

**CITY OF MILWAUKIE
PLANNING COMMISSION**

**MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, April 22, 2008
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice-Chair
Scott Churchill
Lisa Batey
Teresa Bresaw
Charmaine Coleman

STAFF PRESENT

Kenny Asher,
Community Development Director
Katie Mangle, Planning Director
Michelle Neumann, City Attorney
Susan Shanks, Senior Planner

COMMISSIONERS ABSENT

Paulette Qutub

1.0 CALL TO ORDER

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

2.0 PROCEDURAL MATTERS – None.

3.0 PLANNING COMMISSION MINUTES

3.1 February 26, 2008

Commissioners Churchill and Bresaw added language to address inaudible portions of their remarks on pages 3 and 45, respectively.

Chair Klein noted Line 1317 on page 39 should reflect that the Commission had not continued the Application, but had consented only to proceed with the meeting only until 10 pm and then continue the Application to a later Planning Commission meeting date.

Commissioner Batey moved to approve the February 26, 2008 meeting minutes as corrected.

(Note: additional text in bold, italic text; deleted text struck through.)

- Line 115 on page 3 was amended to state, "he ~~[inaudible]~~ **discussed acoustical** issues, but it would not affect the application for this specific site."
- Line 1317 on page 39 was corrected to state, "The Commission consented to continue the Application **to a later Planning Commission meeting date and end the meeting at 10 pm.**"
- Line 1511 on page 45 was amended to state, "be vegetative screening ~~[inaudible]~~ **to help screen the light poles.**"

Commissioner Bresaw seconded the motion, which passed unanimously.

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.

5.0 PUBLIC COMMENT –There was no public comment.

6.0 PUBLIC HEARINGS - None

7.0 WORKSESSION ITEMS

7.1 Light Rail Update and Station Selection Staff Persons: Katie Mangle and
Kenny Asher

Katie Mangle, Planning Director and Kenny Asher, Community Development

Director briefed the Planning Commission on the Light Rail Project (the Project) and discussed various station stops and their pros and cons. It was noted that the presentation's focus would be on station selection, not alignment questions, which would be discussed in the future.

Staff reminded that the Commission was not the decision making body on the Project, but their individual participation was encouraged as station selection was a planning issue that would greatly affect downtown Milwaukie and Staff wanted the Commission's input. The presentation encompassed the following items with associated questions and comments:

- Light rail station options and what made a good station location.
- Public comment received to date.
- The public decision making process moving forward.

Staff provided background information on the Project, its current status, and projected timeframe to familiarize the Commission and facilitate their involvement.

- The Project had been in study for about 10 years and was now entering a decision making phase.
- The Supplemental Draft Environmental Impact Study (SDEIS) was about gathering information and identifying impacts, and Metro had indicated its publication was expected in May.
- Publication of the SDEIS would initiate a 45-day public comment period during which various committees and groups would formulate recommendations for the Locally Preferred Alternative (LPA). City Council (Council) involvement was expected around mid-July.

- * The LPA was key as it involved which alignment and which stations on that alignment would be selected, but separating the station locations from the alignment issue simplified the process.
- * Staff was expected to provide recommendations for station locations for the different alignments to the Council in late May or, more likely, June 3rd.
-
- A two-night hearing was penciled in for July 14th and 15th for an LPA discussion and decision.

Specific station locations, functions, elements, and capacities were discussed as follows:

- Harrison St, Monroe St, Washington St, and Lake Rd were noted to all be potential stations regardless of the alignment selected, with Lake Rd becoming a likely terminus if the alignment was not extended down to Park Ave.
 - * Harrison St, Monroe St, and Washington St were a little different due to nearby locked-in land use.
 - * Sites such as the Milwaukie Lumber site and the vacant land around Lake Rd could be thought of as opportunistic sites.
- Light rail station designs had some common characteristics with various configurations.
- Important factors for locations were connections to sidewalks, to other modes of transportation, proximity to the street, bike access, etc.
- The Downtown Plan had been written with busses in mind, but the vision was for mixed-use development and redevelopment and could be adapted.
- The zoning for multi-use buildings made differentiation between the sites an issue Staff particularly wanted the Commission's perspective on.
- Traffic flow/impacts were a public concern, and the SDEIS ridership model numbers showed Washington St would attract slightly more riders of the four previously mentioned stations.
 - * The model assumed commuters would make different choices about the mode they used to make the complete trip and modeled only the stops shown on the displayed graph.
 - * Perhaps Washington St would attract more riders than nearby Monroe St because it carried more traffic, reached a little further south, and had bus connections.

- * The number of commuters for the Harrison St location was quite high because it reached a number of other bus stops north and east and encompassed more residential properties. The model assumed people would walk about 1/4 mile.
- Projected Milwaukie light rail average weekday station usage would be obtained.
 - * Staff would also check whether ridership percentages were available for bus riders versus rail commuters.
- Ridership was important but Metro and Tri-Met were concerned with that already, which freed the Commission to focus on what was best for downtown Milwaukie.
- It was suggested that Staff check on the distance between the stops on the Downtown Hillsboro route for a reference point.

Staff provided information on station location preferences and comments received from citizens at the March 19th meeting at Milwaukie High School, and noted that another meeting was scheduled at the high school for April 28th to obtain more public input as to station preferences and whether one or two stations were wanted.

- Metro was still compiling the final report from that meeting, which would include tabulation of the voting on preferred stations, but had provided Staff with some comments about certain locations.
- Milwaukie/Southgate Station.
 - * Concerns were truck access and parking loss to businesses. Tucking the station in the back of that district would not be desirable.
 - It was clarified that the comment on the location of the station behind the Southgate site had not been negative but only a discussion of alternatives.
 - * Positive comments were that it was a good place for a park-n-ride and the station would support the employment there.
 - * Neutral comments were made about terminating the rail at Southgate, but that was not an option under study and did not inform Staff's recommendation on locations even though people continued to suggest it.
- Harrison St Station.
 - * Comments against were that it was too close to the school and generated traffic concerns.
 - * Favorable comments indicated it was 'good for density east of station,' which was interpreted that the station would be able to serve people east of that location.
- Monroe St Station.

- * Comments against were mainly traffic and that it was too close to the school.
- * Positive comments regarded the lumberyard wanting to sell. It was central to Downtown and could be a transit-oriented development under current zoning.
- Washington St Station.
 - * Comments opposed mainly regarded traffic concerns and being too close to the school.
 - * Washington had the most positive reactions. People liked the development potential that it was centrally located, and close to the proposed park-n-ride at Lake Rd.
- Lake Rd Station.
 - * Comments against cited limited visibility and security and that the park-n-ride would be too close to the river
 - * Comments in favor were that it could feed special events and that proximity to a school was not as much an issue since the students were high school-aged.
 - * A neutral comment was that people still wanted to see a park-n-ride south of Lake Rd (the Park Ave option), which was an alignment issue.
- Bluebird St Station.
 - * Comments against showed strongly negative feelings about the station track possibly being elevated versus at-grade.
 - * Comments were generally positive.

Staff indicated both the proposed Bluebird St and Southgate stations were inextricably linked to alignment decisions. Additional discussion followed regarding station locations and requirements.

- One big issue was Oregon Department of Transportation (ODOT) had indicated that if the light rail was extended to Park Ave, an at-grade crossing on McLoughlin would not be allowed due to visibility, safety, etc. concerns.
 - * A long history was noted of this type of argument between ODOT, the transit agency and transit planners.
- Noise impacts were addressed in the SDEIS, and it was confirmed the FTA required sounding the train horn in a freight corridor and at all at-grade crossings.
 - * That FTA or FRA requirement was new and would not apply to other light rail projects but would apply to this project. It may be possible for the City to have the corridor declared a Quiet Zone.

Staff explained the SDEIS and Environmental Impact Statement (EIS) process, which involved a lot of federal requirements for process, formatting, categories, etc.

- One requirement was full disclosure of potential impacts along with all possible mitigation measures for negative impacts and Staff provided additional detail about the specific steps involved.
- Subsequent to the SDEIS, preliminary engineering would be done to determine what mitigation measures could feasibly be built with a project.
- The final EIS would be the next step, responding to all written comments received and committing to specific mitigation measures.
- Wherever there were findings of significant impact, the Agency was required to mitigate.
- Mitigation of any less than federally-established significant impacts was negotiable; therefore involvement of Staff and the citizenry was needed to achieve a well-integrated project.

Staff displayed and discussed with the Commission simulations/renderings for the various proposed stations, with the provision that the renderings merely gave an idea of spatial relationships, as the Project was only 5% designed.

