CITY OF MILWAUKIE PLANNING COMMISSION MINUTES TUESDAY, May 23, 2006

COMMISSIONERS PRESENT

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

STAFF PRESENT

Katie Mangle,
Planning Director
Brett Kelver,
Assistant Planner
Gary Firestone,
Legal Counsel
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

None

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

- 2.0 PROCEDURAL QUESTIONS -- None.
- 3.0 CONSENT AGENDA
- 3.1 Planning Commission Minutes -- April 11, 2006

Commissioner Newman moved to approve the minutes of April 11, 2006 as revised. Commissioner Batey seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Klein, Newman, Hammang

Nays: None

Abstentions: Scott

The motion carried 6-0 with one abstention. Scott Churchill was not at that

meeting.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings

6.1 Initiation of Legislative Amendments

Applicant:

City of Milwaukie

Proposal:

Text amendment to 19.321, Community Service Overlay

and Comprehensive Plan

File Numbers:

ZA-06-01/CPA-06-01

NDA:

All

Chair Hammang opened the hearing on Zoning Ordinance Amendment ZA-06-01 and Comprehensive Plan Amendment CPA-06-01 to consider a recommendation to the City Council in support of amending the Milwaukie Municipal Ordinance Section 19.321 and Comprehensive Plan Chapter 4, Recreational Needs Element and Chapter 5, Transportation/Public Facilities/Energy Conservation, Public Facilities and Services Element.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? Commissioner Batey stated that she is recusing herself from this issue because of the potential for bias; she has been advocating and supporting the Clear Water Project and attending meetings of the Citizens Advisory Council regarding this matter. She left to sit in the audience.

There were no other conflicts of interest or ex-parte contacts declared.

Chair Hammang recessed the hearing at 6:41 p.m. as the code provides that text amendments are to be initiated by the either the Planning Commission or City Council.

Commissioner Brinkman moved to initiate the proposed text amendments to the Milwaukie Municipal Ordinance and the Comprehensive Plan. Commissioner Bresaw seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Klein, Newman, Scott, Hammang

Navs: None

The motion carried 7-0.

The hearing reconvened at 6:45 p.m.

STAFF REPORT

Katie Mangle reviewed the staff report with the Commission. The comprehensive plan amendments clearly state the City's policy to make reasonable efforts to bring about the decommissioning of the Kellogg Creek Waste Water Treatment Plant. The amendments to the comprehensive plan set policy to achieve the goal of removing the wastewater treatment plant.

The text amendment to Section 19.321, now Community Service Overlay, accomplishes the following:

- Rename the section to Community Service Use
- Improve legibility and applicability of the standards for approving that use
- Apply same development standards to public, private and religious institutions
- Specify that major utility facilities including sewerage treatment plants are not a permitted community service use

Nonconforming community service uses are addressed in a new section in the amendments and will allow nonconforming uses to remain in use until 2015. Until 2015 expansion, upgrades, and remodeling are not permitted except where required to abate nuisances. These amendments will establish a major utility fee for nonconforming use after 2015.

The Community Service Overlay (CSO) is an important part of how Milwaukie manages land use. Every church, building, park, etc. has gone through a process for any modifications. The Kellogg Creek Wastewater Treatment Plant is sited in the Willamette Greenway Zone north of the Island Station neighborhood and adjacent to Milwaukie's revitalizing downtown; sewerage is treated at this plant by Clackamas Service District (CSD) #1. It was originally built and permitted under a conditional use permit in 1970 and have since gone through several CSO modification permits.

The amendments to the community service use are a goal to make this a better or more effective tool for residents, staff and the city. It states the City's current policy to pursue the decommissioning of Kellogg Creek Plant for the future and define the plant which is currently not addressed in the code, as a nonconforming use and permitted extension. The City envisions redevelopment of that site and for environmental, economical and social reasons and development of the waterfront will maximize the use of that site. It has been documented in many plans that have been adopted as policy of the City (Downtown Riverfront and Land Use Framework Plan, Comprehensive Plan, August 2005 Intergovernmental Agreement (IGA) with CSD#1). In 1999, the last time the Kellogg Plant was here for modification to the CSO, the staff report and Planning Commission both acknowledged that permitting small improvements may be contrary to the community's long term goals. The community was concerned about the longevity of the plant at that time and uncomfortable about making small changes that did not fit with the long-range goals of the community.

The present zoning and comprehensive plan policies have not been effective in achieving the city's goals and staff is looking for more effective ways of doing that.

There are criteria that apply to legislative actions; code amendments, comprehensive plan amendments, etc. The requirements deal with holding public hearings, providing notice to the public and other agencies, and submitting applications. The approval criteria focuses on making sure that the amendments conform to the Comprehensive Plan, Metro Urban Growth Management Functional Plan, and the State Planning Goals.

The criteria that apply to the Comprehensive Plan Amendments deal with the conformance to the Comprehensive Plan, public need for the change, public need satisfied by this particular change, the change does not adversely affect the health of the community, compliance with the State Planning Goals and consistency with the Metro Functional Plan.

Attachment I of the staff report identifies how the amendments meet the goals. The staff report has been shared with all the neighborhood district associations in the city, proper notice has been given to Clackamas County property owners and Clackamas County Service District and other interested parties.

Section 19.905.1A outlines the requirements for approving the new text amendments. The staff report outlines in detail these requirements.

These amendments meet all the applicable criteria and fulfill the policies to bring the City into compliance in regards to natural resources, Willamette Greenway and Town Centers.

The key issues addressed are:

- 1. Do the proposed zoning code and Comprehensive Plan amendments meet the approval criteria?
- 2. Do the proposed Code amendments affirm and clarify existing policy regarding community service uses, making the use of this zoning tool more effective?
- 3. The City of Milwaukie Community Development Department proposes Zoning Code and Comprehensive Plan amendments that would result in decommissioning the Kellogg Sewerage Treatment Plant over the long term.

In response to key issue #1, as shown in Attachment 1, Zoning and Comprehensive Plan Amendment Criteria Checklist, the proposed amendments meet the approval criteria for text amendments to the Zoning Code and Comprehensive Plan amendments.

Key issue #2 applies to the housekeeping points of the amendments, Section 19.321. These amendments clarify the intent of the CSO for changing the title from Community Service Overlay to Community Service Use, clarifies that this is not a zone change; it is something that is a part of a conditional use. The

amendments also clarify how the minor modifications to the CSO are approved and what the criteria are. The public benefits test was in the code, but it was not labeled as a criterion; adding this will help the applicants to remember to include the public benefits test and help the Planning Commission to be able to apply it in their decision making process.

The amendments modernize the language; for example substituting religious institutions for churches. A new provision is included that specifies that minor modifications cannot cause any public facility to fail to meet standards for transportation, safety, wastewater, sewerage, etc. Additional language in Section 19.321 addresses the major utility facilities and implements the proposed comprehensive plan amendment.

Issue #3 addresses the City's desire to decommission the sewerage treatment plant and cooperate with regional partners for the proper sewerage treatment service, maintain public access to the riverfront and emphasizing the regional approach to wastewater treatment while protecting the environment; and protecting and enhancing the downtown neighborhoods around it. These amendments reflect the comprehensive spirit of promoting orderly service and partnership with regional partners. The amendment to the public facilities and service element, Objective 5, Policy 5 states that the City "...will cooperate with the County, county service districts and other parties in examining feasible alternatives for sewerage disposal in the transition from the Kellogg Plant to some other sewerage treatment facility."

The Zoning Code amendments that are related to major utility facilities are intended to specify that major utility facilities (including sewerage treatment plants) are not a permitted community service use. They address nonconforming community service uses in a new section. This new section will allow nonconforming uses to remain in use through 2015 to prohibit expansion, upgrade, remodeling except as required to abate nuisances. These amendments establish a major utility fee for nonconforming utilities after December 31, 2015.

Staff believes the proposed amendments are consistent with policy direction provided by the Planning Commission with regards to application of the Community Service Use and the long-term desire to decommission the Kellogg Creek wastewater treatment plant. The amendments are consistent with applicable provisions of the Zoning Ordinance, Comprehensive Plan, the Statewide Planning Goals and Metro Functional Plan. Staff recommends that the Commission recommend that the City Council approve the amendments.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Bresaw asked if the CSD#1 services more than Milwaukie? Gary Firestone stated that a large portion of Clackamas County is served by

CSD#1, as well as Milwaukie. The city is not within the service district; the treatment plant is operated by the service district and the city contracts with the service district for disposal of sewerage. Sewerage treatment plants are typically located near rivers at water levels; the systems operate largely on gravity making them economical to operate.

Scott Churchill asked how staff arrived at the date of December 31, 2015 for major utility fees? **Mr. Firestone** stated that there was an agreement with the county regarding regionalized sewerage treatment plans being completed by this date; however, the county changed it's mind because they need more time. The city's agreement with the district is currently a continuation from the previous negotiations; it is a month-to-month contract at this point.

Chair Hammang asked if the Commission has the authority to enforce these amendments as proposed? Mr. Firestone stated that he feels the commission does have the authority. The amendments do not change the zone and do not have to meet zoning change requirements. As to the provisions related to major utilities, there is an issue with the existing code. The examples of utilities that are given in the existing code indicate pumping stations, lines in the street, etc. and do not expressly address major utility facilities. These amendments are a clarification that major utility facilities are not allowed. A recent memo from Beery, Elsner and Hammond challenges the city's authority to do this. It is Mr. Firestone's opinion that the City does have the authority. He suggests fine-tuning some of the provisions to make sure of consistency with applicable goals. These amendments would also protect the city from other major utilities locating in the city.

Commissioner Churchill asked if there is historic precedent that other jurisdictions don't allow major utility facilities? Mr. Firestone stated that there are jurisdictions that don't allow major utility facilities, however, he is not aware of any jurisdictions that have attempted to address the issue when they already have one.

TESTIMONY IN FAVOR

Dave Ashenbrenner, 11505 SE Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he feels overall this is the right direction for the city. The changes to the Community Service Overlay zone is something that needs to be done. This will clarify that special uses are not zone changes.

The major utility facility type issues also need to be addressed and worked out. Staff has done a good job on covering the basis on this issue. For years there have been plans and directions for this city regarding green spaces and open spaces. Overall staff has done a good job and he would be interested in the comments that

will come up tonight and he would like the opportunity to comment later on what he hears tonight.

His major concerns have been financial; he is willing to work with people in the region to solve some of the issues and concerns regarding utility facilities. The City of Milwaukie will continue to work with the community at large, the region and residents to solve regional issues on a regional basis.

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS FROM THE AUDIENCE -- None.

TESTIMONY IN OPPOSITION

Speaking: Jim Knapp, 4401 SE Risely Avenue, Milwaukie

Mr. Knapp stated that he is not a resident of the City of Milwaukie; he has lived in the unincorporated area of Clackamas County at his present residence for 11 years and has been a resident of Clackamas County for 53 years. He is a ratepayer, customer, and taxpayer of CSD#1 which provides sanitary service to him, his neighbors, and the City of Milwaukie. The Kellogg Sewerage Treatment Plant is an asset to the District, and is paid for by the ratepayers of CSD#1. Actions that attempt to restrict or abolish the Plant affect his rates, taxes, parts of the Clackamas County Comprehensive Use plan of CSD#1 and his health and the health of his neighbors.

Mr. Knapp informed the Commission that he is here tonight in opposition to the proposed amendment to the zoning ordinance. He feels this is an attempt to use the state law to condemn the Kellogg Sewerage Treatment Plant by prohibiting the improvement of the Plant to meet future health and clean water regulations and to levy a tax on the Plant and residents of CSD#1 under the name of nonconforming use fee. The proposed amendment violates Sanitary Sewer Objective Number 5 of the Public Facilities portion of the City of Milwaukie Comprehensive Land Use Plan. He would like the City to identify what it will do over the planning period to deal with the waste that it generates. He suggests a moratorium on building a new economic activity until it has a concrete plan for waste treatment and the facilities to deal with the waste treatment in place. Understanding Milwaukie's desire to reclaim its waterfront and redevelop it for private enterprise, he asked that the Commission consider whether the desire for economic gain should outweigh an adequate and affordable provision for public health, safety, and welfare.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Klein noted that by not controlling the sewerage treatment plant's growth, the City of Milwaukie would be causing harm to the City from residential property revenue sources. Mr. Knapp stated that he is on the Citizen's Advisory Council for Clackamas County and they have reviewed these issues. He encouraged a city representative to come to the meetings and look at what information they have. When this plant was built in 1974 it was designed for 20 million gallons a day (MGD) and today it is only utilizing 20 MGD. It was always the intention to have a working relationship with Milwaukie. He found a manual written in 1980 and revised in 1986 regarding the design and location of the plant and that it was favorable with the Milwaukie citizens to provide the sewer service for the area.

Speaking: Thomas Sponsler, 1750 SW Harper Way, Suite 380, Portland, OR 97301

Mr. Sponsler stated that he is here tonight as the lawyer representing CSD#1 as well as the cities of Happy Valley and Gladstone. He apologized for just getting in his response to this issue today; however, he was retained only 10 days ago to represent these three clients. He feels it is a mistake for Milwaukie to undertake these amendments without further study and consideration. The proposed amendments in the Comprehensive Plan and the Zoning Code do not meet the criteria because they are not consistent with State Planning Goals or un-amended portions of Milwaukie Comprehensive Plan.

