in Hwy 224 commercial area Harmony Road Environmental Assessment project briefing	
8.0	<b>Discussion Items</b> This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	<b>Old Business</b>	
10.0	<b>Other Business/Updates</b>	Information Only Review and Comment
11.0	<b>Next Meeting:</b> Worksession – January 9, 2007 – Illegal lot discussion  The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

### Item for Future Meetings:

January 23, 2007 – Hearing on Community Service Use Application for DancEvolve

## Milwaukie Planning Commission Statement

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

### Public Hearing Procedure

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

**The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Planning Department office at 786-7600.**

#### Milwaukie Planning Commission:

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

#### Planning Department Staff:

Katie Mangle, Planning Director  
Susan Shanks, Associate Planner  
Brett Kelter, Assistant Planner  
Ryan Marquardt, Assistant Planner  
Jeanne Garst, Office Supervisor  
Karin Gardner, Administrative Assistant  
Marcia Hamley, Administrative Assistant  
Karin Gardner, Temporary Hearings Reporter



To: Planning Commission

From: Katie Mangle, Planning Director

CC: Kenny Asher, Community Development and Public Works Director  
Gary Firestone, City Attorney  
Susan Shanks, Associate Planner  
Ryan Marquardt, Assistant Planner  
Zach Weigel, Civil Engineer

Subject: Application of Public Area Improvement Requirements (MMC 19.312.5)

Date: December 5, 2006 for Work session December 12, 2006

### **Action Requested**

None at this time. The purpose of this memo is to explain the part of the Milwaukie Municipal Code (MMC) that requires Public Area Improvements in downtown Milwaukie, and how this policy has been applied to date.

### **Background**

At the November 14, 2006 Planning Commission meeting, Mr. Ed Parecki, owner of 10600 SE McLoughlin Boulevard, spoke during the Public Comment section of the agenda. He expressed frustration at the amount of public improvements the Planning staff has asked one of his new tenants to construct as part of receiving a Certificate of Occupancy. He reported that none of the other tenants in his building had been required to pay for public area improvements, asked if the code was being implemented fairly, and expressed concern about the requirements imposed on tenants. Several commissioners responded with concern and asked staff for background on how this section of the code has been applied in the past and what standards it sets for downtown development.

### ***Downtown Public Area Improvements Requirements***

In September of 2000, as one of the first steps taken to implement the *Downtown and Riverfront Plan*, the Milwaukie City Council amended several sections of the Zoning Code. One of the amendments re-zoned all of downtown and applied a new section, MMC Section 19.312 - Downtown Zones. This new section of the Zoning Code includes use and design policies, and also the requirement that private property owners construct improvements in the public right-of-way at the time of development (see Attachment 1, MMC Section 19.312.5).

One of the fundamental concepts of the Downtown and Riverfront Plan is to strengthen the Main Street "retail armature," and one of the tools for accomplishing this is to construct or install pedestrian-friendly amenities such as wide sidewalks, landscaping and benches. The purpose of the Public Area Requirements policy is to use downtown development as a tool to improve the public spaces in downtown. Over time, improvements within the public right-of-way will establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.

The City's Public Area Requirement policy requires all development and redevelopment projects in downtown to implement pedestrian-friendly improvements. In summary, the policy requires that:

- New development projects implement all public area requirements;
- Large renovation or expansion projects (for which the permit value exceeds 50% of the value of the land and existing improvements) implement all public area requirements on adjacent frontage;
- Smaller renovation or expansion projects that require a building permit must contribute "at least ten percent" of the development permit value toward meeting public area requirements.