- * Staff confirmed there would be room for something other than gravel on the ground in some areas.
- Harrison St Station: A retaining wall was noted on the eastern edge of the station property line.
- Monroe St Station: A ramp and pedestrian connection to the existing sidewalk were noted at the far end of the station, which were barely visible on the slide.
- Washington St Station: Vehicular queuing concerns with the gates coming down regularly were addressed. Even at rush hour with projected 2030 traffic volume, car queuing would clear the intersection in one cycle for the most part, even at the peak hour; the specific numbers would be in the study.
- * Staff confirmed that real time simulation models had been used in the study.
- Lake Rd Station: Only the parking area was shown. The possibility of a park-n-ride was mentioned with a 3- or 4-level parking facility.

Chair Klein suggested the intersection traffic flow numbers for the Eastman Parkway in Gresham be obtained because queuing up at that intersection did not seem to occur during peak hours.

Ms. Mangle discussed the memo she had prepared at Mr. Asher's request that responded to questions from the community regarding density, light rail, and zoning to clarify the City of Milwaukie's policies and what Metro required of the City and/or had recommended.

- The City's policy was to direct density to areas that would be redeveloped and for residential neighborhoods to stay residential.
- The density requirement set by the City in 1997/1998 and submitted to Metro identified the capacity for growth within the zoning existing at that time, which was about 3,188 housing units in the city.
 - * Rezoning a parcel that would affect density might cause Metro to require that density to be balanced out elsewhere.
- Metro's recommendation, not requirement, was for 45 employment and residential units per acre, but that recommendation would be higher with a light rail station designation. A city block was noted to be generally just under an acre.

Mr. Asher confirmed that if the light rail terminated at Lake Rd, it was unlikely to always be the end of the line. The real question would be how many years before the line continued.

- A high capacity transit plan was underway at Metro to determine the slate of rail projects for the next 30 years, because this project completed what had previously been planned, and the public was clamoring for more transit services.
- Staff believed that Oregon City was the only Regional Center on the map without light rail and was expected to be high up in the queue for light rail development, so the light rail line eventually would continue down to Oregon City.

Various pros and cons of station locations were discussed in more detail as follows:

Commissioner Coleman confirmed the Cash Spot site most likely would be developed into parking regardless of whether the light rail extended to Park Ave.

Mr. Asher explained that Cash Spot parking could possibly be avoided if the Project was extended to Park Ave and was able to maintain eligibility through serving enough commuters to qualify for federal funding; however, it had been recognized during the TSP process that this might be the only way Milwaukie would get a park-n-ride structure downtown, for which procedures/policies had already been written for use and sharing.

- He indicated a park-n-ride at Washington St was not necessarily required by the SDEIS, but merely that a certain total of park-n-ride spaces be available in the aggregate, explaining the total could be met between the options of Tacoma St, Southgate, Lake Rd, and Park Ave.
 - He noted that apportionment/calculation was the trickiest, as each of those locations were challenged with how much park-n-ride could be put there, and no matter how much went to each location, demand would exceed supply.

Chair Klein believed it unfair to have the proposed Milwaukie station(s) bear the burden of all the parking in those areas.

- He added that the Park Ave option was a good choice regardless of how many stations were built because the land was less expensive and a structure would be easily obtainable.
 - * More importantly, the location would capture the inevitable traffic and people, reducing the numbers of people getting into Milwaukie, which he believed was the ultimate goal.
- He commented that the Southgate site did not work as well because all the light rail riders would still be driving through Milwaukie.
- He believed using the Park Ave site addressed a previous comment in that it showed the commitment to continue on down McLoughlin, whereas stopping at Milwaukie did not.

Mr. Asher relayed his confidence about the community's success in getting that option into the study and in getting the region to understand why it was so important.

- The community in general seemed to grasp that terminating the line south of Milwaukie was preferable; He was less sanguine about its actual implementation as the option was considerably more expensive.
- He indicated that Staff would lobby for the southern termination as it was clearly the Commission's preference, reiterating that the Commissioners were not decision

makers but with their knowledge of downtown issues, their influence could be really helpful now that the Project was in the decision making phase.

Commissioner Churchill believed comparing ODOT traffic counts between Hwy 224 and the Hwy 99 corridor would be helpful.

- **Ms. Mangle** replied that figures for Hwy 99 south of Milwaukie were not in the TSP, but the downtown portion was and offered to obtain the other figures.

Commissioner Coleman emphasized bringing in government money could stimulate the Park Ave area, which had been a business failure, and make it more business-friendly. Bluebird St could also be revitalized if the station was an at-crossing; having the line run above the Bluebird St area was a bit daunting.

- She disagreed with Chair Klein's assessment of the Southgate site because she believed commuters parking at Southgate would probably be coming up Hwy 224 rather than using McLoughlin as an alternative route.
 - * **Mr. Asher** agreed Southgate would be situated to serve the Hwy 224 corridor, but park-n-ride behavior was such that people tended to drive as close in as they could and would leave earlier to do it, so people in the Hwy 99/McLoughlin corridor would drive to Southgate if they could because it was closer.
 - * He agreed the different sites' parking would eventually all be used.
- She did not believe the Lake Rd station site was unique or had any unique positives compared to nearby stations.
 - * The Washington St site was also close to the high school and could feed events.
 - * People might also park at the proposed Lake Rd park-n-ride and use the Bluebird St station.
- She commented on the positive possibility that Kronberg Park could become less difficult to access if people could park at the Bluebird St station.
 - * **Mr. Asher** replied that such feedback was precisely what was needed.
 - * He reiterated that the displayed images of the proposed stations were not the actual proposed designs. Even after the alignment and station location(s) were selected, there would still be a lot of work and opportunity to influence design elements such as connections, landscaping, etc.

Commissioner Batey commented that she would not mind an elevated structure at the Bluebird St station, since it would not be over anything she cared about retaining, though a station there would be an impetus for redevelopment.

- A Bluebird St at-grade station might necessitate realignment of River Rd and would be a mess as far as traffic, the River Rd intersection and the Trolley Trail, so an elevated crossing made more sense.
 - * Additional complications existed with redevelopment due to the size and shape of some property parcels.
- An ugly elevated train crossing at Bluebird St that continued on to Park Ave would be harder to sell since redevelopment of those properties would be much less likely without a station.
- She liked the idea of having two stations downtown, one at both the north and south ends.
 - * She really liked the Harrison St station, even though it was close to a school, because of the many apartment buildings within that radius, as well as properties prime for redevelopment near Harrison and Hwy 224. A Harrison station would also help with the Murphy site, which was very close.
 - * Either Washington St or Lake Rd were fundable and would be good candidates for the other stop.

Chair Klein did not believe Harrison St was the best site, but agreed the Harrison St site was desirable because it was built out and would not impact density as much because there would be less possibility of transit-oriented development versus Monroe St or Washington St.

Commissioner Batey noted the ¼ mile walking access circles at Monroe St and Washington St also extended out into the river.

Commissioner Bresaw agreed that a station at Harrison St made a lot of sense, adding that Washington also had the St. John's Grade School within that radius.

Commissioner Coleman stated she lived right by the proposed Harrison St station and personally would not mind having a station near her. The Waldorf School was certainly a wonderful neighbor.

- She was encouraged by the renderings showing everything to the east of the current line and that anything approaching, leaving, or in the downtown area absolutely needed to be controlled with a quiet zone, which really needed to be pursued, including existing horns.
- She did not understand the model numbers provided for Harrison St since few homes existed to the north. While a few apartments existed, the Waldorf School took up a lot of space.
- She did not believe downtown was so large that two stations were needed and really liked the Washington St site because it would be centrally located and close to downtown if Main street redevelopment occurred.
 - * She was especially comfortable with one station in downtown Milwaukie if there was a Bluebird St station.

Commissioner Churchill expressed concern about distances between stations functionally, operationally, and ridership-wise. Hillsboro had stations significantly further apart than Washington St and Harrison St, for example.

- Harrison St might make more sense operationally with respect to distance and ridership even though it was not necessarily his preferred alternative.
- He confirmed that only a station south of Harrison St was being considered at this time, though a station north of Harrison St could be possible.
- He expressed concern about trains barely getting up to speed in 1,000 feet and the seemingly continual cutting off of one artery or another.
 - Trains stopping north of Harrison St would be out further from the Washington St and Harrison St arterials and might not cut off traffic flow as much.
 - He believed a Lake Rd station would cause a lot of congestion.
- He inquired if there were examples on the MAX line that would simulate the length of the proposed elevated portion of the Bluebird St crossing, given the elevation required, to gain a better perspective about what to expect with an aerial crossing.
 - He believed the portion might be quite massive and a poor gateway to Milwaukie. He was only aware of the line over I-205.
- * **Mr. Asher** replied that though other examples existed, nothing simulated what was happening in Milwaukie. He suggested marking out the expanse in that location with balloons and stakes once they got to that point.

Commissioner Coleman believed there would be a great deal of concern over what the elevated train would look like on the south end of town, especially at the southern gateway to Milwaukie, and fans of Kronberg Park were worried about negatively impacting that area as well. Visual aids, perhaps with added artwork, would go far to create a more positive outlook, otherwise people assume the worst-case scenario.