His memo divides his considered legal problems into seven parts: (1) Proposed amendments violate statewide planning goals 2, 6 & 11; (2) Proposed amendments violate Milwaukie Comprehensive Plan; (3) Proposed amendments violate Metro code; (4) Proposed amendments violate Intergovernmental Agreements; (5) Proposed amendments violate Federal Law; (6) Proposed amendments violate State Law and (7) City does not have legal authority to adopt proposed amendments.

Goal 2 deals with coordination. Milwaukie is not within the Sanitary Sewer District; the only way Milwaukie gets sewer service is because it is contracted. There have been 12 IGA's between the CSD and Milwaukie:

- The first agreement was made in 1969 before the plant was built
- There is an agreement that is still in effect from 1970 which forms the way the rates are calculated and has a 180 day termination provision which was repeated in subsequent IGA's and still in effect today
- An agreement entered into in December, 2000 which repeated the 180 day termination provision
- A July 2002 agreement wherein the City of Milwaukie convinces itself to have a pre-treatment program enforced by ordinance and therefore taking on the obligation of making sure that the plant complies with Federal Clean Water Standards and DEQ permit.

Approximately 40% of the capacity of the plant is used by the City of Milwaukie; 60% is outside the City. The cities that he represents tonight are within the district; they have a different relationship to the District. The residents of the City of Happy Valley and 20% of the residents of Gladstone are within the District and therefore direct customers. The District has a direct obligation to provide them with sanitary sewer services. The City of Milwaukie has the obligation to provide the collection system and treat the sewerage through a contract. The proposed amendments would make it illegal to have a sewerage treatment plant within the city, not just Milwaukie, but in any city. If the agreement was terminated by the District or the City, where would the City get its sanitary service? The cost of that service would be considerably higher than the current agreement. Some of the proposed amendments to the Comprehensive Plan are inconsistent with other portions of plan that are not proposed for amendments.

Goal 6 addresses water quality. One of the major problems of this amendment is that it precludes altering the use or operations of the plant. This will result in legal problems with Federal and State law as well. Proposed Section 19.321.7, states "...prohibited by another section but allowed to remain as a nonconforming use but may not be enlarged, upgraded, remodeled or altered in any way..." No changes in the operation, such nonconforming uses are permitted. This means that changes in the operation of the plant cannot be made under city law in order to comply with the DEQ permit. Currently there is an enforcement action pending against the plant regarding ammonia. If this ordinance were in effect, it would prevent that plant from changing its processes and operations to comply with DEQ. This is a water quality issue and a violation to Goal 6.

The City of Milwaukie Sewerage Facilities Plan dated 1994 is premised on the wastewater treatment being provided by the Kellogg Plant. This plan provides for the needs and facilities to serve Milwaukie to 2010. It assumes that wastewater treatment will continue being provided through the District and anticipates the expansion of the Kellogg Plant.

He agrees that the City can amend their Comprehensive Plan, however he does feel it has to be done in a different way than with these amendments and probably in a different order. There is a new sewerage treatment plant under consideration and may be done by 2007, but he doesn't feel the City can at the same time propose amendments that strike out some of the provisions of the Plan or chose to ignore them. This is the basis of the City's compliance with Goal 11, Public Facilities.

There are no amendments to the existing Comprehensive Plan that would make the proposed amendments consistent with the Comprehensive Plan. These proposed amendments also are inconsistent with City Comprehensive Plan Chapter 3, Objective 4, Policy 1, which states that Milwaukie will continue to support and participate in regional planning programs to improve sanitary sewer services in the area. The City will continue to cooperate with the Clackamas County Service District #1 for the collection and treatment of sanitary sewerage. There are no findings about this proposal. This inconsistency is a separate violation of State Goal 2 that requires coordination with all agencies (including DEO) for the treatment of city sewage at Kellogg.

Chapter 5, Objective 5, Policy 1, which deals with sanitary sewer service states that the City will continue to cooperate with the CSD#1 in contracting for the full capacity of the Kellogg Treatment Plant. The City will comply with Federal and State clean water requirements in managing waste water collection. The decommissioning of the plant would be in violation of the rule and the proposed amendments are inconsistent.

Comprehensive Plan Chapter 2, Objective 1, Policy 7 requires that the amendments be consistent with the State wide goals and he believes that they are not. The zoning code requires that the proposed amendments comply with Comprehensive Plan goals, policies and objectives.

Mr. Sponsler stated that the e-mail goes on to talk about the violations that he feels exist with these proposed actions. He feels that Milwaukie has the authority to do some of what is proposed; however, he disagrees with much of what is proposed. He has no objection to the housekeeping amendments but he does strongly object to the Comprehensive Plan amendments to Chapter 7, Policy 5 which will make the existing facility a nonconforming use and restricting modifications of sewer treatment use. The proposed amendment to the zoning code goes well beyond that; it is an attempt to control operations and puts into place punitive financial obligations. If these amendments go into effect, the plant would become nonconforming and immediately be responsible for a \$90,000/mo. payment until December 31, 2015. These amendments are not only illegal, they are expensive because of the litigation that ensues. Any costs imposed by this plan would have to be borne by all the customers. These actions are counter productive and not in the best interest of the City of Milwaukie or his clients and they hope that other options will be pursued and successful.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Brinkman noted that Mr. Sponsler noted several times the concept that by making these amendments the City is not cooperating and working with other governments. CSD#1 excluded Milwaukie from the task force on relocating the plant. She stated that she would be interested in having some citizens from Happy Valley come and make comments on the treatment

plant. She asked where the treatment plant would get the 40% revenue that the City of Milwaukie brings in.

Commissioner Churchill asked what compliance upgrades have been done to the treatment plant since 1970?

Speaking: Ted Kyle, Planning and Engineering Manager, Water Environment Services, CCSD#1, 9101 SE Sunny Brook Blvd., Suite 441, Clackamas

Mr. Kyle stated that he did not bring a full list of the upgrades made to the treatment plant; if the Commission wants a full list he will get it to them. Some updates included:

- A modification to the process in 1995 to replace the chlorine system with ultra-violet lights.
- Upgraded the aeration basin in late 1990 to bring the discharge into compliance with permit requirements
- Added odor control in response to nearby neighbors in early 2000
- Digesters were built in 1985 to stop hauling raw sledge off the site

There have been a number of upgrades to the site; however, the capacity has never been enlarged.

Commissioner Churchill asked if pre-treatment before entering the City of Milwaukie has been considered? Mr. Kyle stated that they have explored nine separate studies on the topic of what to do with wastewater in the North Clackamas region. He participated in six of the nine studies. In early January of 2000, an action that was taken was a reduction of 10% of the loading from the North Clackamas area now being treating at a different location than Milwaukie. In addition they operate a pre-treatment program and require the industrial users to meet Federal and local limits on what they can discharge into the system.

The plant was originally designed to treat 10 MGD; today it is treating 20,000 lbs of suspended solvents and running about 8-1/2 MGD. People are using less water to flush the same waste as previously. The plant has successfully met permits for the last five years with the exception of the January issue. There are newer technologies that could be employed; if one was designing a new plant they would use much of the same technology, just employ it slightly differently.

Commissioner Bresaw asked if the footprint of the facility could be smaller because of state of the art technology? Mr. Kyle stated that there are new technologies that haven't been proven at this scale that would be a significantly smaller footprint.

Commissioner Klein asked what limitations would be imposed to the treatment plant if these amendments were adopted. Mr. Kyle stated that if they could not

change operation today, they would probably violate their permit. They just received a new permit from DEQ and there is a requirement to reduce ammonia emissions. Operations will have to be changed to reduce ammonia emissions and this amendment would prevent that. To bring the plant into compliance it may require them to build new tanks, new facilities, new concrete boxes, and may result in decommissioning and reducing the footprint. It may also require some processes that are not currently being used.

Commissioner Churchill asked if it was possible to do pre-treatment outside the City of Milwaukie? Mr. Kyle said no it is not possible to do pre-treatment outside of the city; the ammonia is coming in system-wide and the plant itself wouldn't be able to solve the problem.

Gary Firestone stated that the way the proposed amendments are currently written it would make the plant a nonconforming use. Any changes would have to come before the City for approval as a means of abatement. Staff has considered revising the amendments to allow for staff suggestions to allow needed changes for the purposes of meeting Federal and State requirements without allowing for expansion.

Mr. Sponsler stated that if the City's concerns are physical (the footprint will not be expanded, or height issues, etc.) there are some possibilities for compromise, but operations cannot be controlled by the City.

Commissioner Klein asked for clarification of the current capacity. Mr. Kyle stated that that there is a little capacity left; they can continue to add users. They can make it through this summer but he is not certain about next summer. It is hard to determine the capacity or the reliability of the capacity. He is concerned about having a major violation.

Commissioner Klein voiced concern that it is being projected that 700,000 people will be moving into Clackamas County. Happy Valley is growing at an uncontrollable rate and Milwaukie is built out and the potential growth will be a lot less than what's coming in the County. He is concerned that the logical solution is to expand the plant. Mr. Kyle stated that there are a lot of groups working on this issue. He doesn't know if expansion is the best option. The County Commission had decided on an option and changed its mind. He hopes that everyone can come together and work out a solution that is to everyone's advantage.

Gary Firestone explained that Mr. Kyle is a representative of the Service District and can only speak as a representative.

Commissioner Churchill asked where the 10% diversion of waste was diverted to? **Mr. Kyle** said the Tri City Plant in Oregon City. The capacity of that plant is

18,000 lbs. and it is running about 18,000 lbs. There is 2,500 lbs in the 10% referred to. There are a number of places that capacity could be built that would address the proposed 10% increase in Clackamas County. Under current systems that are in place there is no available capacity existing.

Commissioner Churchill asked if inland facilities have been considered? Mr. Kyle stated that other locations have been considered in past plans. Consideration has been given to expanding Oak Lodge, the Tri City plant, adding a new plant, etc.

Recess was taken at 8:15 p.m. and the meeting reconvened at 8:26 p.m.

ADDITIONAL COMMENTS FROM STAFF

Katie Mangle reported that the City wants to do everything in its legal power to implement a better system and at the same time enhance the downtown and waterfront; that is the reason for these amendments. Coordination with the County Service District is included in the Comprehensive Plan amendments. The proposal is to continue to use the best efforts to decommission the plant while cooperating with the County Service Districts and other parties.

The Comprehensive Plan and Zoning Codes address planning for the future of the plant. If a deadline is not put on the plant, many of these changes will continue into perpetuity. The Facilities Plan was adopted in 1994; the planning horizon for this document is 2010. The deadline for closing non-conforming uses in the Zoning Code is 2015; beyond the horizon of the planning documents. The City is in the process of updating the Facilities Plan; it was put on hold with the discussion of the Clearwater Plan with the idea that it would be in compliance at the end of this document. This is about planning and looking towards the future.

The Comprehensive Plan amendment includes the statement that the decommissioning will be brought about in an expeditious and orderly fashion that insures proper sewerage treatment from Milwaukie citizens while actuating a transition to another location. Proper sewerage treatment is intended to meet federal regulations.

Mr. Firestone stated that it will be staff's recommendation that the Planning Commission forward a recommendation to the Council to approve the proposed amendments as amended and direct staff to address the issues that have been raised to determine additional recommendations to Council.

The City recognizes that it must coordinate regionalized codes and regulations. They can strengthen their existing provisions and put some teeth in them.

Gary Firestone reviewed the changes with the Commission; with the discussed revisions, Section 19.321.7, Nonconforming Community Service Uses should read:

"Any use prohibited by Section 19.321.3 that was approved prior to the adoption of Section 19.321.3 may remain in use through December 31, 2005, but may not be enlarged, upgraded, remodeled or altered in any way, except as needed to abate nuisances declared by the City or as needed to comply with applicable Federal or State Statutes, regulations or permits. No changes in such nonconforming uses are permitted except as needed to abate City-declared nuisances or as needed to comply with applicable Federal or State Statutes, regulations or permits. Violations of this subsection shall be prosecuted under Chapter 1.08 and the civil penalty for violation of this subsection shall be \$10,000 per day of violation. During the period when any such nonconforming use remains in effect, after December 31, 2015, the owner of the property and the operator of the use are jointly liable to the City for payment of a nonconforming major utility fee in the amount to be set by resolution of the City Council to recover costs and impacts on the City resulting from the presence of the nonconforming major utility."

Staff recommendation is to recommend approval to the Council to those changes and to direct staff to consider the comments made and respond to them before Council.

Chair Hammang closed the public hearing portion of the meeting and opened it to discussion among the Commissioners.

Commissioner Newman asked if City Council could make changes to these amendments? Mr. Firestone stated that Council could amend the recommendation.

Commissioner Brinkman moved to recommend to the City Council approval of the proposed amendments to the Milwaukie Municipal Ordinance Section 19.321, ZA-06-01 and Comprehensive Plan Chapter 4, Recreational Needs Element and Chapter 5, Transportation/Public Facilities/Energy conservation, Public Facilities and Services Element, CPA-06-01 as amended tonight. Commissioner Klein seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Klein, Newman, Scott, Hammang

Nays: None

The motion carried 7-0.