#### *Public Area Improvement Projects*

The Commission asked how this policy has been interpreted and used since it was adopted. According to Planning records and previous Planning staff, this policy has been applied in a highly consistent manner since it was adopted. Recent public area improvement projects include the following:

- Electra Credit Union, which became Advantis Credit Union, at 10501 SE Main Street. New construction triggered public area requirements along the frontage of the building.
- St. John's Episcopal Church at 2036 SE Jefferson Street. Renovation in 2001 triggered the 10% requirement for public improvements.
- North Main Village at 10554 SE Main Street. Development in 2004-6 triggered public area requirements along the frontage of the building.
- Wunderland Theater at 11011 SE Main Street. Tenant improvements in 2005 triggered the 10% requirement for public improvements. The business contributed \$5,850 for installation of bike rack, bench, street tree and grate.
- Key Bank at 10888 SE Main Street. Tenant improvements in 2005 triggered the 10% requirement for public improvements. The business contributed \$45,000 for construction of the sidewalk extension at Main and Monroe Streets and re-striping of Monroe Street to add parking spaces. (In progress.)
- Advantis Credit Union at 10501 SE Main. Tenant improvements currently proposed would trigger the 10% requirement for public improvements. The business would pay \$2,700 for purchase and installation of bike racks. (In progress.)

#### *10600 SE McLoughlin Boulevard*

The Commission asked how this policy has been applied to 10600 SE McLoughlin Boulevard, Mr. Parecki's building. It appears that public area improvement requirements were not applied to the rehabilitation of this building and the subsequent tenant improvement (TI) permits, with the exception of the most recent TI permit for JL Hair Salon. After contact with previous City Planning staff, it appears that the City either assumed the ODOT project on McLoughlin

**Attachment 1**

**19.312.5 Public Area Requirements.**

- A. Purpose. The design of streets, sidewalks, and public spaces is critical to the overall character and vitality of the downtown zones. The public area requirements prescribe specific details and design criteria for improvements within the public right-of-way, to establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.
- B. Applicability. The downtown and riverfront public area requirements shall apply as follows:
1. All new development in the downtown zones shall comply with the public area requirements.
  2. Any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent of the value of the land and existing improvements, as determined by the county assessor, shall comply with the public area requirements. The building official shall determine development permit value.
  3. If the development permit value is less than fifty percent of the value of the land and existing improvements, as determined by the county assessor, then an amount equal to at least ten percent of the development permit value shall be utilized to meet the public area requirements. For example, if a one hundred thousand dollar improvement is proposed for a site with land and improvements valued at two hundred fifty thousand dollars, at least ten thousand dollars shall be dedicated to meet the public area requirements. Priorities for public area improvements shall be determined at a preapplication conference with community development department staff. In general, the public area requirements will be prioritized to benefit the pedestrian as follows:

First priority: Sidewalk improvements

Second priority: Street trees

Third priority: Streetlights

Fourth priority: Street furniture and bicycle parking

Boulevard would provide these improvements, or staff unintentionally overlooked the public area improvement requirement.

### **Next Steps**

The intent of the policy is to partially implement a continuous urban design and pedestrian amenities throughout the downtown as development occurs. The Code has been consistently interpreted, though less than consistently applied. The current policy does not include exceptions for tenant improvements, nor does it exempt sites at which the frontage already complies with the public area requirements.

The City Attorney advises that the City continue to apply the code as written. The City, however, must also apply the Nolan/Dolan test to ensure that the exaction is related to impacts caused by a development. Therefore, a site should only be required to construct or install public area improvements one time and not each time the building is remodeled to accommodate a new tenant, unless the new tenant creates additional impacts on the streets and sidewalks. As a result of this interpretation, if a new development triggers the public area improvement requirements, subsequent tenants of the development would not be asked to construct or install public area improvements unless they create additional impact. If the original development did not provide frontage improvements that meet the City's standards, new tenant improvements would trigger public area improvements as required by the code.

With regard to Mr. Parecki's property, because the City has not previously required that his development construct or install public area requirements, the current tenant improvements do trigger this requirement. Had the City required public area improvement requirements when the original building was developed, the tenant improvements would not have triggered public area improvements now.

### **Attachments**

MMC Section 19.312.5



To: Planning Commission

From: Katie Mangle, Planning Director

Subject: Preliminary Study on Zoning Changes in the Railroad Avenue/Highway 224 Commercial Area

Date: December 5, 2006 for Work Session December 12, 2006

#### Action Requested

At December 12<sup>th</sup> Milwaukie Planning Commission work session, staff will facilitate a discussion of the future of the Railroad Avenue / Highway 224 commercial area. The discussion at this meeting will focus on defining the City's goals for the study area and how land use changes could accomplish these goals. This memo provides background and outlines questions for this discussion.