Commissioner Churchill suggested the arched Main St light rail bridge in Hillsboro might be a good example of a well-executed track elevation.

- **Ms. Mangle** ensured Staff would look for other examples, adding some areas might not have the same natural resources as Milwaukie to contend with.

Commissioner Batey inquired how high a building would have to be to reach the height of the elevated train.

- **Mr. Asher** responded the height would be 2½ to 3 stories, which was allowed under current zoning.

Ms. Mangle concluded by encouraging the Commission to attend the LPA Meeting at the Milwaukie High School April 30, 2008 at 6:00 p.m. as individuals or to send comments.

Mr. Asher announced that three SDEIS open houses would be held and that the final SDEIS was required to address any public comments received, so it was an important opportunity for the Commissioners to attend and/or submit comments.

- The Steering Committee would also hold a hearing, and would ultimately recommend the LPA to which the City Council would respond. Mayor Bernard was City's representative. This was another important opportunity to weigh in on light rail.
- He recommended staying in contact with City Council as the Council was carefully listening to all points of view.

7.2 PLA Appeal Briefing

Staff Person: Susan Shanks

Ms. Mangle explained that the Commission's next meeting would include a public hearing on an appeal of a Planning Director's decision to deny a property line

adjustment (PLA). She emphasized that tonight was not a hearing but was more informational preparation regarding key issues and processes the Commission rarely encountered in order to prepare them for the appeal. She cautioned the Commission not to venture into hearing-like behavior.

Chair Klein added the inherent difficulty was the Commissioners had to ask clarifying questions to understand the PLA appeal, but could not ask in-depth questions even though they were related to the appeal.

Ms. Mangle further explained the Commission could not discuss anything that the Applicant would feel the need to comment on because the Applicant was not present to respond; again this was purely an educational briefing.

Susan Shanks, Senior Planner explained that Title 17, the Land Division Ordinance, had become separate from Title 19, Milwaukie's Zoning Ordinance back in 2002 and discussed what a PLA was in more detail.

- Title 17 regulated various types of boundary changes, some of which might be familiar to the Commission, such as subdivisions, minor land partitions; a PLA was just another kind of boundary change.
- She defined a PLA as adjusting a shared property line between two abutting property owners and not creating a new unit of land, reiterating that Title 17 governed PLAs and also referenced Title 19.
- She used the diagram on packet 7.2 page 2 to describe how a PLA occurred, adding that PLAs were subject to a review process with approval criteria for size and shape, and could not make a lot nonconforming or substandard in size.
 - * A less usual type of PLA was an adjustment across a right-of-way (ROW).
Noting the area in the diagram between lot lines, she explained that ROWs were not thought of as being owned by individuals, but technically they were, even though the ROW land was encumbered in such that no one else could use it in any other way.
 - * Property owners on either side of a ROW still retained fee interest to the center of the ROW and that was why, for example, when a street was vacated from the center line back toward the abutting property owner, the owner actually got back half of the street as it was technically theirs.

- She emphasized neither the public nor the City owned the ROW. Even though the abutting property owner had fee interest/ownership of the ROW up to the center line, they were also not paying taxes as it was recognized that the encumbrance precluded the owner from using that portion as their private property.
- She pointed to Lots 2 and 5 on the diagram and how it showed Lot 2 moving its shared property line further to the east with Lot 5 becoming smaller, which technically could happen because it met the definition of a PLA even though it was atypical in that it involved an adjustment across the ROW. That type of PLA would still have to meet all the development standards in Titles 17 and 19.

Commissioner Churchill confirmed Ms. Shanks was unaware of examples of similar PLAs in Milwaukie that might help the Commission understand the issue, as historical research had not been done along those lines.

Commissioner Bresaw used the diagram to explain a through-lot configuration where the street could be vacated because access was not needed.

- * **Ms. Mangle** replied that Staff had assumed in the example diagram that Lots 2 and 5 were owned by the same person, so when Lot 5 lost ROW access, it would still have access through Lot 2 so a through-lot scenario was more likely to occur.
- * **Ms. Shanks** explained the issue was very abstract and the example was possibly too simplified as Staff merely wanted to illustrate that a line could be shifted across a ROW because the properties technically shared a common boundary in the middle of the ROW.
- * She added there could be many different configurations because Milwaukie had many dead-end streets, etc.
- She confirmed the Code required lots to have access.
 - * **Ms. Shanks** noted that if Lot 5 in the diagram did not have a street on the other side, it would potentially lose its frontage/access.

Chair Klein mentioned instances where ROW was undeveloped and confirmed that, in theory; the properties could switch their property lines.

Ms. Shanks concluded by stating that a close look at the City of Milwaukie tax lot map would reveal other examples, but she was not aware of any examples of PLAs approved across a ROW.

Michelle Neumann, City Attorney explained the doctrine of adverse possession to prepare the Commission to understand the context of the upcoming hearing:

- Adverse possession was common-law doctrine in Oregon for a long time, was codified in 1989, and was now an Oregon Revised Statute (ORS) 105.620, which was straightforward and basically set out the elements the same as in common law:
 - * A person may acquire fee simple title to real property if that person maintained actual, open, notorious, exclusive, hostile and continuous possession of the property for a period of 10 years. Common law flushes out a little bit what each of those terms means. At the time that the adverse possession commenced, the person has to have an honest belief that it was their property, and that belief had an objective basis, has to be reasonable, and the standard of proof must be clear and convincing. The person who is asserting adverse possession has to prove all the elements by a standard of proof, and that standard is a pretty high standard.
 - * The statute also goes on to give a definition of what 'hostile' means, in reference to the elements, and it basically means a 'claim of right' in that a person thinks that they own the property; or with something called 'color of title,' which is that they got a document that they thought conveyed property to them, but for some reason that document had a defect and did not actually convey, but it still gave them this sort of color of title or this honest belief that they own the property.
- Because the doctrine was codified in 1989, claims that vest before 1990 go back to this common-law standard. Any claims that vested after 1990 use the statute.
- With respect to the title that is transferred by adverse possession, it is not deficient in any way to title transfer by deed. It's the same quality; it's fee title.
- The possession that is required doesn't mean one must continuously occupy that piece of property; but it must be used however a normal owner of such a piece of property would use it.
- The main thing is that the elements are meant to say that one cannot acquire adverse possession in secret -- it has to be very open and has to put the true owner on notice that someone else is claiming an ownership interest in the property, which is

what the notorious element really means, it gives notice to the owner that they're occupying.

- The exclusivity element does not mean that the person who is adversely possessing has to exclude all others, but it goes back to however the ordinary owner would exclude others, that's all that needs to be done.
- A person can be mistaken about believing the property had belonged to him/her as long as it was an honest, objective belief, which is a primary difference between the statute and common law.
 - * Under common law, the person could know the property was not theirs and could set out to adversely possess and claim it, but that is no longer the case under the statute.
- Any sort of permission extinguishes the claim; it has to be adverse and hostile to the owner's interest and if the owner knows the person is there and gives permission to be there, that person's claim is over.
- The 'doctrine of tacking' meant it did not have to be a single owner throughout the 10-year statutory period. It can be successive owners as long as they maintain all the elements for the whole 10 years; 'tack' all those times together, and one can achieve the claim that way.
 - * That statute is related to ORS 12.050, the statute of limitations that basically says if one has a right to a piece of property and does not assert it within 10 years, they lose their right.
 - * Those two statutes work together. If the true owner does not assert their right, if they do not bring a claim within 10 years, and if all the adverse possession elements are maintained, you own the property after 10 years.
- If all of the elements are met for the entire period, title is perfected at the commencement of the period of limitations, which may be the confusing aspect of adverse possession in that there is no deed and nothing in the public record. It just occurs. The true owner and third parties might have no knowledge of it, and that makes it difficult to determine.

Commissioner Batey confirmed the statute had not changed the common-law adverse possession period from 20 to 10 years and that adverse possession did not lie against the government.

- * **Ms. Neumann** added that a person could not adversely possess the ROW that belongs to the public.

Chair Klein asked about the tax implication; if taxes were paid on land for a long time and someone felt they adversely possessed it.

- * **Ms. Neumann** replied someone would bring an action to have the ownership determined at some point, bringing action to quiet title or negotiating with the other person and get a quit claim, etc. The taxpayer would have to go to the taxing entity and explain the adverse possession. She did not know the hard and fast answer.
- * She reiterated that adverse possession was confusing because even the person who was adversely possessing might not know when the change in title occurs and there was nothing in public record either. Title companies could do a title search and the adverse possession may not be revealed.
- * With regard to selling a property, she responded a surveyor should hopefully be able to determine what the boundaries of the property should be. Certainly an inspection on the ground might reveal, for instance, that a fence had been placed incorrectly, etc.