Commissioner Brinkman moved to direct staff to address the issues raised by Service District and to make necessary recommendations to the council in response to the comments. Commissioner Klein seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Klein, Newman, Scott, Hammang

Nays: None

CITY OF MILWAULKIE PLANNING COMMISSION Minutes of May 23, 2006 Page 15

The motion carried 7-0.

Commissioner Batey returned to the podium

7.0 WORKSESSION ITEMS

Kenney Asher updated the commission on the Texaco site. Currently they are working the site to make if fit for parking and Sunday Market usage. He is preparing to address City Council on June 6th in a worksession to discuss one aspect of the process towards an RFP and selecting a developer for this site. Part of the process has to do with a formation of an advisory committee. The charge of the advisory committee has been talking about process. The process is important; an advisory groups needs to be formed that would advise the Committee, address the Council, the Planning Commission, and Metro Council so that the decision makers have the confidence that this is a process that has been reviewed by staff, citizens, stakeholders, etc.

This site is co-owned by two governments, Milwaukie and Metro. Metro brings to the project goals that have to do with regional 2040 Framework Plan implementation, which has to do with mixed use and creating centers that can absorb some of the people that are moving in, and constantly expanding the urban growth boundary. In Milwaukie there are local goals to maintain a certain character of Main Street and reflect community values of how Milwaukie is viewed and its own growth. This process needs to set up equal representation from both Milwaukie and Metro.

Mr. Asher stated that he will propose a process where the Chair of the Planning Commission and the Mayor get to appoint four representatives from Milwaukie. In June the Commission will have the opportunity to forward names of people who they feel represent the interests of the downtown neighborhoods, City Council, and Metro will do the same thing.

Mr. Asher stated that he will be more comfortable working with people Council and the Commission believe in; the people they turn to when they want to make sure that they are in touch with the people in the community and what they want to see. It is hoped to have the committee together by July 4th, have a Request for Proposal (RFP) in late August and selection of a developer in the fall.

Ms. Mangle informed the Commissioners that she included information on Metro goals in their packets.

- 9.0 OLD BUSINESS -- None.
- 10.0 OTHER BUSINESS / UPDATES
- 10.1 Election of Chair

Chair Hammang opened the meeting to election of officers. He entertained the nomination for Chair.

Commissioner Brinkman moved to nominate Commissioner Klein to the office of Chair of the Commission. Commissioner Bresaw seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Newman, Scott, Hammang

Nays: None

The motion carried 6-0.

Chair Hammang opened nominations for the office of Vice -hair.

Commissioner Batey moved to nominate Commissioner Newman to the office of Vice-Chair of the Commission. Commissioner Bresaw seconded the motion.

Ayes: Batey, Bresaw, Brinkman, Klein, Scott, Hammang

Navs: None

The motion carried 6-0.

10.2 Matters from the Planning Director

Ms. Mangle reported that the applicant for the Harmony Park Apartments appealed to the County because they do not like the condition of approval to annex to the City of Milwaukie to get required sewer service.

The Engineering Department has decided not to build the concrete islands which will address the emergency access concerns voiced by renters at the 42nd and King apartments. Discussion followed on ways to make that intersection safer for the pedestrians and drivers.

Gary Firestone commended Donald Hammang on the great job he did serving as Planning Commission Chair.

- 11.0 NEXT MEETING -- June 13, 2006
- 11.1 CU-06-02 conditional Use for 12015 SE 19th Avenue

CITY OF MILWAULKIE PLANNING COMMISSION Minutes of May 23, 2006 Page 17

CU-06-03/TPR-06-06/HIE-06-02 for 11921 SE19th Avenue

Commissioner Klein moved to adjourn the meeting of January 24, 2006. **Commissioner Bresaw** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:28 p.m.

Donald Hammang,

Shirley Richardson, Hearings Reporter

MILWAUKIE PLANNING COMMISSION

6/27 Hearing

MILWAUKIE CITY HALL 10722 SE MAIN STREET

AGENDA TUESDAY, MAY 23, 2006 6:30 PM

-377E-18		ACTION REQUIRED
1.0	Call to Order	Tie Holvid Quidel
2.0	Procedural Matters	
	If you wish to speak at this meeting, please fill out a yellow card and give to planning staff.	
	Please turn off all personal communication devices during meeting. Thank You.	
	Thouse turn on an personal communication do note a survey.	
3.0	Planning Commission Minutes	Motion Needed
3.1	April 11, 2006	
	Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	
4.0	Information Items - City Council Minutes	
	City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment	
	This is an opportunity for the public to comment on any item not on the agenda	
F.	Public Hearings	Dii
.)	Initiation of Legislative Amendments Type of Hearing: Legislative	Discussion and
U. _	Applicant: City of Milwaukie	Motion Needed
	Proposal: Text Amendment to 19.321 – Community Service Overlay and Comprehensive Plan	For These Items
	File Numbers: ZA-06-01/CPA-06-01	Tor These Items
	NDA: All Staff Person: Katie Mangle	
7.0	Worksession Items	
7.1	Texaco Site Redevelopment Project Advisory Committee – Update (PC only)	
8.0	Discussion Items	
	This is an opportunity for comment or discussion by the Planning Commission for items not on the	Review and Decision
	agenda.	
9.0	Old Business	
10.0	Other Business/Updates	
10.1	Matters from the Planning Director	Information Only
	Update on Harmony Park Apartments appeal	V
10.2	Design and Landmarks Committee Report	
11.0	Next Meeting:	
11.0		
11.0	6/13 Hearing	1
11.0	CU-06-03 Conditional Use for 12015 SE 19 th Ave.	
11.0		
11.0	CU-06-03 Conditional Use for 12015 SE 19 th Ave.	

Milwaukie Planning Commission Statement

Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this ity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and the transfer of the Planning Commission is to articulate 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.
- 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.
- 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.
 - **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 Donald Hammang Lisa Batey Teresa Bresaw Catherine Brinkman Dick Newman Churchill

Planning Department Staff:

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

MEMORANDUM

To:

City of Milwaukie Planning Commission

From:

Katie Mangle, City of Milwaukie Planning Director

Cc:

Interested Parties

Date:

May 19, 2006

Re:

Addendum to Documents for May 23, 2006 Planning Commission Hearing

Please see the following attached revised pages of the documents sent for the hearing on May 23rd, 2006.

- Redline/strikeout version of the proposed Comprehensive Plan amendment. A sentence
 has been added to Public Facilities and Services Element, Objective 5, Policy 5, to read:
 <u>Future sewage and wastewater facility plans, and related planning efforts, shall take into
 account and plan for a regional sewage system and facility other than the Kellogg Creek
 plant.
 </u>
- 2. Clean version of the proposed Comprehensive Plan amendment.
- 3. Replacement for page 13 of Attachment 1, Zoning and Comprehensive Plan Amendment Criteria Checklist. Discussion of the City's Public Utilities Plan has been revised as follows:

The City of Milwaukie adopted separate plans for each utility, and these together comprise the Public Facilities Plan. The City's Sewerage Facilities Plan, adopted in 1994, is a subset of the Sewerage Facilities Plan for the North Clackamas Service Area and the City of Milwaukie (1992), was adopted in 1994. The 1992 plan recognized that "phasing out" the Kellogg Creek wastewater treatment plant was a viable alternative for providing service over the long-term. The 1994 plan for the City has a planning horizon of 2010. The proposed amendments do not change these public facilities plans. The amendment to MMO 19.321 sets consequences for the continuation of Major Utility Facilities, such as the Kellogg Creek plant, past December 31, 2015. This date is beyond the planning horizon for the existing plan.

The City was in the process of updating the Sanitary Sewer Master Plan, but this effort was put on hold in 2004 pending the completion and adoption of the Clackamas County Clearwater Project plan. The Clearwater plan included among other regional improvements the eventual elimination of the Kellogg Creek plant. The City is currently scheduled to complete its update of the Sanitary Sewer Master Plan in 2007. The proposed amendment to Comprehensive Plan Public Facilities and Services Element, Objective 5, Policy 5 adds a statement that "Future sewage and wastewater facility plans, and related planning efforts, shall take into account and plan for a regional sewage system and facility other than the Kellogg Creek plant."

If you have questions or concerns, please feel free to contact me at 503-786-7652, or manglek@ci.milwaukie.or.us.

Amendments to Milwaukie Comprehensive Plan

Underlined <u>text</u> is to be inserted Strikeout text is to be deleted

CHAPTER 4- LAND USE:

Recreational Needs Element, Objective 7 Policy 5

The City will cooperate with Clackamas Sewer District #1 to encourage the continued public use of portions of the Kellogg Sewage Treatment Plant site. The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of the Kellogg Wastewater Treatment Plant this site in the future. The City will make reasonable efforts to bring about the decommissioning of the Kellogg Wastewater Treatment Plant in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location. Reasonable efforts include revising the Zoning Ordinance to make the existing facility a nonconforming use and restricting any modification of the sewage treatment use at that site. Riverfront access recreation will be maintained with any redevelopment of the treatment plant site.

CHAPTER 5 – TRANSPORTATION/PUBLIC FACILITIES/ENERGY CONSERVATION:

Public Facilities and Services Element, Objective 5, Policy 5

The City will participate in examining feasible alternatives for decommissioning the Kellogg Creek Treatment Plant. The City will pursue a regional approach, working in partnership with special districts in the North Clackamas County area, to assure adequate sewer service to accommodate projected growth in Milwaukie.

The City will use best efforts to decommission the Kellogg Creek Wastewater Treatment Plant and will cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility. Future sewage and wastewater facility plans, and related planning efforts, shall take into account and plan for a regional sewage system and facility other than the Kellogg Creek plant.

Amendments to Milwaukie Comprehensive Plan

CHAPTER 4- LAND USE:

Recreational Needs Element, Objective 7 Policy 5

The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of the Kellogg Wastewater Treatment Plant site. The City will make reasonable efforts to bring about the decommissioning of the Kellogg Wastewater Treatment Plant in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location. Reasonable efforts include revising the Zoning Ordinance to make the existing facility a nonconforming use and restricting any modification of the sewage treatment use at that site. Riverfront access will be maintained with any redevelopment of the treatment plant site.

CHAPTER 5 – TRANSPORTATION/PUBLIC FACILITIES/ENERGY CONSERVATION:

Public Facilities and Services Element, Objective 5, Policy 5

The City will use best efforts to decommission the Kellogg Creek Wastewater Treatment Plant and will cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility. Future sewage and wastewater facility plans, and related planning efforts, shall take into account and plan for a regional sewage system and facility other than the Kellogg Creek plant.

Objective 2 – Coordination To encourage cooperation and coordination between all public service agencies to maximize the efficient provision of all services.

Policy 1 - The City will cooperate with other service providers in North Clackamas County in the studies to determine the most efficient methods of delivering urban services to the urban areas.

The proposed amendment Comprehensive Plan Chapter 5 makes it clear that the City is to work with Clackamas County, the service district or others parties to develop an alternate site for sewage treatment and a regionalized system.

Policy 2 - The City will negotiate intergovernmental agreements with service providers to outline service responsibilities as city growth occurs.

The proposed amendments do not alter existing policies that implement this policy.

Objective 3 – Community Development To utilize public facilities policies to support land uses as outlined in the Comprehensive Plan.

Policy 1 - The City will maintain a Public Facilities Plan in conformance with other Plan elements and Statewide Planning Goals. The Public Facilities Plan is part of the Comprehensive Plan. The Public Facilities Plan will identify needed facilities to support the land uses as shown on the Comprehensive Plan land use map and within the Urban Growth Management Boundary.

The City's Sewerage Facilities Plan was adopted in 1994 and is a subset of the Sewerage Facilities Plan for the North Clackamas Service Area and the City of Milwaukie (1992). The 1992 plan recognized that "phasing out" the Kellogg Creek wastewater treatment plant was a viable alternative for providing service over the long-term. The proposed amendments do not change these public facilities plans. The amendment to MMO 19.321 sets consequences for the continuation of Major Utility Facilities, such as the Kellogg Creek plant, past December 31, 2015. This date is beyond the planning horizon for the existing plan.

The City was in the process of updating the Sanitary Sewer Master Plan, but this effort was put on hold in 2004 pending the completion and adoption of the Clackamas County Clearwater Project plan. The Clearwater plan included among other regional improvements the eventual elimination of the Kellogg Creek plant. The City is currently scheduled to complete its update of the *Sanitary Sewer Master Plan* in 2007. The proposed amendment to Comprehensive Plan Public Facilities and Services Element, Objective 5, Policy 5 adds a statement that "Future sewage and wastewater facility plans, and related planning efforts, shall take into account and plan for a regional sewage system and facility other than the Kellogg Creek plant."

Objective 4 – Water Service To develop and maintain water services and cooperate with other agencies to provide an adequate and efficient provision of water services.

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 5 – Sanitary Sewer Service To continue to provide adequate wastewater collection and treatment to all Milwaukie residents.



To:

Planning Commission

From:

Katie Mangle, Planning Director

Date:

May 16, 2006 for May 23, 2006 Hearing

Subject:

Zoning Ordinance Amendment ZA-05-01

Comprehensive Plan Amendment CPA-06-01

Applicant:

City of Milwaukie

Site Address:

Community Service Uses

NDA:

All

Action Requested

Forward a recommendation to the City Council in support of amending the Milwaukie Municipal Ordinance Section 19.321 and Comprehensive Plan Chapter 4 - Recreational Needs Element, and Chapter 5 - Transportation/Public Facilities/Energy Conservation, Public Facilities and Services Element.