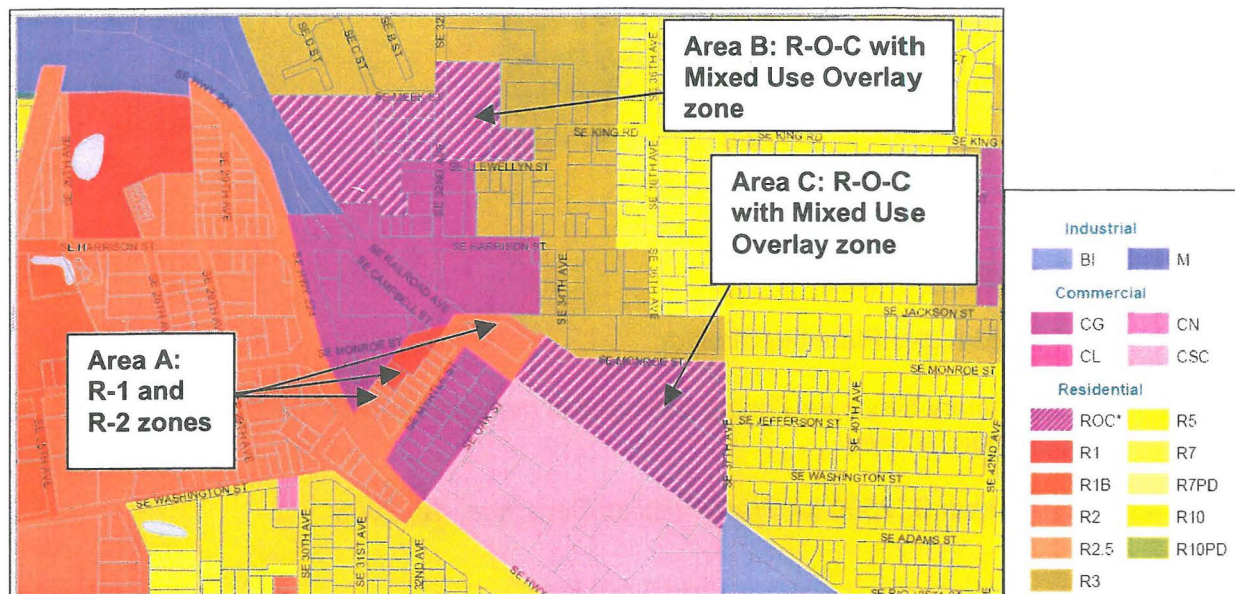
#### Background

The City Council has asked the Planning Commission to consider land use and zoning changes to several key parcels in the near future. The study area, shown in Figure 1 below, is included in the Milwaukie Regional Center Master Plan, but current conditions warrant a re-examination of the regulations that apply to the site. Current conditions include requests for zoning changes from developers and residents, the City's desire to encourage reinvestment in this area, and the potential transportation impacts that will be analyzed in the current Transportation System Plan update project. Though the study area includes several parcels in and around the Hwy 224/Oak Street commercial area, there are two separate land use problems to address:

1. Rezoning R-1 and R2 properties north of Hwy 224 for Commercial uses.
2. Improve "development readiness" for the parcels north of Hwy. 224 that are currently zoned Residential-Office-Commercial/ Mixed Use.

The work session discussion will be a preliminary discussion of the City's goals for a re-zoning study. The purpose of this preliminary study is to accomplish the following:

1. Have a thorough understanding of the existing Zoning and Comprehensive Plan requirements.
2. Outline the City's goals and objectives for the study area.
3. Identify zoning options that may better serve the City's goals for these parcels.
4. Outline the process for considering re-zoning.
5. Outline how such changes should be considered within the TSP update.