Commissioner Bresaw confirmed that if an owner was permitting occupancy or use, that was not adverse possession because that destroyed a necessary supporting element.

Commissioner Churchill inquired if case law examples would be brought forward.

Ms. Mangle declined to answer as it would probably venture into the hearing topics.

Ms. Neumann stated that typical cases she saw involved incorrectly placed fences.

Commissioner Batey confirmed the ORS statutes involved would be provided as needed in the Staff report and that the Applicant might provide other information.

Ms. Mangle stated the main objective to provide the Commission with an understanding of the background, terms and concepts of adverse possession and PLAs had been accomplished.

- She confirmed Commissioner Qutub had received the Staff report that contained much of the summarized information, although Ms. Neumann had provided a little more detail.

7.3 2008-2009 Work Plan

Staff Person: Katie Mangle

Ms. Mangle stated that the Work Plan review was not as urgent since City Council would not be holding the regular Commission/Committee/Board budget briefings this spring partly because their agendas were so packed. They hoped to wait until the typical slow-down in the fall.

- Therefore, tonight's discussion would focus more on what the Commission wanted to do in order to prepare for the Commission's annual meeting with Council.
- Attachment #1 included the Work Plan for the Planning Commission and Design and Landmarks Committee (DLC), as well as other Planning Department projects to provide the context of the different workloads and schedules.
- She reviewed the Work Plan items with the following comments:
 - * Long-Range Planning- The Commission would do more periodic review, essentially updating the Comprehensive Plan, and needed to determine what to address in its Work Plan.
 - The State required addressing areas like the Buildable Lands Inventory, Economic Development Goals, etc., but there might be opportunities to address such requirements while doing what Milwaukie really needed, similar to what was done with the TSP; however, the work could be done over three years, not one.
 - * Code/Housekeeping amendments would continue and the Hwy 224 Commercial Area would be carried forward.
 - * Parking Standards would not be finished by June 30th, the end of the fiscal year.
 - * Transportation Code Revision Project showed good progress but would be carried over, as well as the Residential Design Code Project.
 - * As promised, the Sign Code was on the list in hopes of tackling it next year.

- * Staff had been working on illegal lots. The legislature had not addressed them as Staff hoped.
- * The required Metro Functional Plan Compliance projects were small.

Commissioner Batey expressed concern about the billboard questions, which she had copied the Commission and Staff on, and what their current vulnerability was along McLoughlin Blvd, Hwy 224 and possibly King Rd.

- * **Ms. Mangle** indicated the site where three billboards went up last year was particularly vulnerable because it had three frontages and the sign area allowed in industrial areas was related to frontage. Since the property fronted on Hwy 224, Main St and Harvester Dr, the business was allowed to use all of it. Essentially, one sign was allowed for each frontage.
 - She explained the problem had not been solved, and hoped the signage issues were not as bad as that site.
- * Pole signs were allowed in commercial and industrial zones, but were restricted by height. Pole signs were only prohibited downtown and in residential areas.
- She indicated one concern regarded billboards on top of buildings. The guitar shop had one that was larger than the building, which she presumed would not be allowed under the current Code.
- * **Ms. Mangle** responded that roof signs were permitted in commercial zones but were smaller and much more limited than in industrial zones.
- She asked if anything could be done to stop commercial buildings along King Rd from putting billboards on top of their buildings.
- * **Ms. Mangle** replied there were size and height limitations and believed 8 ft was the maximum height allowed over the highest plane of the building. Buildings with add-on buildings on top created issues with the current Code. Problems certainly existed that needed work.
- * She noted that signs like Kellogg Bowl and Pietro's Pizza were prohibited in Milwaukie and would be required to be removed in 2019 under current code. Identifying them as landmark signs might be a way to preserve the iconic signs.

Commissioner Batey asked whether doing the listed items actually involved addressing the periodic review and what needed to be done for the Comprehensive Plan, aside from some of the items the City had to do.

- * **Ms. Mangle** replied no, and clarified that aside from the Hwy 224 Commercial Area, the South Downtown Concept Plan, light rail, etc., the rest of the list included mainly Code projects; the periodic review would become a Comprehensive Plan update so it was a different category.
- The City might be able to receive a grant to update the Historic Resources inventory which would affect the Historic Resources Code.

Commissioner Bresaw commented that it felt like some items were continued every year.

Chair Klein remarked that this year pretty big projects had pushed Staff in a different direction than being able to accomplish certain planned items.

Commissioner Batey confirmed that lots created illegally did not apply to grandfathered lots.

- * **Ms. Mangle** clarified that Staff defined illegal lots as lots not recorded or approved by the City. For example, PLAs recorded by the County that actually fell within the City's purview or mortgage deeds registered with the County that are supposed to be recorded with the City, which resulted many times in the loss of development rights.
- * Even when changes occurred years ago without the current property owner's involvement, the City could not allow development because the lot was substandard, had lost its ROW access, etc.
- Staff had a proposal to amend the Code for the Commission to review and provide input about assisting property owners in reversing the impacts/ramifications.

Commissioner Batey asked why the County did not notify property owners when they needed to go to the City.

Commissioner Bresaw understood the County knew, but did not notify the City of Milwaukie.

Ms. Mangle indicated that historically, the County had not always notified the City but did now. Part of the problem was people going directly to the County Recorder's office

to file and that office was required to record anything brought to them; therefore, transactions might not be go through the County Planning office where they would be caught.

8.0 DISCUSSION ITEMS

Ms. Mangle announced the 2007 Milwaukie TSP was this year's recipient of the Professional Achievement in Planning Award from the Oregon Chapter of the American Planning Association.

The Commissioners extended their congratulations.

Commissioner Batey believed Ms. Mangle's memo that explained Milwaukie had density requirements to which they were committed and that nothing about light rail would change those requirements really needed public dissemination, perhaps as a memo or summarized fact sheet.

- She reported that people at the meeting she attended in Oak Grove had said Sam Adams stood up at a Metro Oversight meeting and said the density would be increased all along the light rail line. A lot of disinformation existed and perhaps something that countered that could be posted on the website.
- * **Ms. Mangle** appreciated the feedback, adding she would determine how best to get that information out.

Commissioner Bresaw mentioned the Immoveable Foundation Church had posted 'no trespassing' signs, adding that there was a public park up there.

- * **Ms. Mangle** responded the church might have taken those down and that Staff was in discussion with the church because the church had interpreted the Commission's decision slightly differently than Staff. Staff had made it clear that the signs were supposed to say 'No trespassing,' but during certain hours.
- * The church was trying to determine what type of park access, what hours, etc. and she believed the church would return to the Commission to clarify exactly what was required.
- * Staff was sending the church a letter on the issue and would copy the Commission.

Commissioner Batey asked about the status of the 18th/19th annexation, south of Island Station.

- * **Ms. Mangle** replied Staff was notified that they got their final plat approval from the County; Staff anticipated a rezoning and annexation request within the next three to six months.

Chair Klein inquired about another annexation involving apartments on Harmony Rd.

- * **Ms. Mangle** stated Staff had met with them and that would be an expedited annexation that would not come through the Commission, but would go straight to City Council.

9.0 OLD BUSINESS – None.

10.0 OTHER BUSINESS/UPDATES -- None.

11.0 NEXT MEETING:

May 13, 2008 – Public Hearing: AP-08-01 Phillip and Anne Favorite Appeal of Property Line Adjustment Denial

Ms. Mangle announced another hearing would be held regarding Code amendments to Title 18, regarded an engineering project involving amendments to comply with FEMA flood regulations and impacted the city's residents' ability to get flood insurance.

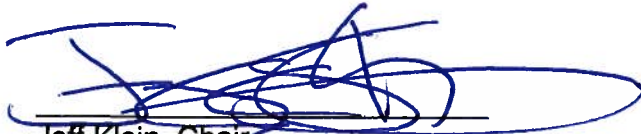
- She added that time permitting, another hearing would be held on a Willamette Greenway Application for a dock along the Willamette River, which could be continued to next hearing.

Forecast for Future Meetings: A-07-02 Harmony Annexation (tentative)

Meeting adjourned at 8:53 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription for
Michelle Rodriguez, Administrative Assistant



Jeff Klein, Chair

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, April 22, 2008 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
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.	
3.0	Planning Commission Minutes –	Motion Needed
3.1	February 26, 2008 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	
6.0	Public Hearings None	Discussion and Motion Needed For These Items
7.0	Worksession Items	Information Only
7.1	Light Rail Update and Station Selection	Staff Persons: Katie Mangle, Kenny Asher
7.2	PLA Appeal Briefing	Staff Person: Susan Shanks
7.3	2008-2009 Work Plan	Staff Person: Katie Mangle
	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	Information Only Review and Comment
11.0	Next Meeting: May 13, 2008 – Public Hearing: AP-08-01 Phillip & Anne Favorite Appeal of Property Line Adjustment Denial The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	
Forecast for Future Meetings: A-07-02 Harmony Annexation (tentative)		

Milwaukie Planning Commission Statement

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

Public Hearing Procedure

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

Milwaukie Planning Commission:

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

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Associate Planner
Bob Fraley, Associate Planner
Brett Kelter, Assistant Planner
Ryan Marquardt, Assistant Planner
Michelle Rodríguez, Administrative Assistant
Marcia Hamley, Administrative Assistant
Paula Pinyerd, Hearings Reporter



To: Planning Commission

From: Katie Mangle, Planning Director *KM*
Kenny Asher, Community Development and Public Works Director

Date: April 11, 2008 for April 22, 2008

Subject: Briefing on Light Rail Station Selection Process

Action Requested

None. This is a briefing to provide the Commission with information on the City's process for evaluating and recommending the light rail stations to be included in the Locally Preferred Alternative (LPA). This work session will be one of many opportunities for individual commissioners to comment on the potential light rail alignment options and station locations.