Background

Zoning Code Amendments

The Community Service Overlay (CSO) is a land use tool that allows the City to manage the development of uses that provide public benefit. Certain uses, including public and religious institutions, schools, and parks, are allowed in most zoning districts when they meet the standards for a CSO. CSO approvals are site specific and subject to the development standards of the underlying zone.

The proposed amendments to Milwaukie Zoning Ordinance section 19.321 modify the title, text and structure of the section to improve legibility and clarify standards and procedures for approving Community Service Uses. Most of these revisions fall under the category of "code maintenance," and are not intended to change the policy nor intent of the code. Also included is a limit on the expansion or establishment of "major utility facilities." Currently the Kellogg Creek wastewater treatment plant is the only "major utility facility" in the City.

Amendments to the Comprehensive Plan

The City of Milwaukie has long envisioned improvements to the Willamette riverfront that maximize the use and benefits of this valuable resource. This vision is reflected in the

goals of the *Downtown and Riverfront Land Use Framework Plan* (Section 1.8, 1.9), the *Comprehensive Plan* (Chapter 4, Objective 7, Policy 5), and was also referenced in the City's August 2005 Intergovernmental Agreement with the Clackamas County Service District #1 to implement the Clearwater Plan. The Kellogg Creek wastewater treatment plant is located on the riverfront, and the City's long-term goals, as expressed in the *Comprehensive Plan* (Chapter 5, Objective 5, Policy 5), have been to decommission the plant. The *Downtown Land Use Framework Plan* envisions redevelopment of the Kellogg site with uses that are more supportive of downtown and nearby neighborhoods. The present Comprehensive Plan policies have not been effective in achieving the City's goal of removing the Kellogg Creek wastewater treatment plant.

Key Issues

- 1. Do the proposed Zoning Code and Comprehensive Plan amendments meet the approval criteria?
- 2. Do the proposed Code amendments affirm and clarify existing policy regarding community service uses, making the use of this zoning tool more effective?
- 3. The City of Milwaukie Community Development Department proposes Zoning Code and Comprehensive Plan amendments that would result in decommissioning the Kellogg sewage treatment plant over the long term.

Analysis of Key Issues

1. Do the proposed Zoning Code and Comprehensive Plan amendments meet the approval criteria?

Zoning Code amendments are subject to approval criteria found in 19.904.1 – Requirements for Zoning Text Amendments and 19.905 Approval criteria for all amendments. Comprehensive Plan amendments are subject to approval criteria found in Chapter 2, Objective 1, Policy 7 of the Plan. All amendments must be consistent with unamended portions of the Comprehensive Plan and with the statewide planning goals. As shown in Attachment 1, Zoning and Comprehensive Plan Amendment Criteria Checklist, the proposed amendments meet the approval criteria.

2. Do the proposed Code amendments affirm and clarify existing policy, making the use of this zoning tool more effective?

The proposed amendments to Milwaukie Municipal Code Section 19.321 include many revisions to the text. Key changes are intended to accomplish the following:

Clarify how the City processes applications for Community Service Uses by deleting "Overlay Zone" from the section title, revising the section title to read "Community Service Use," and stating that approval of a Community Service Use (CSU) does not change the underlying zoning of the property. The CSO does not function as an overlay zone, and this change will clarify that the CSU is a type of conditional use and does not involve a zone change.

May 16, 2006 Page 3 of 5

- Neutralize gender and religious references by substituting "religious institutions" for "Churches", and deleting "fraternal organizations" from the provision allowing a "private club, fraternal organization, lodge, grange."
- Clarify the standards and procedures for reviewing a Community Service Use.
- Clarify the definition of a "minor modification" to an approved Community Service Use, as well as the criteria for approval.
- Specify that minor modifications must not cause any public facility to fail to meet standards.
- Apply the same development standards to public, private, and religious institutions, with two exceptions. Religious institutions will still have the ability to include a spire that exceeds height limitations, and will continue to be held to a lower landscaping standard. Applying the same standards to religious and nonreligious institutions will protect the City from claims under the federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
- 3. The City of Milwaukie proposes Zoning code and Comprehensive Plan amendments that would result in decommissioning the Kellogg Creek Wastewater Treatment Plant over the long term.

Sewage from the City of Milwaukie is treated by contract at the Kellogg Creek wastewater treatment plant, which is operated by Clackamas Service District No. 1. The proposed zoning amendments related to major utility facilities are intended to achieve the following:

- Specify that major utility facilities, including sewage treatment plants, are not a permitted Community Service Use.
- Address Nonconforming Community Service Uses in a new section. This section
 will allow nonconforming uses to remain in use through 2015. It prohibits
 expansion, upgrades, or remodeling of the use, except as required to abate
 nuisances declared by the City.
- Establish a nonconforming major utility fee for non-conforming major utilities that remain in use after December 31, 2015.
- Address the community's desire and the City's need to decommission the Kellogg Creek plant, cooperate with regional partners, plan for proper sewage treatment service, and maintain public access to the riverfront.

The proposed Comprehensive Plan amendments would clearly state the City's policy to "make reasonable efforts to bring about" the decommissioning of the Kellogg Creek wastewater treatment plant. The existing language speaks to the long-term goal for decommissioning the plant, but the existing language has not been sufficient to achieve the City's goal. The amendments more clearly implement the City's policy to achieve the goal of removing the wastewater treatment plant.

The amendments reflect the Comprehensive Plan's spirit of promoting orderly service provision and partnership with regional partners. The amendment to Public Facilities and Services Element, Objective 5, Policy 5 states that the City "will cooperate with the County, county service districts, and other parties in examining feasible alternatives for

sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility."

Concurrence

The proposed amendments have been reviewed by the City Manager, City Attorney, Community Development and Public Works Director, and Engineering Director. The Planning Director has presented the proposed amendments to the City Council during a work session and will bring the final draft amendments to City Council for approval in June 2006.

Code Authority and Decision Making Process

Zoning Ordinance text amendments are legislative actions governed by Milwaukie Municipal Code Sections 19.904, 905,1003 and 1011. The Planning Commission makes recommendations to the City Council, which has the final decision. If the Planning Commission finalizes its recommendation in May, the City Council will hear the matter at a public hearing on June 20, 2006.

Comprehensive Plan amendments are legislative actions, governed by Milwaukie Municipal Code Sections 19.1003 and 1011, and Chapter 2 of the Comprehensive Plan. The Commission is required to hold a hearing, make a recommendation, and propose findings for Council consideration. Per Chapter 2, Policy 1, since the proposed amendment was not initiated by the City Council or the Planning Commission, the Planning Commission needs to initiate it by motion.

The Planning Commission has the following decision making options:

- 1. Forward a recommendation supporting the proposal and ordinance.
- 2. Forward a recommendation supporting the proposal and ordinance with modifications.
- 3. Forward a recommendation for denial.

Recommended Findings in Support of Approval

- Public notice has been provided and a public hearing has been conducted in accordance with the Milwaukie Zoning Ordinance and the Comprehensive Plan. The City provided written notice of the hearing and a copy of the proposed amendments to both the Clackamas County Administrator and to Clackamas County Service District #1.
- The proposed Zoning Code amendments fulfill the approval criteria found in 19.904.1 and 19.905.1. They are consistent with the Comprehensive Plan, the Metro Urban Growth Management Functional Plan, and Oregon Statewide Planning Goals.

May 16, 2006 Page 5 of 5

3. The proposed Comprehensive Plan amendments fulfill the approval criteria found in Comprehensive Plan Chapter 2 - Amendments and Review Process. They are consistent with all unamended portions of the Comprehensive Plan, the Metro Urban Growth Management Functional Plan, and the Oregon Statewide Planning Goals.

Conclusion

Staff believes the proposed amendments are consistent with policy direction provided by the Planning Commission with regards to application of the Community Service Use and the long-term desire to decommission the Kellogg Creek wastewater treatment plant. The amendments are consistent with applicable provisions of the Zoning Ordinance and Comprehensive Plan and the Statewide Planning Goals. Staff recommends that the Commission recommend that the City Council approve the amendments.

Attachments

- 1. Zoning and Comprehensive Plan Amendment Criteria Checklist
- 2. Draft redline/strikeout revisions to Zoning Ordinance 19.321, Community Service Overlay
- 3. Clean draft revisions to Zoning Ordinance 19.321, Community Service Overlay
- Draft redline/strikeout revisions to Comprehensive Plan Chapter 4, Recreational Needs Element, and Chapter 5, Transportation/Public Facilities/Energy Conservation
- 5. Clean draft revisions to Comprehensive Plan Chapter 4, Recreational Needs Element, and Chapter 5, Transportation/Public Facilities/Energy Conservation

Attachment 1

Zoning and Comprehensive Plan Amendment Criteria Checklist

ZA-06-01/CPA-06-01

This document sets out the applicable criteria for Comprehensive Plan and Zoning Text amendments and addresses how each criterion is met. Any provision not included is found to be not applicable to the proposed amendment.

A. COMPLIANCE WITH MILWAUKIE MUNICIPAL CODE (MMC)

19.901 Initiation of amendments.

An amendment to the Milwaukie zoning map or to the text of this title may be initiated by the city council, by the planning commission, or by the application of a property owner.

This text amendment is proposed by the City of Milwaukie, initiated by the Planning Commission.

19.902 Amendment procedure.

19.902.1 The following application and review procedures shall be in effect for all proposed amendments:

A. The planning commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the application has been determined to be complete by the director. Zoning map amendments shall follow the procedures outlined in subsection 19.1011.4, Major Quasi-Judicial review. Zoning text amendments shall follow the procedures outlined in subsection 19.1011.5, Legislative actions.

The Planning Commission is holding a public hearing at the earliest practicable meeting after the application has been determined to be complete.

19.1011.5 Legislative Actions.

Legislative actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a zoning ordinance or comprehensive plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

A. Public Notification. Notice of a hearing shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall not be less than five (5) days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.

The City has provided the required published notice.

B. Decision. The planning commission or design and landmarks commission as provided in Section 19.312 shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan.

Attachment 1 - Criteria Checklist -- DRAFT

The planning commission or design and landmarks commission shall prepare a recommendation to the city council. If the commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the city council and the commission denies it, the proposal shall be forwarded to city council with a report and recommendation of denial. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to council. The city council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection A above.

The Planning Commission is conducting a public hearing and is making a recommendation to the Council. The Council will hold a public hearing as required.

B. Notice to Metro. The planning department shall provide notice to Metro of any proposed amendment to the comprehensive plan or zoning ordinance, subject to Milwaukie zoning ordinance subsection 19.1011.4, Major Quasi-Judicial review, and 19.1011.5, Legislative actions. Any copy of notice required pursuant to subsections 19.1011.4 and 19.1011.5, and provided to Oregon Department of Land Conservation and Development (DLCD) pursuant to ORS 197.610 or 197.615, shall be sent to Metro's executive officer at least forty-five (45) days before the final hearing on the adoption of any amendment. Notice to Metro shall include the same content as notice to DLCD pursuant to ORS 197.610 or 197.615 and, if available, shall include analysis demonstrating that the proposed amendments are consistent with the Metro urban growth management functional plan. If the analysis demonstrating consistency with the functional plan is not included in the initial notice, a report containing the analysis shall be delivered to Metro no later than fourteen (14) days before a final hearing.

The City has provided notice to Metro and to DLCD as required by MMC Section 19.902.1B.

19.904.1 Proposals for zoning text amendments must provide written evidence that the following requirements are satisfied:

A. Applicable requirements of Section 19.1003;

19.1003 Form of petitions, applications, and appeals. All petitions, applications, and appeals provided for in this title shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure, or part thereof; the number of families, if any, to be accommodated thereon; and such other information as is needed to determine conformance with this title.

The City submitted an application on the prescribed form. Because the application is for a comprehensive plan and zoning code text amendment and no development is proposed, the other portions of MMC Section 19.1003 are not applicable. The application therefore complies with applicable requirements of Section 19.1003, and therefore satisfies Section 19.904.1. This criterion has been met.

B. Reasons for requesting the proposed text amendments.

Reasons for the request have been submitted in the "Reasons for Text Amendments" submitted by the applicant. This criterion has been met.

C. Explanation of how the proposed text amendment is consistent with other provisions of this title.

Applicant has submitted an explanation regarding consistency of the proposed amendments with other provisions of Title 19. This criterion has been met.

D. The approval criteria of Section 19.905.

Applicant has submitted a narrative addressing the approval criteria of Section 19.905. As described in detail below, the approval criteria of Section 19.905 have been met.

19.905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:

A. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.

As discussed in detail below in Section B, City of Milwaukie Comprehensive Plan, the amendments are consistent with applicable comprehensive plan goals, policies and objectives. The only City ordinances that are applicable to the text amendment are those that have adopted the Comprehensive Plan and Title 19 of the Municipal Code. The amendments are consistent with the Comprehensive Plan and Title 19 as detailed in this analysis. As discussed in detail in Section C, Metro Urban Growth Management Functional Plan, the amendments are consistent with applicable sections of Metro's UGMFP. This criterion has been met.