**Figure 1 - Map of Study Area**

The City has enlisted the services of consultant Mary Dorman, of the Angelo Planning Group, to advise the Planning staff and Commission on this initial study. Ms. Dorman has begun to outline the existing policies that apply to the sites (see Attachment 1), and questions for discussion at the work session, outlined below:

1. What are the City's goals for this commercial area? It is an important hub of commercial activity in the everyday lives of Milwaukians, but also a transportation link between all parts of the City.
2. What types of uses do you envision on these sites?
3. Does it still make sense think of this area as a Town Center, as designated in the comprehensive plan (Murphy & McFarland sites)? The policies for the Town Center in the Comprehensive Plan focus specifically on the Downtown and Riverfront area and do not mention these two Town Center sites.
4. If the City is interested in initiating or supporting a zone change from high density residential to commercial for area A, what type of commercial zone would be the most appropriate? Milwaukie's Comprehensive Plan describes six different types of commercial centers. The GC zoning was applied with the recent Gramor zone change, but the GC zone does not include any "pedestrian oriented" design standards.

Please give these questions some thought and come to the work session prepared to share your thoughts and suggestions.

#### Next Steps

Following this work session, Ms. Dorman will prepare a technical memorandum to the City that addresses the following:

- the City's existing policies and adopted goals for the area;

Planning Commission Memo -Zoning Changes in the Railroad Avenue/Hwy. 224 Commercial Area  
Page -- 3

- the key objectives, issues, opportunities and constraints related to future land use amendments in the study area;
- approaches to achieve the identified objectives (should the City initiate zone changes, or wait for a developer to do the work?);
- considerations the City should include in the Transportation System Plan update;
- a draft scope of work to accomplish the proposed amendments.

### **Attachments**

#### 1. Summary of Policies that Apply to the Study Areas

CC: City Council  
Kenny Asher, Community Development and Public Works Director  
Gary Firestone, City Attorney  
Ryan Marquardt, Assistant Planner  
Mary Dorman, Angelo Planning Group  
Interested Parties

**Attachment 1 -  
Summary of Policies that Apply to the Study Areas**

	<b>Area A</b> (Myrtle Street area)	<b>Area B</b> (Murphy Plywood area)	<b>Area C<sup>3</sup></b> (McFarland site area)
<b>Zoning</b>	R-1 and R-2 residential	R-O-C (Residential – Office – Commercial) and Mixed Use Overlay <sup>1,2</sup>	R-O-C (Residential – Office – Commercial) and Mixed Use Overlay <sup>1,2</sup>
<b>Comprehensive Plan Designation</b>	HD (high density residential)	TC (Town Center)	TC (Town Center)
<b>Town Center Master Plan</b>	Sub Area 4-2	Sub Area 2	Sub Area 4-1

**Notes:**

1. It appears that the Mixed Use Overlay was initially applied as a “transition zone” for the Milwaukie downtown and a few key “opportunity sites.” The McLoughlin Corridor Overlay and the Mixed Use Overlay were removed from the downtown area with the adoption of specific downtown zones and development/design standards. With removal of the Mixed Use Overlay from the downtown, the R-O-C zone and the Mixed Use Overlay are applicable only to these two sites.

2. The R-O-C and Mixed Use Overlay have been in place for almost 10 years for the two opportunity sites, areas B and C. No development has occurred at either of the sites and the existing regulations may represent an impediment to redevelopment.

3. The Department of Environmental Quality has declared that “no further action” is required for most of the site. The smaller, fenced, portion of the parcel would need a “cap.”

***Planning History***

- 1968 With the City’s first zoning code, Area B was zoned MG (manufacturing general), Area C was zoned A2 (higher density residential) with area of ML (manufacturing limited) along the southern boundary line.
- 1975 The ROC zone was added to the zoning code. Area B was zoned MG and Area C was zoned ML (Ordinance 1316).
- 1985 Zoning of both sites (Areas B and C) was changed to M (manufacturing).
- 1995 Area B was zoned M, Area C was re-zoned R2 (high density residential).
- 1997 *Town Center Master Plan* adopted (originally the *Regional Center Master Plan*). Mixed Use Overlay added to the zoning ordinance. Zoning for both sites changed to ROC with mixed use overlay. Comprehensive Plan designation was changed to Town Center.
- 2000 The McLoughlin Corridor Overlay and the Mixed Use Overlay were removed from the downtown area with the adoption of specific downtown zones and development/design standards.
- 2005 Gramor project initiated and received a zone change for the parcels east of Myrtle Street, north of Hwy 224. Zoning was changed from R2 to CG.