Background

Over the next few months, the City Council will make a series of choices with regard to the Portland to Milwaukie Light Rail Project, including which alignment is best for Milwaukie and also which station locations are best for downtown (see Attachment 1 for an illustration of the alignment and station options). On May 20, City Council is scheduled to select the station locations for each alignment. In mid-July following a two-night public hearing, City Council will adopt the City's preferred light rail alignment.

As illustrated in Attachment 1, there are six potential station locations in Milwaukie. As shown in the table below, the decision about whether to recommend stations at Milwaukie/Southgate and Bluebird is closely tied to the alignment choice. The four potential station locations within downtown, however, could work with either alignment. Milwaukie would likely have one or two (not four) stations in the downtown area.

	Station Options for the Light Rail Alignment Options in Milwaukie		
	2003 LPA	Tillamook Branch	Park Avenue Extension
	Follows Main St. through the industrial area; follows the rail line through downtown.	Follows the rail line through the industrial area and downtown.	Either the 2003 LPA or the Tillamook Branch alignments could extend south to Park Ave.
Milwaukie/Southgate	Station and park & ride included.	No station or park & ride.	
Harrison St	Potential station.	Potential station.	
Monroe St	Potential station.	Potential station.	
Washington St	Potential station.	Potential station.	
Lake St	Potential station and park and ride. Would be the terminus if line isn't extended to Park Ave.	Potential station and park and ride. Would be the terminus if line isn't extended to Park Ave.	
Bluebird St			Potential station.

Light Rail Stations

Though they should be designed to fit within a local context, light rail stations typically include a set of common features:

- TriMet's MAX platforms are 200 to 250 feet long and accommodate a two-car train.
- Platforms include elements such as shelters, benches, lighting, ticket vending machines, wayfinding signage, fencing, and public art.
- Successful stations are visible, open but defined, in active areas, and connected to bike, pedestrian, and bus routes.
- Successful stations are located in an area with potential for pedestrian connections and transit supportive uses and densities.

Some of Metro's Supplemental Draft Environmental Impact Statement (SDEIS) findings relate to station location in Milwaukie:

- Traffic flow through downtown would function the same regardless of where the station is located in downtown.
- A station at Washington Street is projected to attract the greatest number of people; the Milwaukie/Southgate station would attract the fewest (even with a park and ride).

Public Comments Received

The Portland to Milwaukie Light Rail Project Team hosted a public workshop in March 2008 to obtain public input on the location of potential light rail stations in Milwaukie. Approximately 100 people attended the workshop. A summary of the comments received for each station follows:

- **Milwaukie/Southgate** - Many people agreed that this is a logical location for a light rail station with a park and ride facility.
- **Harrison** - Many participants viewed this location as being too close to schools, and there were concerns about the crossing arms blocking traffic.

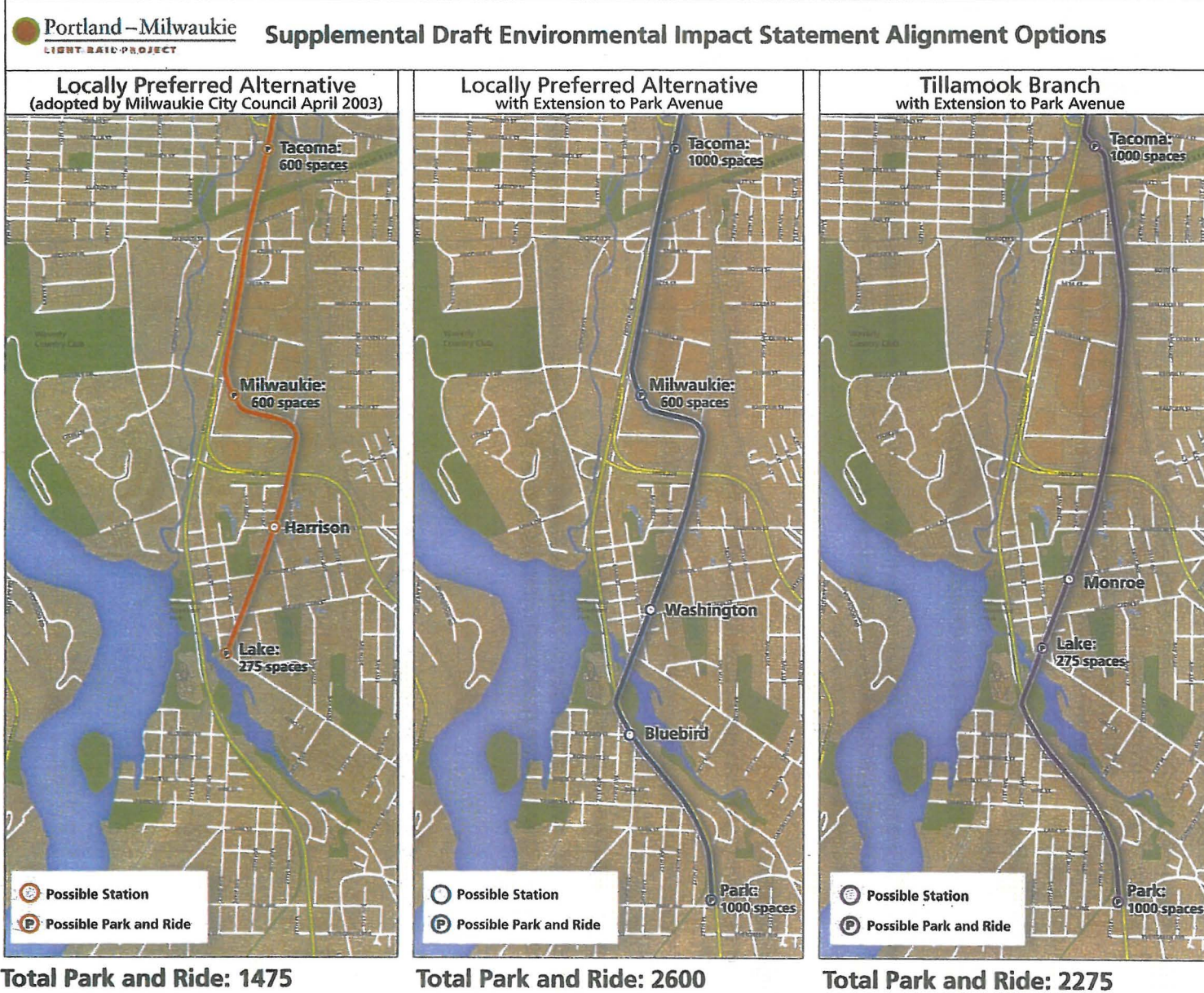
- **Monroe** - The Monroe station location received comments similar to those for Harrison.
- **Washington** - Many participants saw this as a convenient, central location that would serve the downtown business area, schools, and churches while also offering redevelopment opportunity for Milwaukie Lumber.
- **Lake** - Many participants saw opportunities in convenient access from McLoughlin Blvd, a good location for special events, access for Milwaukie High School, and opportunities to access the Kellogg treatment plant when that area redevelops. Concerns included questions about limited visibility and security, proximity to the river, and the availability of parking.
- **Bluebird** - Comments about the Bluebird station included concerns about bike and pedestrian safety and access, but also recognition that this site presented an opportunity for the Trolley Trail and redevelopment potential.

Metro and City staff will continue to solicit public input on the potential station locations, and will prepare a recommendation to City Council in May. Staff looks forward to discussing the station location options with the Commission.

Attachments

(Provided only to the Planning Commission unless noted. All material is available for viewing upon request.)

1. Portland to Milwaukie Light Rail Supplemental Draft Environmental Impact Statement Alignment Options
2. Ideal Characteristics for Light Rail Station Areas
3. Set of six "What Can Happen" Maps illustrating the potential station areas and potential redevelopment sites near each station. Prepared by SERA Architects for Metro.