C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

The proposed amendment to Comprehensive Plan Chapter 4 states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The proposed amendment to Comprehensive Plan Chapter 5 makes it clear that the City is to work with Clackamas County, the service district or other parties to develop an alternate site for sewage treatment and a regionalized system.

The City has complied with all applicable procedural and substantive standards imposed by the State and Metro, as discussed in other portions of this document. The City interprets the "assures proper sewage treatment" standard as requiring that federal standards will continue to be met.

This criterion has been met.

B. COMPLIANCE WITH CITY OF MILWAUKIE COMPREHENSIVE PLAN

Chapter 1 – Citizen Involvement

Objective 3 - Communication Promote informed public participation in planning decisions by providing readily available publications and printed materials regarding current issues and proposed policies and providing for two-way communication between policy-makers and citizens.

Policy 1. Make planning documents available through City offices and public libraries. This includes, but is not limited to Plan inventories, planning background information, Staff reports and minutes of Planning Commission and Comprehensive Plan Review Committee meetings.

The staff report and the proposed amendments are available through City offices and public libraries.

Policy 2. Advertise all public hearings regarding land use issues in the newspaper and on the local cable television station.

Public hearings of the proposed amendments have been advertised in the newspaper and on the City website.

Chapter 2 - Plan Review and Amendment Process

Establish a Plan review and amendment process as a basis for land use decisions, provide for participation by citizens and affected governmental units, and ensure a factual base for decisions and actions.

Objective 1 – Amending the Plan Review, revise, and amend the Comprehensive Plan on a regular basis, assuring that the Plan and implementing ordinances meet regional, State, and Federal guidelines.

The City has an adopted and acknowledged amendment process and is following that process in making these amendments. The amendments implement this objective by amending the Comprehensive Plan.

Policy 3. Individuals, the Planning Commission, or the City Council may request Plan amendments at any time separate from the normal Comprehensive Plan Amendment application process. A request by an individual will be considered by the Planning Commission, who may initiate further formal consideration of a Plan amendment if it is determined the proposed change is in the public interest. The Planning Commission should also hold a public hearing annually to evaluate issues related to the Plan or recommended Plan changes. A report of this public hearing will be provided to the City Council who may approve it or take further action as required.

The City of Milwaukie prepared the application for the amendment. This amendment will be initiated by the City of Milwaukie Planning Commission by motion prior to the public hearing, consistent with this policy.

Policy 4. Submit copies of proposed Plan changes to affected governmental units at the draft amendment stage and following final adoption of changes.

The City has provided notice to DLCD, Metro, Clackamas County and to Clackamas County Service District #1. The City will provide additional notice following final adoption.

Policy 5. All proposed legislative Comprehensive Plan amendments will be considered at advertised public hearings before the Planning Commission and City Council. At least 30 days prior to a public hearing, a public notice shall be printed in a local newspaper and will appear on the public information cable television station. A second notice will appear at least ten days prior to the public hearing.

The City is holding public hearings before the Planning Commission and City Council and is providing published notice as required by this policy.

Policy 7. All Plan amendments will be evaluated based on the following criteria:

conformance with the Comprehensive Plan, its goals, policies, and spirit,

The City of Milwaukie's goal to decommission the sewage treatment plant is reflected in *Comprehensive Plan* Chapter 5, Objective 5, Policy 5, which states that "The City will participate in examining feasible alternatives for decommissioning the Kellogg Creek Treatment Plant." Additionally, in Chapter 4 – Land Use, Willamette Greenway Element, Objective 7, the Plan acknowledges that the Downtown and Riverfront Land Use Framework Plan "implements updated designations for the riverfront and addresses the following issues...[including] Redevelopment of Kellogg Creek Sewage Treatment Plant". The proposed Comprehensive Plan amendments would strengthen this policy to state that the City "will use best efforts to decommission the Kellogg Sewage Treatment Plant." The existing language speaks to the long-term goal for decommissioning the plant, but the amendments set the policy to achieve this goal.

The amendments reflect the Plan's spirit of promoting orderly service provision and partnership with regional partners. The amendment to Public Facilities and Services Element, Objective 5, Policy 5 states that the City "will cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility."

As discussed in greater detail in sections that follow, the proposed amendments are consistent with indirectly applicable provisions of the Comprehensive Plan. This criterion has been met.

public need for the change,

Chapter 2 acknowledges that the planning process is dynamic, flexible, and ongoing. Kellogg Creek wastewater treatment plant is sited in the Willamette Greenway zone, between the Island Station neighborhood and Milwaukie's revitalizing downtown. Existing plans express the community's vision for establishing more environmentally and community friendly uses on this site. The proposed amendments are needed to more accurately reflect the long-term goals

Attachment 1 - Criteria Checklist -- DRAFT

for the community, and establish a course of action to achieve the goals. This criterion has been met.

public need is best satisfied by this particular change,

The purpose of updating the Plan to reflect the City's policy on decommissioning the Kellogg Creek wastewater treatment plant is best satisfied by the proposed amendments, which address the community's desire and the City's need to decommission the plant, cooperate with regional partners, plan for proper sewage treatment service, and maintain public access to the riverfront. This criterion has been met.

 the change will not adversely affect the health, safety, and welfare of the community,

The proposed amendment states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The proposed amendment makes it clear that the City is to work with Clackamas County, the service district or others parties to develop an alternate site for sewage treatment and a regionalized system. This criterion has been met.

the change is in conformance with applicable Statewide Planning Goals,

The amendments are in conformance with applicable statewide planning goals, as described in detail in Section D, Statewide Planning Goals, below. This criterion has been met.

• the change is consistent with Metro Growth Management Functional Plan and applicable regional policies.

The amendments are consistent with applicable provisions of the Metro Growth Management Functional Plan, as detailed in Section C below. This criterion has been met.

Objective 2 – Implementing the Plan Implement this Plan through appropriate ordinances and action.

Policy 1. Amend existing ordinances and adopt new ordinances to carry out the policies of this Plan as necessary.

The City is adopting zoning text amendments to implement the amendments to the Plan.

Chapter 3 – Environmental and Natural Resources

Natural Hazards Element

Objective 1 – Floodplain

To manage identified 100-year floodplains in order to protect their natural function as waterways, and to protect the lives and property of those individuals and concerns currently located within and along the floodplain boundary.

The Kellogg Creek wastewater treatment plant is located within the 100-year flood plain, and approximately half of the site was flooded during the 1996 flood. The proposed amendments do not alter existing policies that uphold or implement this objective.

Historic Resources Element

The proposed amendments do not alter existing policies that uphold this plan element.

Open Spaces, Scenic Areas and Natural Resources Element

Objective 1 - Open Space

Policy 1 - Open space will be provided within the City through implementation of parks and recreation policies, natural area policies, and the Willamette Greenway Program.

The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway overlay. Removal of the plant will improve the Willamette Greenway by reducing the intensity of development, and visual and air quality impacts. The amendment will not change the City's standards for this zone.

Policy 3 - The natural resource areas along Johnson Creek, Kellogg Creek, and Kellogg Lake, as shown on Map 5 and defined under Objective #2, will be considered open space of special importance to all City residents. Passive recreational public use of these areas for walking trails, nature parks, and the like will be encouraged.

The amendment to the Comprehensive Plan Chapter 4 Recreational Needs Element, Objective 7, Policy 5 includes the statement, "Riverfront access will be maintained with any redevelopment of the treatment plant site."

Policy 11 - With the exception of the Kellogg Creek Sewage Treatment Plant and the land surrounding the plant, the City will designate as Public Lands those areas which are existing parks or publicly utilized areas, or City owned properties containing natural resource areas, and will assure that these areas are managed according to open space policies, natural resource policies, and parks and recreation policies, as appropriate. Areas designated Public Lands shall be identified on the Land Use Plan Map, Map 7.

The amendments will not change the land use designation for the Kellogg Creek wastewater treatment plant and the land surrounding the plant.

Objective 2 — Natural Resource Areas

The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway overlay, and the eastern edge of the city is in the Water Quality Resource area. The amendment will not change the City's standards for these zones.

Attachment 1 - Criteria Checklist -- DRAFT

Objective 3 - Scenic Areas

The amendment will not change the City's regulations or design guidelines pertaining to protection of views.

Agricultural and Forest Lands Element

The proposed amendments do not alter existing policies that uphold or implement the objectives of this element.

Air, Water and Land Resources Quality Element

Objective 1— Regional Air To assist federal and State environmental regulation agencies in their efforts to maintain and improve the quality of the air resources of the State and City.

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 2 — **Local Air** To control air quality problems through local land use and transportation planning.

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 3 — **Noise** To assist federal and State environmental regulatory agencies in their efforts to ensure that noise levels generated within the City will be compatible with adjacent land uses.

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 4 — **Water Quality** To assist federal and State environmental regulation agencies in their efforts to maintain and improve the quality of the water resources of the State and City.

Policy 1. Milwaukie will continue to support and participate in regional planning programs to improve sanitary sewer services in the area. The City will continue to cooperate with Clackamas County Service District #1 for the collection and treatment of sanitary sewage.

The proposed Comprehensive Plan amendments would clearly state City's policy to "make reasonable efforts to bring about" the decommissioning of the Kellogg Creek wastewater treatment plant in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens..." The revision to Chapter 5, Public Facilities and Services Element, Objective 5, Policy 5 states that the City will "cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal..." The proposed amendments comply with this policy.

Policy 2. Milwaukie will continue to submit plans for any sewage plant construction or expansion, and extensions of sewer systems prior to construction, to DEQ for approval. The City will continue to work with the State to identify and certify construction grant applications and will explore alternative funding sources for sewer system needs. The proposed amendments do not alter existing policies that uphold or implement this policy.

Policy 3. Milwaukie will participate in studies and encourage the prompt implementation of resulting plans to provide sanitary sewer service to surrounding unsewered areas. Particular emphasis is placed on completing sanitary sewer extensions to areas contributing to water quality problems in Johnson Creek.

The proposed amendments do not alter existing policies that uphold or implement this policy.

Policy 4. Milwaukie recognizes and assumes its responsibility for operating, planning and regulating wastewater systems as designated in Metro's Waste Treatment Management Component.

The proposed amendments do not alter existing policies that uphold or implement this policy.

Policy 5. The City will cooperate with State and federal regulatory programs to protect domestic groundwater resources from potential pollution.

The proposed amendments do not alter existing policies that uphold or implement this policy.

Chapter 4 – Land Use

Residential Land Use and Housing Element

The proposed amendments do not alter existing policies that uphold or implement the objectives of this element.

Economic Base and Industrial/Commercial Land Use Element

The proposed amendments do not alter existing policies that uphold or implement the objectives of this element.

Recreational Needs Element To provide for the recreational needs of present and future City residents by maximizing the use of existing public facilities, encouraging the development of private recreational facilities, and preserving the opportunity for future public recreational use of vacant private lands.

Objective 1 – Park Classifications

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 2 – Parks and Recreation Master Plan

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 3 – Intergovernmental Cooperation

The proposed amendments do not alter existing policies that uphold or implement this objective.

Attachment 1 - Criteria Checklist -- DRAFT

Objective 4 – Private Recreation Opportunities

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 5 – Neighborhood and Community Parks

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 6 - Maximization of Existing Parks

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 7 – Riverfront Recreation To maximize the recreational use of the Willamette River shoreland and waterways.

Policy 5 - The City will cooperate with Clackamas Sewer District #1 to encourage the continued public use of portions of the Kellogg Sewage Treatment Plant site. The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of this site in the future. Riverfront recreation will be maintained with any redevelopment of the treatment plant site.

The proposed amendment would revise this Policy to deemphasize continued public use of the site, and encourage the City to make reasonable efforts to decommission the plant. The last sentence of this policy is revised to read, "Riverfront access will be maintained with any redevelopment of the treatment plant site." The zoning in place on the site is for a combination of Downtown Office and Downtown Open Space. The proposed amendment does not change this zoning designation, and therefore does not reduce the future public access to the open space areas on the site or to the Willamette River.

Policy 6 - The Parks and Recreation Master Plan should address the idea of connecting the riverfront area to the proposed 40-mile loop trail system with a southern arm extending to North Clackamas Park.

The proposed amendments do not alter existing policies that uphold or implement this policy.

Willamette Greenway Element

Objective 1 –Willamette Greenway Boundary

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 2 – Greenway Design Plan

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 3 – Land Use

The proposed amendments do not alter existing policies that uphold or implement this objective.

5/16/2006

Objective 4 – Recreation

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 5 – Public Access and View Protection

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 6 – Maintenance of Private Property

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 7 – Central Riverfront To acquire property necessary for public open space, public trails, riverfront access and riverfront-related development, consistent with the Downtown and Riverfront Land Use Framework Plan.