### Summary of Mixed Use Zone Development Standards

- Required Mixed Use: 1:0.5 to 1:2 FAR Commercial to Residential S.F.
- Required Ground Floor retail or service uses.
- Buildings must be oriented to the street; parking to the side or rear.
- Primary residential entries must be oriented to the street.
- Uses may be clustered or separated.
- Densities from 25 to 50 Units allowed subject to meeting 7 of 13 design requirements. See 318.8(A)(18)
- 30% min. Vegetation
- Height: 2 Stories/35 feet within 50' of 37th & Monroe; elsewhere 3 stories
- Min 20-foot setback on yards abutting single family residential; Upper Floor setbacks may be required.
- Lot Width 50'; 30' for single family attached or condo when following is provided: retail, parking at rear or side, shared parking, structured parking,
- Distance between buildings: 6' per story/5' per story over 1.
- Planning Commission review of the project design is implied with the Mixed Use Overlay, but few standards are provided regarding "design" elements such as building orientation, maximum setbacks, etc.

Application of the Mixed Use Overlay on top of the R-O-C base zone results in a complex and very prescriptive zoning scheme.

# Harmony Area Projects

## Harmony Road & Sunnybrook Boulevard

Volume 1, Issue 1  
October 2006

### Introduction

It's no secret that both the population and economy of Clackamas County are growing. That's a good thing, but it also presents challenges. One of the biggest challenges — faced by local and regional residents and businesses every day — is increasing traffic.

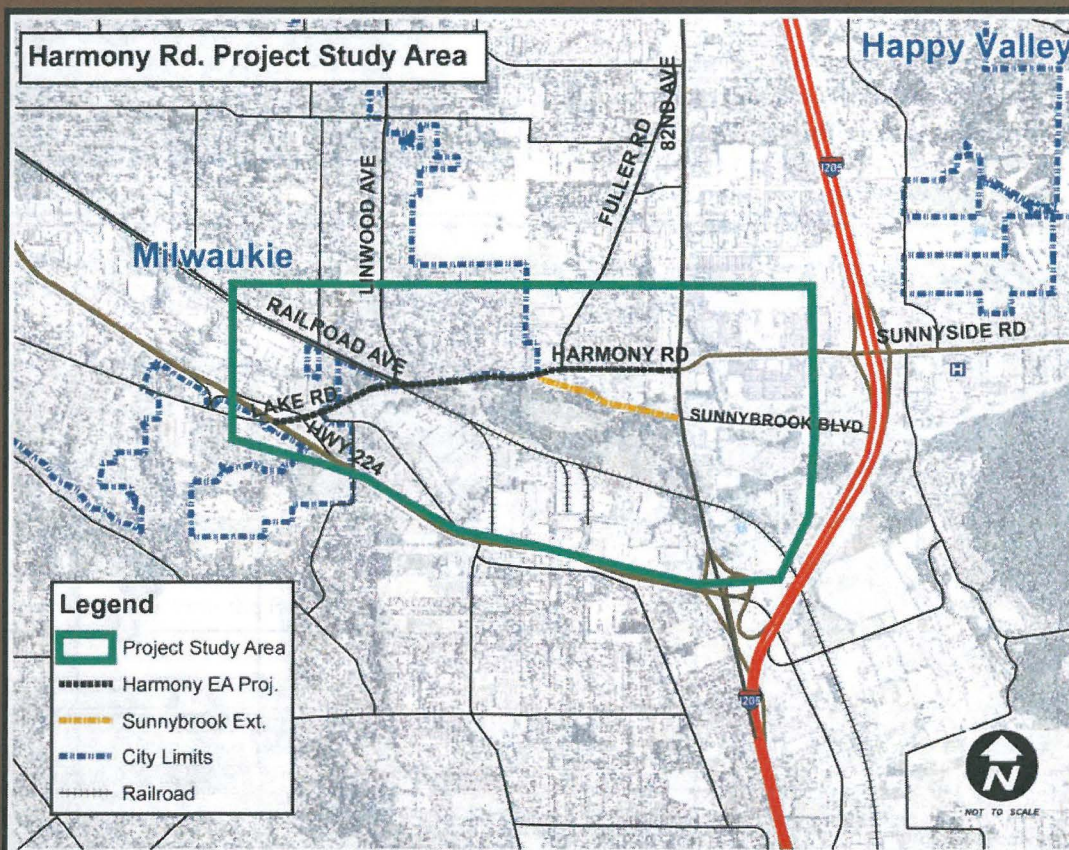
Traffic congestion, longer waits at intersections and decreased safety are the result. That not only makes life more inconvenient for area residents and employees, but also has a negative impact on economic growth locally and in the region as a whole.