Attachment 2



Portland to Milwaukie Light Rail

Ideal Characteristics for Light Rail Station Areas

Good Connections

- Sidewalks connect the neighborhood to the station
- Nearby busy streets have marked pedestrian crossings
- Buildings are pedestrian friendly (*the front door or entrance faces the street or sidewalk and there are ground-floor windows*)
- Streets and sidewalks are well-lighted
- Bike lanes, multi-use paths or low-traffic streets provide bike access to the station
- Bus stops are located near the station with clear paths from the stop to the light rail station
- Pedestrian connections are provided to cross physical barriers (*such as the railroad or major busy streets*) between the surrounding communities and the station

Transit Supportive Land Uses

- Station area includes a variety of housing types and densities such as apartments, condominiums and single-family homes
- Retail, restaurants and other commercial uses present an opportunity to be supported by transit
- Station area includes institutions like schools, parks and medical facilities that would benefit from transit service
- Station area would provide transit access to a variety of jobs and/or employment centers

Opportunities for New Uses

- There is vacant or underutilized land near stations
- A light rail station could support or encourage new development consistent with the city and neighborhood plans and policies

Other Desirable Characteristics for Successful Station Areas

Have a coherent vision for how light rail fits into the community

- Start with the neighborhood plan and the city's comprehensive plan
- Conduct additional planning where needed to fully articulate a vision
- Involve stakeholders
- Focus on implementation from the beginning
- Understand the market and demographic trends

Get the land uses right

- Make retail strategy market driven, not transit driven
- Develop mixed-income housing and encourage every price point to live around transit
- Segregate uses where appropriate—mixed uses don't have to be in the same place
- Allow employment areas near the station to promote reverse commuting

Build a place not a project; ensure good urban design

- Design with the station as the center
- Use high quality urban form to support mixed incomes and uses
- Make places that engage the public
- Create landmarks and beacons
- Preserve and invest in existing neighborhoods
- Taper density and height from stations to neighborhoods

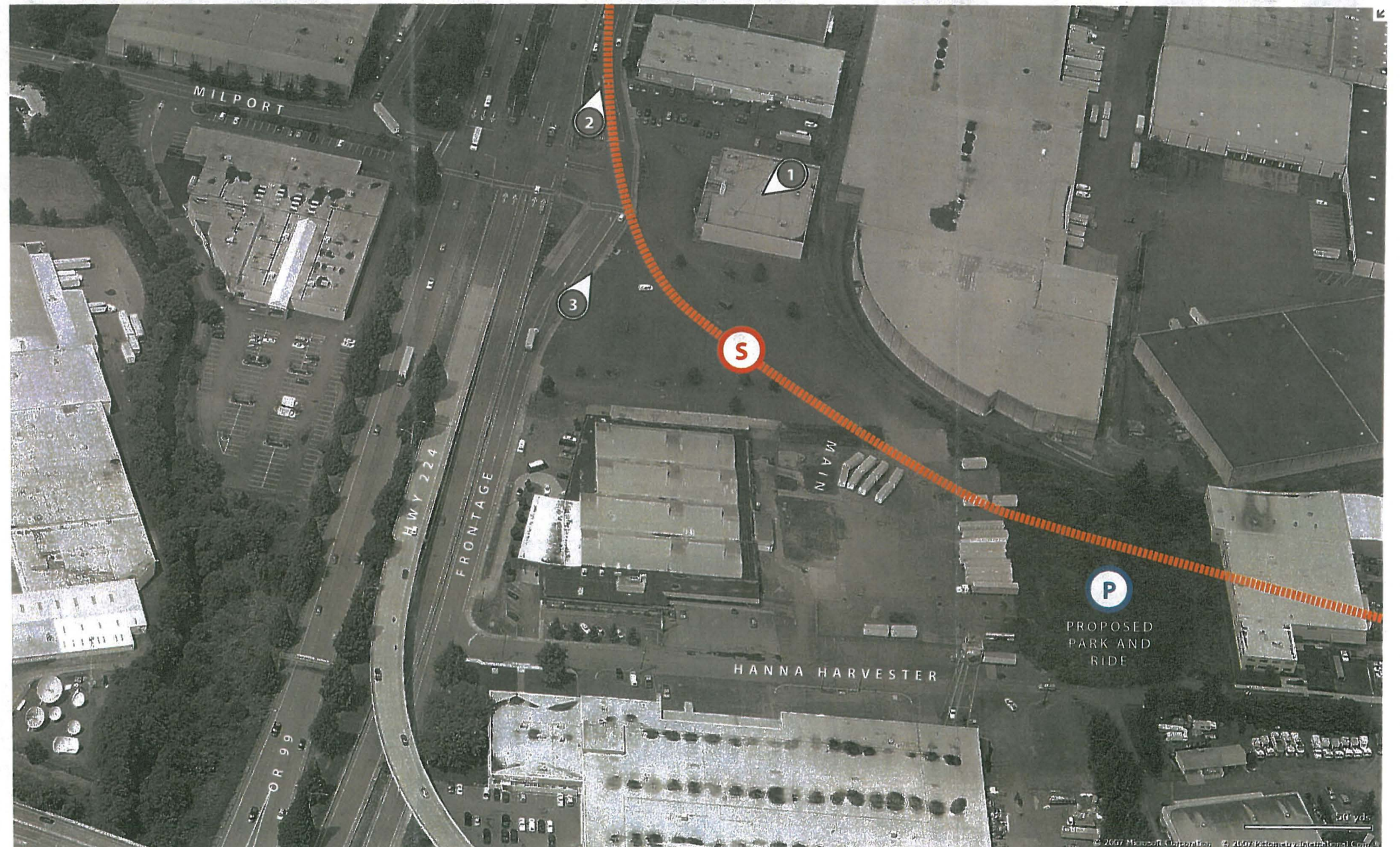
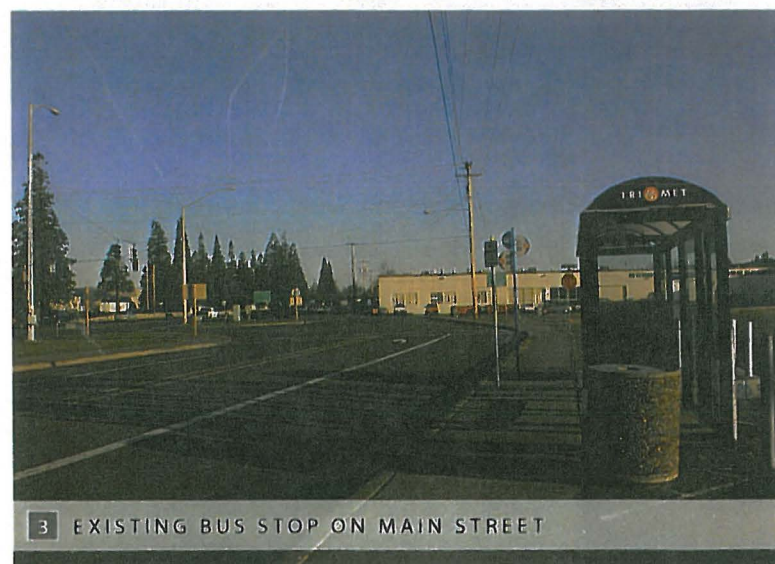
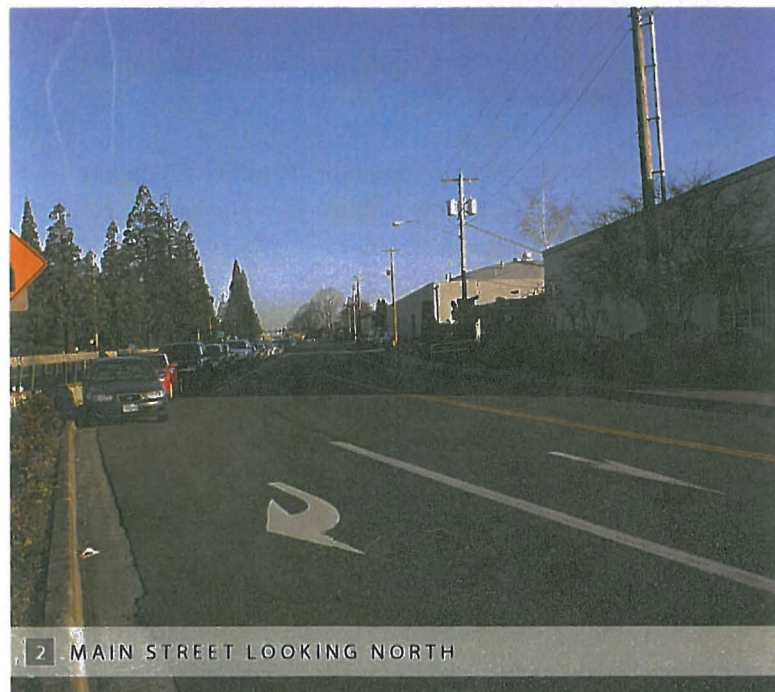
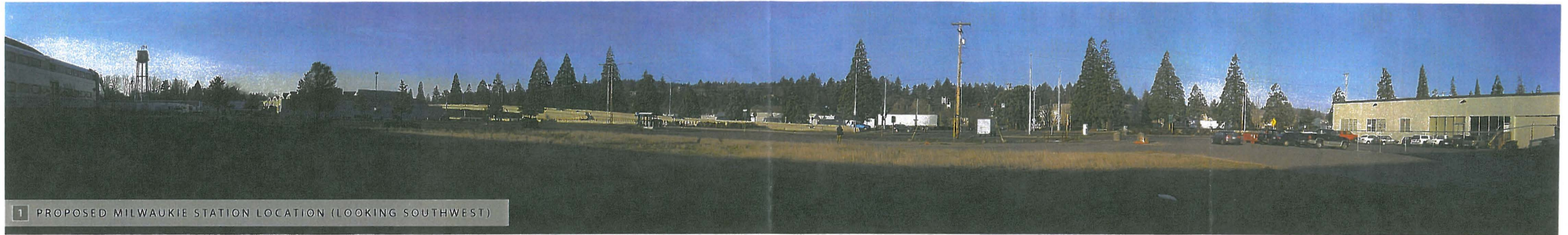
Get the parking right