Policy 1- The City has adopted a Downtown and Riverfront Land Use Framework Plan to reconnect downtown Milwaukie to the Willamette River. The Willamette River, Johnson Creek, and Kellogg Creek all provide beautiful natural borders to the downtown area. The Downtown and Riverfront Land Use Framework Plan capitalizes on these natural resources, by restoring the creeks and connecting the river to the historic blocks of downtown. The plan implements updated designations for the riverfront and addresses the following issues:

- Public access
- Safe pedestrian access across McLoughlin Boulevard
- · Public recreational use
- Natural resource protection
- Historic resource protection
- Visual access
- Transportation
- Riverfront-related commercial development and redevelopment
- Public-private partnerships for the riverfront
- Redevelopment of Kellogg Creek Sewage Treatment Plant

As a result of the Downtown and Riverfront Framework Plan, the City re-zoned the Kellogg Creek wastewater treatment plant site with a combination of Downtown Office and Downtown Open Space. The proposed amendment does not change this zoning designation, and therefore does not reduce the future public access to the open space areas on the site or to the Willamette River. The proposed amendment to MMC Section 19.321 designates Major Utility Facilities, including the Kellogg Creek wastewater treatment plant, as Nonconforming Uses. A new section, 19.321.7 – Nonconforming Community Service Uses, prohibits nonconforming uses from being "enlarged, upgraded, remodeled, or altered in any way..." The amendments to the Zoning Code support this Comprehensive Plan policy by encouraging the future redevelopment of the Kellogg Creek wastewater treatment plant site.

Attachment 1 - Criteria Checklist -- DRAFT

Neighborhood Element

Objective 1 – Neighborhood Character To maintain the residential character of designated neighborhood areas.

The proposed amendments do not alter existing policies that uphold or implement this objective. Removal of the Kellogg Creek plant will improve the residential character of the Island Station neighborhood.

Objective 2 – Neighborhood Needs To meet the needs of neighborhood areas for public facilities and services.

Policy 3 - Provide for an adequate level of public facilities, services, and the maintenance thereof, to all neighborhood areas.

The proposed amendment to MMC section 19.321 adds subsection 19.321.6.C.5, which allows the planning director to approve minor modifications to an approved CSU provided that it "does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility."

The proposed amendment to Comprehensive Plan Chapter 4 states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The proposed amendment makes it clear that the City is to work with Clackamas County, the service district or other parties to develop an alternate site for sewage treatment and a regionalized system.

Objective 3 – King Road Neighborhood Center

The proposed amendments do not alter existing policies that uphold or implement this objective.

Chapter 5 – Transportation, Public Facilities and Energy Conservation

Transportation Element

The proposed amendments do not alter existing policies that uphold or implement the objectives of this element.

Public Facilities and Services Element

To plan, develop and maintain a timely, orderly and efficient arrangement of public facilities and services to serve urban development.

Sewer Services

Objective 1 – Priority To ensure that adequate levels of public facilities and services are provided to existing City residents and businesses as a first priority as urban development or growth occurs.

The proposed amendment to Comprehensive Plan Chapter 4 states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location."

Objective 2 – Coordination To encourage cooperation and coordination between all public service agencies to maximize the efficient provision of all services.

Policy 1 - The City will cooperate with other service providers in North Clackamas County in the studies to determine the most efficient methods of delivering urban services to the urban areas.

The proposed amendment Comprehensive Plan Chapter 5 makes it clear that the City is to work with Clackamas County, the service district or others parties to develop an alternate site for sewage treatment and a regionalized system.

Policy 2 - The City will negotiate intergovernmental agreements with service providers to outline service responsibilities as city growth occurs.

The proposed amendments do not alter existing policies that uphold or implement this policy.

Objective 3 – Community Development To utilize public facilities policies to support land uses as outlined in the Comprehensive Plan.

Policy 1 - The City will maintain a Public Facilities Plan in conformance with other Plan elements and Statewide Planning Goals. The Public Facilities Plan is part of the Comprehensive Plan. The Public Facilities Plan will identify needed facilities to support the land uses as shown on the Comprehensive Plan land use map and within the Urban Growth Management Boundary.

The City of Milwaukie adopted separate plans for each utility, and these together comprise the Public Facilities Plan. The City's Sewerage Facilities Plan, a subset of the Sewerage Facilities Plan for the North Clackamas Service Area and the City of Milwaukie (1992), was adopted in 1994. This plan recognized that "phasing out" the Kellogg Creek wastewater treatment plant was a viable alternative for providing service over the long-term. The proposed amendments do not change these public facilities plans. The City was in the process of updating the Sanitary Sewer Master Plan, but this effort was put on hold in 2004 pending the completion and adoption of the Clackamas County Clearwater Project plan. The Clearwater plan included among other regional improvements the eventual elimination of the Kellogg Creek plant. The City is currently scheduled to complete its update of the Sanitary Sewer Master Plan in 2007. The City is concurrently amending the 1994 Plan to conform with the amended Comprehensive Plan policy.

Objective 4 – Water Service To develop and maintain water services and cooperate with other agencies to provide an adequate and efficient provision of water services.

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 5 – Sanitary Sewer Service To continue to provide adequate wastewater collection and treatment to all Milwaukie residents.

Policy 1 - The City will continue to cooperate with the Clackamas County Service District No. 1 in contracting for capacity of the Kellogg Creek Treatment Plant. The City will comply with Federal and State clean water requirements in managing the wastewater collection system.

The proposed Comprehensive Plan amendment directs the City to work with Clackamas County, the service district or other parties to develop an alternate site for sewage treatment and a regionalized system.

Policy 2 - The City will maintain and improve the existing sanitary sewer system through preventive maintenance and ongoing appraisal.

The proposed amendment states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location."

Policy 3 - The City will ensure that all future residents are provided with adequate wastewater collection services.

The proposed amendment to Comprehensive Plan Chapter 4 states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The amendment to MMC Section 19.321.7 allows for changes of operation or alterations needed to abate nuisances declared by the City. The proposed amendments to the Comprehensive Plan and Zoning Ordinance do not affect existing agreements between the City and other governmental units pertaining to provision of sewage, wastewater or other services.

Policy 4 - The City recognizes and assumes its responsibility for operating, planning, and regulating wastewater systems as designated in Metro's Waste Treatment Management Component.

The proposed amendments to the Comprehensive Plan and Zoning Ordinance do not affect existing agreements between the City and other governmental units pertaining to provision of sewage, wastewater or other services. Neither do the amendments change the City's current responsibility for operating, planning, and regulating wastewater collection and distribution systems.

Policy 5 - The City will participate in examining feasible alternatives for decommissioning the Kellogg Creek Treatment Plant. The City will pursue a regional approach, working in partnership with special districts in the North Clackamas County area, to assure adequate sewer service to accommodate projected growth in Milwaukie.

The proposed amendment to Comprehensive Plan Chapter 4 revises this policy, deleting it in its entirety. The Kellogg Creek wastewater wastewater treatment plant is located on the riverfront, and the City's long-term goals, as expressed in the Comprehensive Plan (Chapter 5, Objective 5, Policy 5), have been to decommission the plant. The proposed Comprehensive Plan amendment to this policy clearly states the City's policy to "use best efforts to decommission" the Kellogg Creek wastewater treatment plant. The present Comprehensive Plan policies have not been effective in achieving the City's goal

of removing the Kellogg Creek wastewater treatment plant. The amendments more clearly implement the City's policy to achieve the goal of removing the wastewater treatment facility. The proposed amendments to MMC Sections 19.321.7 and 19.321.3.A implement this policy.

Objective 6 - Drainage and Streets

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 7 - Solid Waste

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 8 - Police and Fire

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 9 – School Coordination

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 10 – Health Care Coordination

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 11 – Governmental

The proposed amendments do not alter existing policies that uphold or implement this objective.

Objective 12 - Utilities

The proposed amendments do not alter existing policies that uphold or implement this objective.

Energy Conservation Element

The proposed amendments do not alter existing policies that uphold or implement the objectives of this element.

Chapter 6 – City Growth and Governmental Relationships

The proposed amendments do not alter existing policies that uphold or implement the objectives of this chapter.

C. METRO GROWTH MANAGEMENT FUNCTIONAL PLAN AND REGIONAL POLICIES

Regional policies in the adopted *Urban Growth Management Functional Plan* relate to the City of Milwaukie's Comprehensive Plan and Zoning Ordinance, with the intent of implementing regional goals. Cities are required to comply with policies in the Functional Plan, as required by Section 5(e) (2) of the Metro Charter. The City's Comprehensive Plan and Zoning Ordinance are currently in compliance with each of the following Titles in the Framework Plan.

Title 1: Requirements for Housing and Employment Accommodation

The proposed amendments will not change the City's housing or employment capacity.

Title 2: Regional Parking Policy

The proposed amendments will not change the City's parking standards. The proposed text for MMC Section 19.321.5 - Standards for Community Service Uses, and 19.321.6.C, which outlines procedures for reviewing a minor modification of a CSU, state that the off-street parking requirements for the underlying zone must be met.

Title 3: Water Quality and Flood Management

The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway Overlay, and the eastern edge of the city is in the Water Quality Resource area. The amendment will not change the City's standards for these zones.

Title 4: Industrial and Other Employment Zones

The purpose of the City's Community Service Overlay is to "allow for the development of certain uses which, because of their public convenience, necessity, and unusual character, may be appropriately located in most zoning districts..." In concept this allows certain public and private utilities, institutions, and recreational facilities to be located in industrial zones, thereby displacing land that might otherwise be occupied by industrial and employment uses. In MMC Section 19.321.2.A, the proposed amendment does include some modification of the types of facilities to which the CSU applies. The changes include the addition of:

- Reservoirs and any other facilities used for production, treatment and distribution of the municipal water supply (19.321.2.B)
- Public or private recreational facilities (19.321.2.C)

These changes do not significantly change the list uses that could be approved as the Community Service Use, and thereby does not change the City's regulatory capacity to protect the capacity and efficiency of its Regionally Significant Industrial and Employment Areas.

Title 5: Neighbor Cities and Rural Reserves

Milwaukie is within the Metro boundary, so Title 5 is not applicable.

Title 6: Central City, Regional Centers, Town Centers, and Station Communities

The proposed amendments include changes that implement the City's strategy to enhance downtown Milwaukie, which is a designated Town Center. The City of Milwaukie has long envisioned improvements to the Willamette riverfront that maximize the use and benefits of this valuable resource. This vision is reflected in the goals of the *Downtown and Riverfront Land Use Framework Plan* (Section 1.8, 1.9), which envisions redevelopment of the Kellogg Creek wastewater treatment plant site with uses that are more supportive of downtown and nearby neighborhoods. The proposed amendments include a new provision specifying that minor modifications to a CSU must not "cause any public facility, including transportation, water, sewer and storm drainage, to fail...any applicable standards" of adequacy. The revisions do not include any changes that relate to siting of government offices.

Title 7: Affordable Housing

The proposed amendment will not change the City's policies with regards to housing.

Title 8: Compliance Procedures

The City of Milwaukie's Comprehensive Plan and land use regulations are in compliance with the Functional Plan. The proposed amendments shall be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by MMC Section 3.07.820.A, the City of Milwaukie provided notice of the proposed amendments to Metro's Chief Operating Officer on May 5, 2006, at least 45 days prior to the City Council hearing on the proposed amendments. The City has submitted to Metro an analysis of compliance with the Functional Plan.

In processing the proposed amendments, the City of Milwaukie has followed its own requirements for Citizen Involvement. The proposed amendments were reviewed at public work sessions with both Planning Commission and the City Council. Public hearings on the proposed amendments will be held, and public notice was published twice prior to each hearing, as required by the Milwaukie Comprehensive Plan (Chapter 2, policy 1).

Title 9: Performance Measures

This section relates to monitoring progress in implementation of the Functional Plan and is not applicable to the proposed amendments.

Title 10: Functional Plan Definitions

This section relates to defining the vocabulary used in the Functional Plan and is not applicable to the proposed amendments.

Title 11: Planning for New Urban Areas

This section relates to the planning process for areas brought into the Urban Growth Boundary. The City of Milwaukie has been within the Metro boundary since the inception of the UGB. Title 11 is not applicable to the proposed amendments.

Title 12: Protection of Residential Neighborhoods

The proposed amendments do not include changes to planned density or the scale or location of commercial development. Section 3.07.1240.B requires measures to provide for access to parks and greenspaces. The proposed amendment to Comprehensive Plan, Chapter 4, Recreational Needs Element, Objective 7, Policy 5 includes the maintenance of public access to the riverfront with any redevelopment of the Kellogg Creek wastewater treatment plant site.

Title 13: Nature in Neighborhoods

The City will comply with Title 13 within two years of its acknowledgement by LCDC. The City is, however, currently working with Metro staff to identify tools for improving habitat-friendly development practices in the city. The proposed amendments would not introduce policies or regulations that run counter to the intent of this Title.

D. OREGON STATEWIDE PLANNING GOALS

Goal 1 - Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has an adopted and acknowledged amendment process and is following that process in making these amendments. In processing the proposed amendments, the City of Milwaukie has followed its own requirements for Citizen Involvement. The proposed amendments were reviewed at public work sessions with both Planning Commission and the City Council. Public hearings on the proposed amendments will be held, and public notice was published twice prior to each hearing, as required by the Milwaukie Comprehensive Plan (Chapter 2, policy 1). The Planning Commission members are appointed by an elected City Council, following an open and public selection process.

Amendments to MMC Section 19.321 include revisions to more clearly outline the procedures for reviewing a proposed or modified Community Service Use. The process includes a public hearing, except in the case of a minor modification to an approved CSU.

Goal 2 - Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed amendments to MMC Section 19.321 clarify the application process for a Community Service Use and the criteria to be used for approving such a use. These changes strengthen the City's existing land use policies that implement Goal 2.