Clackamas County has begun work on two different projects to increase safety and reduce congestion along Harmony Road.

The first project is the Harmony Road Environmental Assessment (EA). Clackamas County, in

partnership with the Oregon Department of Transportation (ODOT) and the Federal Highway Administration (FHWA), are conducting an environmental assessment to determine the positive and negative social, economic and environmental impacts of proposed transportation improvements along Harmony Road. More information about the Harmony Road EA is highlighted in yellow throughout this newsletter.

The second project is the Sunnybrook Boulevard Extension. Clackamas County will be conducting final design work to extend Sunnybrook Boulevard west from its current terminus at SE 82nd Avenue to Harmony Road. Public input will be important to help design the best alternative for this extension. To read more, check out the text highlighted in green in this newsletter.



### The Need

Harmony Road between 82nd Avenue and Highway 224 is an increasingly important east-west traffic corridor in northwest Clackamas County. This two to three-lane roadway ...

- Is a major roadway for both local traffic and regional through traffic.
- Is used by an average of 17,000 vehicles every weekday.
- Has limited facilities for bicycles and pedestrians.
- Serves as a key connection to the Clackamas Town Center area from the west.
- Is crossed by railroad track, at road level, used by approximately 32 trains every day.
- The tracks that are part of the designated high-speed rail corridor between Eugene and Portland.
- Is served daily by TriMet transporting people from the Milwaukie Transit Center to the Clackamas Transit Center.

The Harmony Road area supports a wide variety of residential, commercial, industrial and institutional land uses.