- For station locations that can accommodate Park & Ride facilities, locate Park & Ride within a 5 minute walk of the platform but not directly in front of the station; locate utility structures so as not to preclude redevelopment of prime station-proximate sites
- Develop shared parking policies
- Design structured parking well—wrap structures with commercial and residential uses and with active ground floor uses

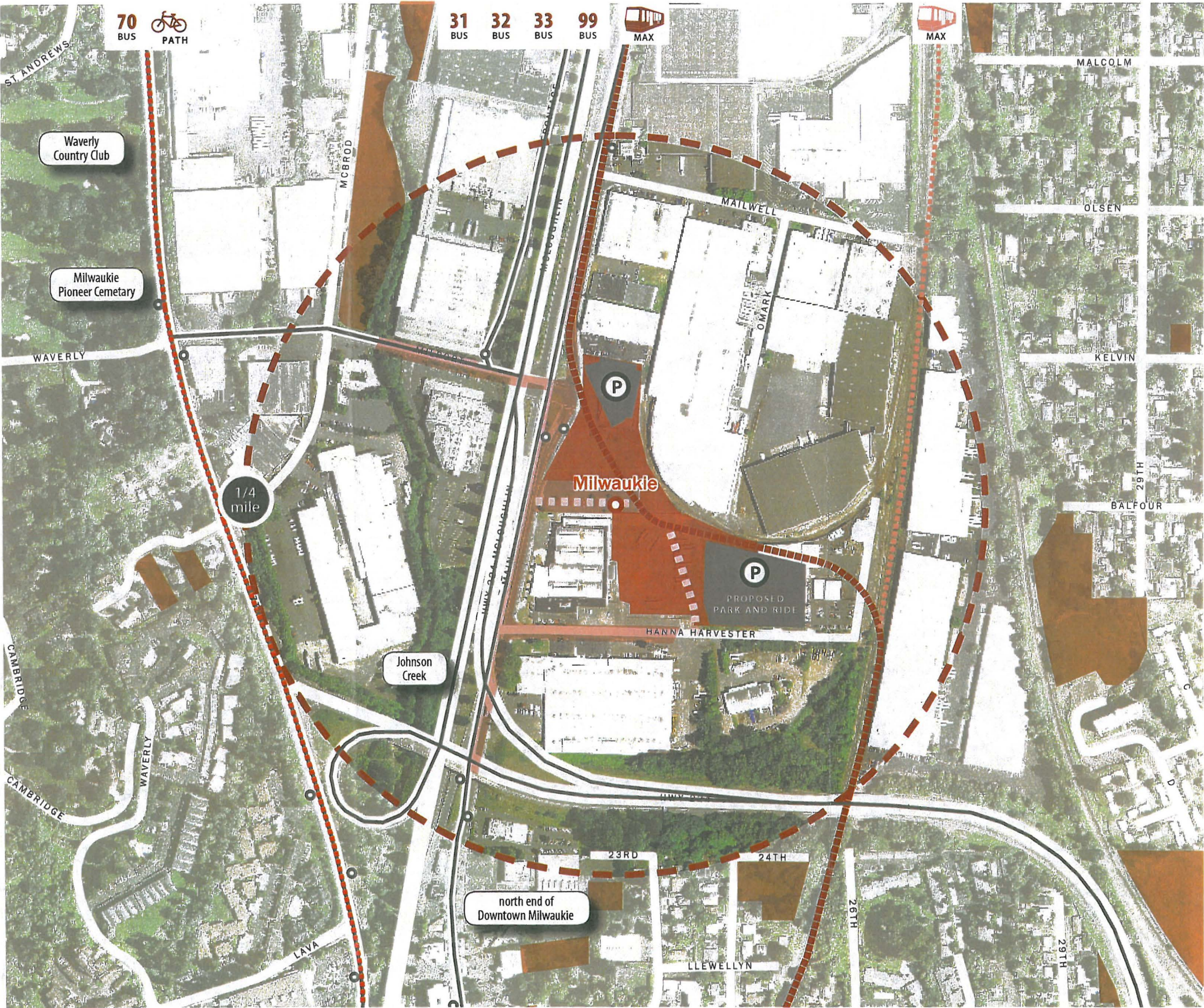
Create supportive public policies

- Pursue joint development
- Focus public investments to support market/real estate dynamics
- Make sure zoning and codes will help achieve the vision

WHAT WE SAW



NOTE: ALIGNMENTS SHOWN ARE DIAGRAMMATIC AND DO NOT REPRESENT PRECISE PROPOSED LIGHT RAIL TRACK CENTERLINES



REDEVELOPMENT POTENTIAL

Light rail will not lead to additional development unless the Milwaukie community makes that choice.

This graphic illustrates the locations where re-development may be possible and desirable because the land is vacant or because the value of existing improvements is low compared to the value of the land.

Redevelopment includes rehabilitation of existing buildings and streetscapes as well as new development. The sites are within the downtown area and have zoning that permits mixed use development.

This graphic also depicts the area that is within a 5 minute walk of the station and some suggested improvements in pedestrian connections.

WHAT CAN HAPPEN



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PORTLAND TO MILWAUKIE LIGHT RAIL STATION ASSESSMENT
METRO | TRIMET | CITY OF PORTLAND | CITY OF MILWAUKIE
MARCH 2008

||||| LRT Alignment
○ LRT Station

— Bus Route
○ Bus Transfer

... Bicycle and Pedestrian Path
... On-street Bicycle Lane

□ Vacant Parcel
□ Vacant Parcel Adjacent to 5-Minute Walk

/// Redevelopment Focus
— Actual 5 minute walk

□ Proposed Street
||||| LRT Alternative Alignment

0' 200' 400'



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PORTLAND TO MILWAUKIE LIGHT RAIL STATION ASSESSMENT
METRO | TRIMET | CITY OF PORTLAND | CITY OF MILWAUKIE
MARCH 2008

- | | | | | | |
|---------------|----------------|-----------------------------------|---|-------------------------|--------------------------------------|
| LRT Alignment | — Bus Route | Bicycle and Pedestrian Path | ■ Vacant Parcel | /// Redevelopment Focus | ■ Proposed Street |
| ○ LRT Station | ○ Bus Transfer | On-street Bicycle Lane | ■ Vacant Parcel Adjacent to 5-Minute Walk | Actual 5 minute walk | Proposed Pedestrian Connection |





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To: Planning Commission

From: Katie Mangle, Planning Director *KM*
Susan Shanks, Senior Planner

Date: April 11, 2008 for April 22, 2008

Subject: Briefing on Issues Related to Upcoming Hearing (AP-08-01): Property Line Adjustments and Adverse Possession

Action Requested

None. This is a briefing to provide the Commission with background information on an application for a property line adjustment (PLA). The applicant has appealed the Planning Director's denial of this application (land use file #PLA-08-01), and the Commission will hold a hearing on this case on May 13, 2008. The purpose of this briefing is to provide the Commission with some background information on the issues raised by the application.

Background

The PLA application resulted from a land transaction between the owners of 4011 SE Lake Road and 12293 SE 40th Avenue wherein Tax Lot 802 was created out of Tax Lot 800, which is owned by the Immovable Foundation Church, and transferred to Phillip and Anne Favorite by a Quit Claim Deed.¹ The transaction took place in 2006 without City approval, and the Favorites submitted an application in 2008 in response to the City's insistence that they either reverse the transaction or properly permit it. This situation involves several issues, but there are three issues staff would like to explain prior to the hearing because they rarely arise in matters presented to the Commission: 1) PLA approval process, 2) PLA across a right-of-way, and 3) adverse possession.