Guideline E.2: Minor Changes in the Plan and Implementation Measures
Citizens in the area and other affected governmental units were given the opportunity to
review and comment on the proposed changes to the Comprehensive Plan and Zoning
Ordinance. At least 30 days' notice was published prior to the hearing. The public need
and justification for the change is addressed in the applicant's narrative.

Goal 3 – Agricultural Lands

To preserve and maintain agricultural lands.

The amendments apply to urbanized land within the City of Milwaukie; this goal does not apply.

Goal 4 - Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the State's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The amendments apply to urbanized land within the City of Milwaukie; this goal does not apply.

Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

The City of Milwaukie has long envisioned improvements to the Willamette riverfront that maximize the use and benefits of this valuable resource. The Kellogg Creek wastewater treatment plant is located on the riverfront, and the City's long-term goals, as expressed in the Comprehensive Plan (Chapter 5, Objective 5, Policy 5), have been to decommission the plant. The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway overlay, and the eastern edge of the city is in the Water Quality Resource area. The amendment will not change the City's standards for these zones.

Goal 6 - Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state. All waste and process discharges from future development, when combined with existing developments, shall not threaten to violate, or violate applicable state or federal environmental quality statues, rules or standards. Such discharges shall not 1) exceed the carrying capacity of such resources, considering long range needs, (2) degrade such resources; or (3) threaten the availability of such resources.

Guideline A.1. Plans should designate alternative areas suitable for use in controlling pollution including but not limited to waste water treatment plants, solid waste disposal sites and sludge disposal sites.

The proposed amendment states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The proposed amendment makes it clear that the City is to work with Clackamas County, the service district or other parties to develop an alternate site for sewage treatment and a regionalized system. This criterion has been met.

Guideline A.3. Plans should buffer and separate those land uses which create or lead to conflicting requirements and impacts upon the air, water and land resources.

The Kellogg Creek wastewater treatment plant threatens the air and water quality of the adjacent Island Station neighborhood as well as Riverfront Park. Efforts to buffer this intense use from the neighborhood have proved to be unsuccessful. Separating this Major Utility Facility use from residential, park and downtown land uses will reduce conflicts, as this guideline suggests.

Guideline B.1. Plans should take into account methods and devices for implementing this goal, including but not limited to the following... (2) land use controls and ordinances,... (6) enforcement of local health and safety ordinances.

Existing plans express the community's vision for establishing more environmentally and community friendly uses on this site. The proposed amendments are needed to more accurately reflect the long-term goals for the community and establish a course of action to achieve these goals. The proposed amendments to Sections MMC 19.321.3 and 19.321.7 implement this goal.

Guideline B.3. Programs should manage land conservation and development activities in a manner that accurately reflects the community's desires for a quality environment and a healthy economy and is consistent with state environmental quality statutes, rules, standards and implementation plans.

Attachment 1 - Criteria Checklist -- DRAFT

The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway overlay, and the eastern edge of the city is in the Water Quality Resource area. The amendment will not change the City's standards for these zones.

Goal 7 – Areas Subject to Natural Hazards

To protect people and property from natural hazards.

The Kellogg Creek wastewater treatment plant site falls almost entirely within the FEMA 100 year flood area (see Water Quality Resources map 3 of 6, page 308-96i of the Milwaukie Zoning Ordinance).

Goal 8 - Recreational Needs

To satisfy the recreational needs of the citizens of the State and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Milwaukie Municipal Code Section 19.321 is the mechanism by which recreational facilities are permitted in the City of Milwaukie. The proposed amendment revises the list of facilities to which the section applies, adding 19.321.2.C.4: "Public or private recreational facilities such as pools, gyms, indoor and outdoor sports courts or fields, and associate facilities." This allows the siting of recreation facilities by public and private entities subject to siting and quality standards that exist in Section 19.321.

Goal 9 - Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The purpose of the City's CSU overlay is to "allow for the development of certain uses which, because of their public convenience, necessity, and unusual character, may be appropriately located in most zoning districts..." In concept this allows certain public and private utilities, institutions, and recreational facilities to be located in industrial zones, thereby displacing land that might otherwise be occupied by industrial and employment uses. In MMC Section 19.321.2.A, the proposed amendment does include some modification of the types of facilities to which the CSU applies. The changes include the addition of:

- Reservoirs and any other facilities used for production, treatment and distribution of the municipal water supply (19.321.2.B)
- Public or private recreational facilities (19.321.2.C)

These changes do not significantly change the list uses that could be approved as the Community Service Use, and thereby does not change the City's regulatory capacity to protect the capacity and efficiency of its Regionally Significant Industrial and Employment Areas.

Goal 10 - Housing

To provide for the housing needs of citizens of the state.

The proposed amendments will not change the City's housing or employment capacity.

Goal 11 – Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan

The City's Sewerage Facilities Plan, a subset of the Sewerage Facilities Plan for the North Clackamas Service Area and the City of Milwaukie (1992), was adopted in 1994. This plan recognized that "phasing out" the Kellogg Creek wastewater treatment plant was a viable alternative for providing service over the long-term. The proposed amendments do not change these public facilities plans. The City was in the process of updating the Sanitary Sewer Master Plan, but this effort was put on hold in 2004 pending the completion and adoption of the Clackamas County Clearwater Project plan. The Clearwater plan included among other regional improvements the eventual elimination of the Kellogg Creek plant. The City is currently scheduled to complete its update the Sanitary Sewer Master Plan in 2007. The City is concurrently amending the 1994 Plan to conform with the amended Comprehensive Plan policy.

Guideline A.3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.

The proposed amendment states that the City will pursue decommissioning of the Kellogg Creek wastewater treatment plant in a manner that "assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location." The proposed amendment makes it clear that the City is to work with Clackamas County, the service district or other parties to develop an alternate site for sewage treatment and a regionalized system.

Guideline B.5. Additional methods and devices for achieving desired types and levels of public facilities and services should include but not be limited to the following: (1) tax incentives and disincentives; (2) land use controls and ordinances; (3) multiple use and joint development practices; (4) fee and less-than-fee acquisition techniques; and (5) enforcement of local health and safety codes.

The proposed amendment to MMC Section 19.321 adds subsection 19.321.6.C.5, which allows the planning director to approve minor modifications to an approved CSU provided that it "does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility." The amendment to sections 19.321.3.A and 19.321.7 utilize land use controls and the City ordinance to implement Comprehensive Plan policies.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

The proposed amendment to MMC Section 19.321 adds subsection 19.321.6.C.5, which allows the planning director to approve minor modifications to an approved CSU provided that it "does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility."

Goal 13 - Energy Conservation

To conserve energy. Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

The proposed amendment to MMC Section 19.321 adds a new section that lists major utility facilities as an Unpermitted Use. The definition of major utility facility does not include cogeneration facilities sited with an industrial use or a thermal power generating plant.

Attachment 1 - Criteria Checklist -- DRAFT

Goal 14 - Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

This section relates to the planning process for areas brought into the Urban Growth Boundary. The City of Milwaukie has been within the Metro boundary since the inception of the UGB. Goal 14 is not applicable to the proposed amendments.

Goal 15 -Willamette River Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The Kellogg Creek wastewater treatment plant is located on the riverfront, within the City's Willamette Greenway overlay zone. The City of Milwaukie has long envisioned improvements to the Willamette riverfront that maximize the use and benefits of this valuable resource. This vision is reflected in the goals of the *Downtown and Riverfront Land Use Framework Plan* (Section 1.8, 1.9), the *Comprehensive Plan* (Chapter 4, Objective 7, Policy 5), and was also referenced in the City's August 2005 Intergovernmental Agreement with the Clackamas County Service District #1 to implement the Clearwater Plan. The City's long-term goals, as expressed in the *Comprehensive Plan* (Chapter 5, Objective 5, Policy 5), have been to decommission the plant. The site is zoned for Downtown Office and Downtown Open Space, and is planned to remain in urban use.

Goal 16 - Estuarine Resources

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

The Kellogg Creek wastewater treatment plant is located in the Willamette Greenway overlay, and the eastern edge of the city is in the Water Quality Resource area. The amendment will not change the City's standards for these zones.

Goal 17 - Coastal Shorelands

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

The amendments apply to urbanized land within the City of Milwaukie; this goal does not apply.

Goal 18 - Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

The amendments apply to urbanized land within the City of Milwaukie; this goal does not apply.

Goal 19 - Ocean Resources

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

The amendments apply to urbanized land within the City of Milwaukie; this goal does not apply.

Attachment 2

Amendments to Milwaukie Municipal Code Title 19—Zoning Ordinance

Underlined <u>text</u> is to be inserted Strikeout text is to be deleted

SECTION 19.321 COMMUNITY SERVICE OVERLAY USE:

19.321 Community Service Overlay Zone Use CSOU:

- 19.321.1 Purpose. This section provides for the allows development of certain special-uses which, because of their public convenience, necessity, and unusual character, may be appropriately located in most zoning districts, but which may be permitted only if appropriate for the specific location for which they are proposed in one district but not another. This section also-provides standards and procedures for review and approval of applications for such community uses including utility and recreational facilities. Community service uses may be sited in any zone, except where expressly prohibited, if they meet the standards of this section. The community service overlay will function as an overlay designation for public and private institutions in most zones and districts. Approval of a CSU does not change the zoning of the property.
- 19.321.2 Applicability. Any community service <u>use</u> shall be subject to the provisions of this section, <u>unless otherwise directed in primary zones</u>. <u>Application must be submitted to establish or modify a community service use</u>. Community service uses include <u>certain</u> private and public utilities, institutions, and recreational facilities as listed below:
 - A. Institutions-Public/Private and Other Public Facilities.
- 1. Schools, public or private, and their accompanying sports facilities, daycare centers, private kindergartens;
- 2. Government office buildings for local, state, or federal government such as a city hall, courthouse, <u>police station-correctional facilities</u>, or other similar buildings;
 - 3. Hospital;
 - 4. Cemetery;
 - 5. Nursing or convalescent home;
 - 6. Churches Religious institutions;
 - 7. Community meeting building;

- 8. Temporary or transitional facility;
- 9. Other similar uses as determined by the planning commission.
- B. Specified Utilities.
- 1. Sewage pumping stations;
- 2. Water wells, pump stations, <u>reservoirs</u>, and <u>relatedany other</u> facilities <u>used</u> for production, treatment, and distribution of the municipal water supply;
 - 3. Electrical power substations;
 - 4. Repealed by Ord. 1910;
- 5. Public works shops, road shops, yards, bus barns, equipment and material storage yards, and other similar uses;
 - 6. Repealed by Ord. 1910;
 - 7. Repealed by Ord. 1910;
 - 8. Public transit facilities;
 - 9. Passenger terminal;
 - 10. Other similar uses as determined by the planning commission.
 - C. Recreation Facilities-Public or Private.
 - 1. Private club, fraternal organization-lodge, grange;
 - 2. Public and/or privately owned parks including and golf courses;
 - 3. Pedestrian and bicycle trails The 40-Mile Loop;
- 4. Public or private recreational facilities such as pools, gyms, indoor and outdoor sports courts or fields, and associated facilities;
 - 45. Other similar uses as determined by the planning commission.
 - D. Communication Facilities.
 - 1. Telephone switching station;
 - 2. Telephone, microwave facilities;
 - 3. Radio and television transmission facilities, including studios;
 - 4. Wireless communication facilities.

19.321.3. Unpermitted uses

The following uses may not be permitted as community service uses and are prohibited in all zones:

- A. Major utility facilities, including wastewater treatment plants and thermal (coal, gas, or oil) power generating plants, other than cogeneration facilities sited with an industrial use. A generator supplying on-site power is not a thermal power generating plant for purposes of this section.
- 19.321.34 Notice Requirements. Except as provided in Section 19.321.45C and 19.321.4214 Wireless communication facilities, the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 4101.319.1011.3-Minor Quasi-Judicial Review, Community Service-Overlay Use.
- 19.321.45 <u>Standards for Authority to Grant or Deny a Community Service Uses.</u>
- A. An application for a community service use may be allowed if the following criteria are met:
- 1. The <u>building setback</u>, <u>height limitation</u>, <u>and off-street parking and similar</u> requirements <u>governing the size and location of development in</u> of the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;
- 2. Specific standards for the <u>proposed</u> uses <u>as</u> found in subsections 19.321.710-19.321.4014 are met; and
- 3. The hours and levels of operation of the proposed use <u>arecan be adjusted</u> to be reasonably compatible with surrounding uses.
- 4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and
 - 5. The location is appropriate for the type of use proposed.