"The Need" continued on page 3

## The Preliminary Goals

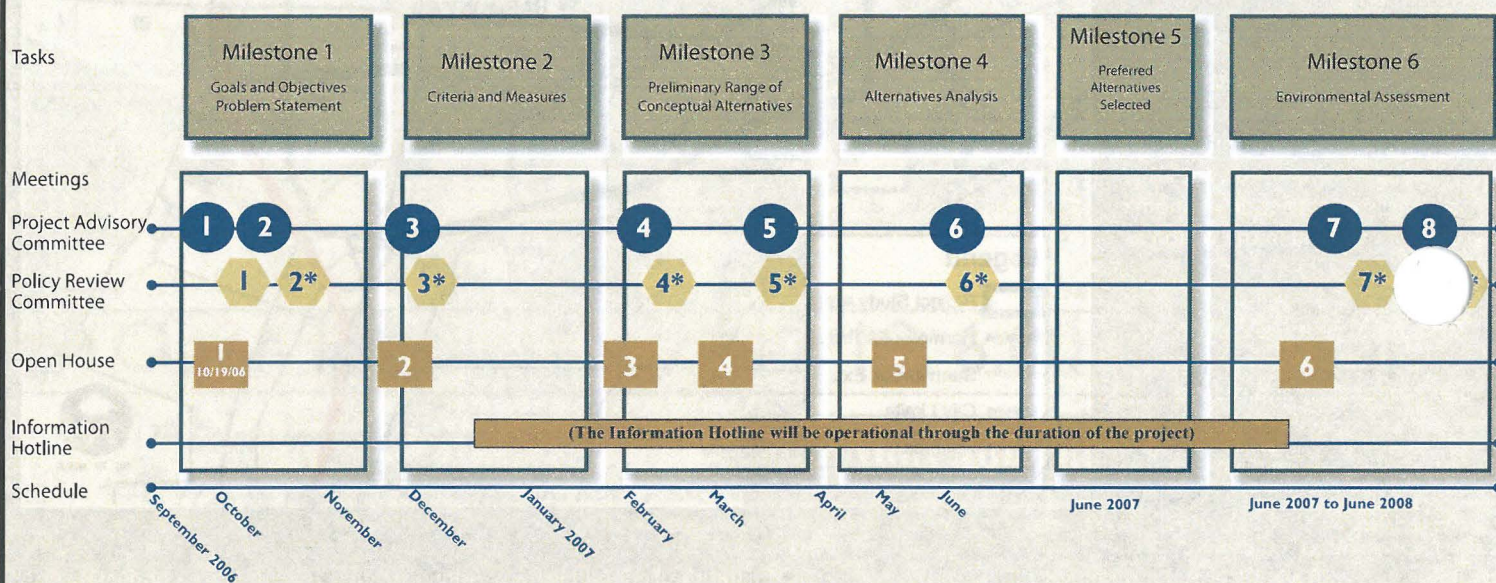
- To provide an east-west transportation facility from 82nd Avenue to OR 224 to meet existing and future safety and capacity needs for regional and local traffic and to provide for a safer crossing of the high speed rail corridor.
- To provide a facility that is sensitive to the local environmental and community issues.
- To provide a facility that improves the viability of the industrial/commercial areas and protects the integrity of the residential areas.



Looking west from the intersection at SE Harmony Road and SE 82nd Ave



## Harmony Road Environmental Assessment Project Development Schedule



\* = The remainder of the PRC meetings may be conducted through Email

## The Process

With input and involvement from the public, experts, and other involved agencies, we will identify what is and isn't working in the Harmony Road area, and determine the best options to increase safety, reduce traffic congestion, and support the smooth flow of car, freight, bicycle, pedestrian and train traffic.

The improvement of Harmony Road begins with an environmental assessment\* – a process required by the federal government. This process, which will take approximately 18 months to complete, includes the following steps:

1. Defining current transportation problems
2. Establishing goals and objectives
3. Setting criteria to evaluate project alternatives
4. Developing alternatives to resolve the problems defined in step one
5. Evaluating the alternatives using the criteria identified in step three to choose the most viable alternatives
6. Conducting an environmental assessment\* and report of the most viable alternatives or the "preferred" alternative

\*Environmental assessment – Determining the positive and negative social, economic and environmental impacts of the proposed project by identifying community concerns and issues, developing alternatives solutions, evaluating the impacts of those alternatives and selecting a preferred alternative.

## Who's Involved?

The Harmony Road Project is overseen by Clackamas County, the involvement of and funding from the Oregon Department of Transportation (ODOT) and the Federal Highway Administration (FHWA). The County has contracted with a consulting firm, Otak, to assist with the project.

In addition to the public and organizations involved in area growth (such as Clackamas Community College and North Clackamas Parks), two local committees will be involved throughout the process.

### Policy Review Committee (PRC)

Comprised of representatives from appropriate local and regional government and community agencies (such as Clackamas County, the City of Milwaukie, and Metro). Will be responsible for:

- Providing overview and direction to the project
- Sharing information between the agencies they represent and the PRC
- Making recommendations to Clackamas County

### Project Advisory Committee (PAC)

Comprised of people who represent the area and technical experts. Will be responsible for:

- Reviewing and providing feedback on the project
- Sharing information between the people they represent and the PAC
- Making recommendations to Clackamas County

Final decisions about the projects will be made by Clackamas County Board of Commissioners, based on recommendations from the PAC, PRC staff, as well as input from the public.