1. Property Line Adjustment (PLA) Approval Process

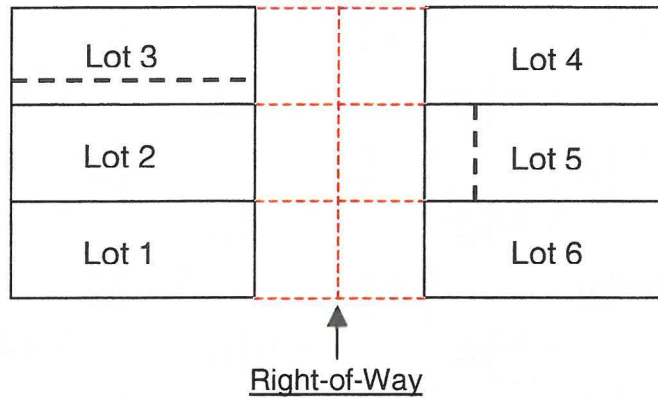
The City defines a PLA as the "relocation of a common property line between two abutting units of land that does not result in the creation of a new unit of land." A PLA application is processed as a Type I staff level review unless appealed to the Planning Commission. The approval criteria for a PLA includes the provisions that the newly created lot meet the City's basic lot design and development standards, and that "the boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard."² This provision essentially directs staff to consider not only the existing conditions of the land, but the future configuration of surrounding developable parcels, given the current zoning standards that apply to the lots.

¹ Clackamas County Record #2007-055309

² Milwaukie Municipal Code 17.12.030.A.2 (PLA standard) and 17.12.040.A.4 (Subdivision standard)

2. Property line adjustment across the right-of-way

A typical PLA occurs when two adjacent properties relocate a common boundary that does not result in an additional unit of land. In the diagram below, a typical PLA is represented by the dashed black line on Lot 3 wherein the common boundary between Lot 2 and 3 is shifted, resulting in Lot 3 conveying part of its lot area to Lot 2.



The City Attorney has indicated that it may be legally possible to adjust a property line between properties that are separated by right-of-way because fee interest in land underneath right-of-way is typically retained by abutting property owners. Technically, lots across the street from one another share a common boundary where they meet in the center of the right-of-way as long as there is no intervening interest attached to the right-of-way. This is represented in the diagram above by the dashed red line. It may, therefore, be legally possible to relocate the property line between Lots 2 and 5, as shown by the dashed black line on Lot 5 in the diagram above, wherein Lot 5 conveys part of its lot area to Lot 2.

3. Adverse Possession

“Adverse possession” is a term used to describe a situation in which a party is acknowledged to have ownership of a property due not to initial purchasing but to continuous occupation over a period of time. The rules that apply to adverse possession claims vary by state. In Oregon, the party must prove they had open “common-law” possession over a ten-year period, and that such possession was taken under the honest belief that the party using the property was the owner of the property.

Staff will address each of these issues at the meeting on April 22 to educate the commission about some terms and policies that will be the basis of the hearing on May 6.



To: Planning Commission

From: Katie Mangle, Planning Director *KW*

Subject: Planning Commission Work Plan for 2008-9

Date: April 14, 2008 for April 22, 2008 Work Session

Action Requested

Review and provide feedback to staff on the draft Planning Commission Work Program for fiscal year 2008-9. Schedule a meeting to review this work plan with the City Council.

Background

The Planning Commission serves the City by reviewing and advising on matters of planning and zoning, according to the provisions of the Comprehensive Plan and Milwaukie Municipal Code. It does this by deciding land use and development applications, developing long-range plans, and proposing updates and amendments to the code and Comprehensive Plan. Planning Staff works closely with the Commission to make progress in all of these areas.

The proposed work program for the coming fiscal year (see Attachment 1) is a plan for fulfilling the Commission's responsibilities for long-term and current planning, recognizing available staff and budget resources. One significant project the Planning Department and Commission will undertake next year is Periodic Review of the Comprehensive Plan. This state-required review is an opportunity for Milwaukie to review and update key sections of the Plan. Beginning in October 2008, the City will be required to prepare a work plan that defines which sections of the Plan will be updated. The City will have three years to complete this work plan.

The draft work plan summarizes the accomplishments and projects planned for both the Planning Commission and the Design and Landmarks Committee. Staff would appreciate feedback in preparation for the Commission's annual update with City Council. Staff proposes to schedule this annual update for either May 20 or June 3 during a City Council work session (5:30-7 pm).

Attachments

1. Draft 2008-09 Planning Commission and Design and Landmarks Committee Work Program

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DRAFT**Attachment 1**

**2008-2009 Work Plan
Planning Commission and Design and Landmarks Committee**

Development Review ("Current Planning")**Responsibilities:**

- Conduct public hearings on matters that may include, but are not limited to, community service uses, downtown design review, variances, zone changes, conditional uses, subdivisions, and partitions.
- Promote livability and protect property and natural resources by seeking compliance with City regulations.
- Provide timely, accurate, and reliable information and service to internal and external customers.
- The Planning Commission (PC) meets twice a month. Staff supports the commission so they can make defensible decisions that implement the community vision.
- The Design and Landmarks Committee (DLC) meets once every other month, with additional meetings as needed for application review. Staff supports the DLC so they can make defensible Design Review recommendations and pursue projects that promote appreciation for Milwaukie's downtown and historic resources.

2007-8 projects expected to be completed:

- Increased use of the internet and "E-packets" for Planning Commission to facilitate public communication and reduce the cost of paper packet distribution.
- Processed approximately 45 land use applications, up from 35 in 2006-7.
- Improved public information and application forms.
- Improved land use file record-keeping.
- Strengthened DLC by adding members, setting regularly scheduled meetings, and engaging them on three projects (Immovable Foundation Church post-PC approval review, Town Center pre-application review, and Riverfront Park Historic Resources review).

2008-9 projects:

- Improve public information and application forms.

Long Range Planning**Responsibility:**

Recommend to the city council plans for the growth, development and beautification of the city.

2007-8 projects expected to be completed:

- **Transportation System Plan** - Completed the update for Council adoption in 12/07.
- **Light Rail SDEIS** - Planning staff has supported the Community Development Department's work to define the new locally preferred alignment and station locations.

2008-9 projects:

- **Prepare a Work Plan for Periodic Review**, as required by the Department of Land Conservation and Development. This work will include an inventory of the City's long-range plans and development code, and developing a work plan for updating them.
- **Prepare a Master Plan for the "Highway 224 Commercial Triangle" area**. Such a plan would address the land use, urban design, and "development readiness" of the area, and lead to re-zoning of several parcels.
- **South Downtown Concept** – Planning staff has supported the Community Development Department's work to develop this sub-area study.

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- **Special Projects** – Planning staff will support other projects as directed by the Community Development Director.

Land Use / Development Policy**Responsibilities:**

- Complete Zoning code revision projects to address confusing, inconsistent and ineffective language in the Milwaukie Municipal Code (MMC) land use, sign, and land division regulations.
- Propose code revisions that better meet the community's expectations for quality and fairness in design and development.

2007-8 projects expected to be completed:

- **Housekeeping amendments:** Council adopted amendments to zoning, sign, and land division code in December 2007.
- **Parking standards - 19. 500:** Revise parking requirements for downtown development, refine standards for residential areas, and revise parking ratios and design standards. This project will continue into the next fiscal year.
- **Transportation Code revision project– 19.1400, 19.321:** Develop recommended amendments to the city's policies that require development projects to implement transportation improvements. This project includes sections 19.1400, Downtown Public Area Requirements, Title 12 (Sidewalks), and the Transportation Design Manual. This project will continue into the next fiscal year.
- **Residential Design Standards:** Review development standards for residential zones to address compatibility of scale and housing types.

2008-9 projects:

- **Housekeeping amendments:** Continue to tackle minor policy issues and code inconsistencies.
- **Parking standards – MMC 19. 500:** Complete project described above.
- **Transportation Code revision project – MMC 19.1400, 19.321:** Complete project described above.
- **Sign Code – MMC Chapter 14:** Propose new sign design standards for Commercial areas. Address sign lighting and size limitations.
- **Illegal Lots:** Develop policy to allow staff to resolve situations in which lots were created illegally. In response to 2007 ORS revision.
- **Designate Pioneer Cemetery as Historic Resource.**
- **Metro Functional Plan Compliance:**
 - **Metro Title 4 – Industrial Lands:** In 2007 the Metro code changed to decrease the amount of big box retail that is allowed in industrial lands. The City needs to amend its code to comply.
 - **Title 13 - Nature in Neighborhoods:** Code amendments to encourage or enable property owners to develop with habitat-friendly practices.

Special projects

- DLC Historic properties digital slideshow. Create powerpoint slideshow for public educational purposes.
- DLC project to document Milwaukie's lost architectural heritage. Research photos of downtown to help developers and others to understand Milwaukie's history.