19.321.6 Procedures for Reviewing a Community Service Use

- A. The planning commission will hold a public hearing on the establishment of, or major modification of, the proposed community service use. If the commission finds that the approval standards in 19.321.5 are met, the commission shall approve the designation of the site for community service use. If the commission finds otherwise, the application shall be denied. An approval allows the use on the specific property for which the application was submitted, subject to any conditions the planning commission may attach.
- B. In permitting a community service use or the modification of an existing one, the <u>Cityplanning commission</u>, or the community development director in the case of a minor change, may impose suitable conditions which assure

compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

- 1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;
 - 2. Establishing a special yard, setback, lot area, or other lot dimension;
 - 3. Limiting the height, size, or location of a building or other structure;
- 4. Designating the size, number, location, and design of vehicle access points;
- 5. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements;
- 6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area; and/or
- 7. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- C. The community development <u>planning</u> director may approve minor <u>modifications to an approved community service use</u> changes in any development permit pursuant to a type I procedure, provided that such changemodification:
- 1. Does not increase the intensity of any use, or the density of residential use;
- 2. Meets all requirements of the underlying zone <u>relating to building size</u> and location and off-street parking and <u>the specific</u>-standards of Title 19;
- 3. Does not <u>result in significantly affect adjacent property or uses, will not eause any</u> deterioration or loss of any <u>protected</u> natural feature or open space, <u>and does not negatively affect nearby properties nor significantly affect any public facility; and</u>
- 4. Does not affect alter or contravene any conditions specifically placed on the development by the planning commission or city council.; and
- 5. Does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility.
- D. The planning commission will hold a public hearing on the establishment of the proposed community service use. If the commission finds that the establishment of the community service use is in the general public interest and that the benefits to the public outweigh the possible adverse impacts of the use, then the commission may approve the designation of the site for community service use. If the commission finds otherwise, the application may be denied.

This approval will result in the application of the community service overlay designation to a particular piece of land, subject to any conditions the planning commission may attach.

19.321.7 Nonconforming Community Service Uses

Any use prohibited by Section 19.321.3 that was approved prior to the adoption of Section 19.321.3 may remain in use through December 31, 2015, but may not be enlarged, upgraded, remodeled, or altered in any way, except as needed to abate nuisances declared by the City. No changes in the operation of such nonconforming uses are permitted, except as needed to abate Citydeclared nuisances. Violation of this section shall be prosecuted under Chapter 1.08 and the civil penalty for violation of this section shall be \$10,000 per day of violation. During the period when any such nonconforming use remains in effect, the owner of the property and the operator of the use are jointly liable to the City for payment of a nonconforming major utility fee in the amount of \$90,000 per month, payable for each calendar month or portion thereof that the property is in actual use as a nonconforming major utility.

Renumber subsequent subsections as follows:

- 19.321.58
- 19.321.69
- 19.321.710
- 19.321.811
 - 19.321.9 Specific Standards for Churches, Convents and Related Facilities.
 - A. A church spire may exceed the maximum height limitation.
- B. The lot is of sufficient size to allow all required yards to be equal to at least two-thirds (2/3) of the height of the principal structure.
 - C. (Repealed by Ord. 1893)
 - D. Fifteen percent (15%) of the total site is to be landscaped.
 - E. Off-street parking as per Chapter 19.500.
- 19.321.4012 Specific Standards for Institutions—Public, Private, Religious, and Other Facilities not Covered by Other Standards.
- A. Utilities, streets, or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.
- B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street,

consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses which are estimated to generate fewer than twenty (20) trips per day are exempted from this subsection B.

- C. When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds (2/3) of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.
- D. The height limitation of a zone may be exceeded to a maximum height of fifty (50) feet provided subsection C above is met.
- E. Noise-generating equipment shall be sound-buffered when adjacent to residential areas.
- F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.
- G. Where possible, hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.
- H. A spire on a religious institution may exceed the maximum height limitation. For purposes of this section, "spire" means a small portion of a structure that extends above the rest of the roofline, or a separate structure that is substantially smaller than the main structure and extends above the roofline of the main structure. "Spire" includes but is not limited to ornamental spires, bell towers, other towers, minarets, and other similar structures or projections. The number of spires on a religious institution property is not limited, so long as the spires remain only a small portion of the area of the structures.
- I. The minimum landscaping required for religious institutions is the lesser of 15% of the total site area and the percentage required by the underlying zone.

Renumber subsequent subsections as follows:

- 19.321.1113
- 19.321.4214, including self-references and Table within this subsection

Update all references to "CSO" or "community service overlay" to "CSU" or "community service use" as follows:

- 15.32.030.A
- 19.202
- 19.505.1
- 19.507.1
- 19.1011.3.C
- 19.1410.4.B.2
- 19.1504.1 Table 1

Attachment 3

Amendments to Milwaukie Municipal Code Title 19—Zoning Ordinance

SECTION 19.321 COMMUNITY SERVICE USE:

19.321 Community Service Use CSU:

- 19.321.1 Purpose. This section allows development of certain uses which, because of their public convenience, necessity, and unusual character, may be appropriately located in most zoning districts, but which may be permitted only if appropriate for the specific location for which they are proposed. This section provides standards and procedures for review of applications for such community uses. Community service uses may be sited in any zone, except where expressly prohibited, if they meet the standards of this section. Approval of a CSU does not change the zoning of the property.
- 19.321.2 Applicability. Any community service use shall be subject to the provisions of this section. Application must be submitted to establish or modify a community service use. Community service uses include certain private and public utilities, institutions, and recreational facilities as listed below:
 - A. Institutions-Public/Private and Other Public Facilities.
- 1. Schools, public or private, and their accompanying sports facilities, daycare centers, private kindergartens;
- 2. Government office buildings for local, state, or federal government such as a city hall, courthouse, police station, or other similar buildings;
 - Hospital;
 - 4. Cemetery;
 - 5. Nursing or convalescent home;
 - 6. Religious institutions;
 - Community meeting building;
 - 8. Temporary or transitional facility;
 - 9. Other similar uses as determined by the planning commission.
 - B. Specified Utilities.
 - 1. Sewage pumping stations;

6.1 Page 36

- 2. Water wells, pump stations, reservoirs, and any other facilities used for production, treatment, and distribution of the municipal water supply;
 - 3. Electrical power substations;
 - 4. Repealed by Ord. 1910;
- 5. Public works shops, road shops, yards, bus barns, equipment and material storage yards, and other similar uses;
 - 6. Repealed by Ord. 1910;
 - 7. Repealed by Ord. 1910;
 - 8. Public transit facilities;
 - 9. Passenger terminal;
 - 10. Other similar uses as determined by the planning commission.
 - C. Recreation Facilities-Public or Private.
 - 1. Private club, lodge, grange;
 - 2. Public and/or privately owned parks and golf courses;
 - 3. Pedestrian and bicycle trails;
- 4. Public or private recreational facilities such as pools, gyms, indoor and outdoor sports courts or fields, and associated facilities;
 - 5. Other similar uses as determined by the planning commission.
 - D. Communication Facilities.
 - 1. Telephone switching station;
 - 2. Telephone, microwave facilities;
 - 3. Radio and television transmission facilities, including studios;
 - 4. Wireless communication facilities.

19.321.3. Unpermitted uses

The following uses may not be permitted as community service uses and are prohibited in all zones:

A. Major utility facilities, including wastewater treatment plants and thermal (coal, gas, or oil) power generating plants, other than cogeneration facilities sited with an industrial use. A generator supplying on-site power is not a thermal power generating plant for purposes of this section.

19.321.4 Notice Requirements. Except as provided in Section 19.321.5C and 19.321.14 Wireless communication facilities, the planning commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 19.1011.3-Minor Quasi-Judicial Review, Community Service Use.

19.321.5 Standards for Community Service Uses.

- A. An application for a community service use may be allowed if the following criteria are met:
- 1. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;
- 2. Specific standards for the proposed uses as found in subsections 19.321.10-19.321.14 are met:
- 3. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;
- 4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and
 - 5. The location is appropriate for the type of use proposed.

19.321.6 Procedures for Reviewing a Community Service Use

- A. The planning commission will hold a public hearing on the establishment of, or major modification of, the proposed community service use. If the commission finds that the approval standards in 19.321.5 are met, the commission shall approve the designation of the site for community service use. If the commission finds otherwise, the application shall be denied. An approval allows the use on the specific property for which the application was submitted, subject to any conditions the planning commission may attach.
- B. In permitting a community service use or the modification of an existing one, the City may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:
- 1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare;
 - 2. Establishing a special yard, setback, lot area, or other lot dimension;
 - 3. Limiting the height, size, or location of a building or other structure;

- 4. Designating the size, number, location, and design of vehicle access points;
- 5. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements;
- 6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area; and/or
- 7. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- C. The planning director may approve minor modifications to an approved community service use pursuant to a type I procedure, provided that such modification:
 - 1. Does not increase the intensity of any use;
- 2. Meets all requirements of the underlying zone relating to building size and location and off-street parking and the standards of Title 19;
- 3. Does not result in deterioration or loss of any protected natural feature or open space, and does not negatively affect nearby properties;
- 4. Does not alter or contravene any conditions specifically placed on the development by the planning commission or city council; and
- 5. Does not cause any public facility, including transportation, water, sewer and storm drainage, to fail to meet any applicable standards relating to adequacy of the public facility.

19.321.7 Nonconforming Community Service Uses

Any use prohibited by Section 19.321.3 that was approved prior to the adoption of Section 19.321.3 may remain in use through December 31, 2015, but may not be enlarged, upgraded, remodeled, or altered in any way, except as needed to abate nuisances declared by the City. No changes in the operation of such nonconforming uses are permitted, except as needed to abate City-declared nuisances. Violation of this section shall be prosecuted under Chapter 1.08 and the civil penalty for violation of this section shall be \$10,000 per day of violation. During the period when any such nonconforming use remains in effect, the owner of the property and the operator of the use are jointly liable to the City for payment of a nonconforming major utility fee in the amount of \$90,000 per month, payable for each calendar month or portion thereof that the property is in actual use as a nonconforming major utility.

Renumber subsequent subsections as follows:

- 19.321.5 becomes 19.321.8
- 19.321.6 becomes 19.321.9
- 19.321.7 becomes 19.321.10
- 19.321.8 becomes 19.321.11

19.321 is deleted.

- 19.321.12 Specific Standards for Institutions—Public, Private, Religious, and Other Facilities not Covered by Other Standards.
- A. Utilities, streets, or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.
- B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses which are estimated to generate fewer than twenty (20) trips per day are exempted from this subsection B.
- C. When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds (2/3) of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.
- D. The height limitation of a zone may be exceeded to a maximum height of fifty (50) feet provided subsection C above is met.
- E. Noise-generating equipment shall be sound-buffered when adjacent to residential areas.
- F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.
- G. Where possible, hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.
- H. A spire on a religious institution may exceed the maximum height limitation. For purposes of this section, "spire" means a small portion of a structure that extends above the rest of the roofline, or a separate structure that is substantially smaller than the main structure and extends above the roofline of the main structure. "Spire" includes but is not limited to ornamental spires, bell towers, other towers, minarets, and other similar structures or projections. The number of spires on a religious institution property is not limited, so long as the spires remain only a small portion of the area of the structures.

6.1 Page 40

I. The minimum landscaping required for religious institutions is the lesser of 15% of the total site area and the percentage required by the underlying zone.

Renumber subsequent subsections as follows:

- 19.321.11 becomes 19.321.13
- 19.321.12 becomes 19.321.14, including self-references and Table within this subsection

Update all references to "CSO" or "community service overlay" to "CSU" or "community service use" as follows:

- 15.32.030.A
- 19.202
- 19.505.1
- 19.507.1
- 19.1011.3.C
- 19.1410.4.B.2
- 19.1504.1 Table 1

Attachment 4

Amendments to Milwaukie Comprehensive Plan

Underlined <u>text</u> is to be inserted Strikeout text is to be deleted

CHAPTER 4- LAND USE:

Recreational Needs Element, Objective 7 Policy 5

The City will cooperate with Clackamas Sewer District #1 to encourage the continued public use of portions of the Kellogg Sewage Treatment Plant site. The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of the Kellogg Wastewater Treatment Plant this site in the future. The City will make reasonable efforts to bring about the decommissioning of the Kellogg Wastewater Treatment Plant in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location. Reasonable efforts include revising the Zoning Ordinance to make the existing facility a nonconforming use and restricting any modification of the sewage treatment use at that site. Riverfront access recreation will be maintained with any redevelopment of the treatment plant site.

CHAPTER 5 – TRANSPORTATION/PUBLIC FACILITIES/ENERGY CONSERVATION:

Public Facilities and Services Element, Objective 5, Policy 5

The City will participate in examining feasible alternatives for decommissioning the Kellogg Creek Treatment Plant. The City will pursue a regional approach, working in partnership with special districts in the North Clackamas County area, to assure adequate sewer service to accommodate projected growth in Milwaukie.

The City will use best efforts to decommission the Kellogg Creek Wastewater Treatment Plant and will cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility.

Amendments to Milwaukie Comprehensive Plan

CHAPTER 4- LAND USE:

Recreational Needs Element, Objective 7 Policy 5

The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of the Kellogg Wastewater Treatment Plant site. The City will make reasonable efforts to bring about the decommissioning of the Kellogg Wastewater Treatment Plant in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location. Reasonable efforts include revising the Zoning Ordinance to make the existing facility a nonconforming use and restricting any modification of the sewage treatment use at that site. Riverfront access will be maintained with any redevelopment of the treatment plant site.

CHAPTER 5 – TRANSPORTATION/PUBLIC FACILITIES/ENERGY CONSERVATION:

Public Facilities and Services Element, Objective 5, Policy 5

The City will use best efforts to decommission the Kellogg Creek Wastewater Treatment Plant and will cooperate with the County, county service districts, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg plant to some other sewage treatment facility.