## "The Need" continued

Single-family and multi-family dwellings, small businesses, the Oregon Institute of Technology (OIT) and Clackamas Community College, large retail stores and the North Clackamas Aquatic Park all coexist along this 1.25-mile stretch of roadway.

The number of people living and working in this area is growing dramatically, and this high level of growth is expected to continue as illustrated by the preliminary numbers below.

Year	1994	2005	2030
Jobs	18,845	22,064	32,795
Households	Approx. 3,000	3,898	5,202

This growth, along with tentative expansions planned in the area by Clackamas Community College and North Clackamas Parks and Recreation, is projected to double current traffic volumes on Harmony Road within the next 25 years.



Intersection at SE Sunnybrook Blvd and SE 82nd Ave

## Sunnybrook Boulevard Extension Project

Sunnybrook Boulevard currently extends west from Sunnyside Road and ends at 82nd Avenue. Sunnybrook Boulevard is a major, five-lane arterial roadway with a traffic load of approximately 11,000 vehicles each weekday. The proposed extension of Sunnybrook Boulevard west from 82nd Avenue to Harmony Road would relieve traffic congestion on both Harmony Road and on 82nd Avenue.

The extension of Sunnybrook Boulevard to the west, from 82nd Avenue to Harmony Road, begins with the development of a final design for the roadway. The process, which will take place concurrently with the Harmony Road environmental assessment, will include analysis of the following factors:

1. Community – impact on property owners and rights-of-way; adherence to zoning and development requirements
2. Traffic – number of lanes, access to adjacent properties, and location of traffic signals and intersections
3. Environment – protection of trees, wetlands and floodplains, native plants, wildlife and fish species; water quality
4. Engineering – slope stability, options for retaining walls

## We want to know what you think!

The Harmony Area Projects are being undertaken by public employees, with public funds, to improve transportation and livability for you – the public. Regardless of whether you're a resident, employee, business owner or traveler in the Harmony Road area, you are the one who will be most affected by the results of these projects.

That's why we want to hear from you – and we're providing lots of opportunities for you to learn more about the projects, ask questions and express your opinions.

**Open Houses** – Six public open houses are planned through the course of these projects. We encourage you to attend as many as you can. All the open houses are scheduled from 6-8 p.m. The first Open House is October 19th at the OIT Metro Campus.

**Newsletters** – This is the first of a series of newsletters that will be sent out to keep area residents, businesses and others informed about the progress being made on the projects. If you would like to be on the mailing list for future issues, please call 503-697-2716.

## Open House: October 19, 6:00 - 8:00 pm

Room 178, Oregon Institute of Technology (OIT) Metro  
Campus  
7726 SE Harmony Rd., Milwaukie  
(Please enter on the back [south] side of the OIT building)

Come join us at our first Harmony Road/Sunnybrook  
Boulevard open house to:

- Learn more about the Harmony Road Improvement and Sunnybrook Boulevard extension projects
- Comment on the proposed goals and objectives
- Meet and talk with members of the project teams

### For More Information:

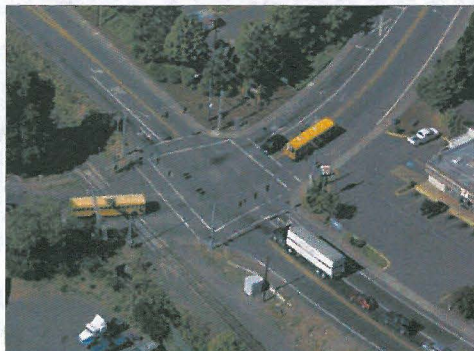
Call the project information line: 503-697-2716  
Go to the project web site:  
[www.HarmonyRoadEA.org](http://www.HarmonyRoadEA.org)

### Si necesita información:

*Si necesita información de este proyecto en Español,  
favor de llamar a 503.697.2701 y deje un mensaje. Un  
representante le llamara lo mas pronto posible.*



Heritage Tree at SE Harmony Rd & SE Foster Rd



Intersection at SE Harmony Rd & SE Linwood Ave



Intersection at SE Sunnybrook Blvd & SE 82nd Ave