

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, MAY 8, 2007

COMMISSIONERS PRESENT

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

STAFF PRESENT

Katie Mangle
Planning Director
Susan Shanks
Associate Planner
Zach Weigel
Civil Engineer
Bill Monahan
Legal Council

COMMISSIONERS ABSENT

Paulette Qutub

1.0 CALL TO ORDER

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

2.0 PROCEDURAL MATTERS - None.

3.0 CONSENT AGENDA - Planning Commission Minutes

Planning Commission 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 - None.

6.0 PUBLIC HEARING - Continued

- 6.1 Applicant: Waid & Cynthia Fetty
Owner: Jim Bernard
Location: 11153 SE 21st Avenue
Proposal: Use exception in the downtown zone for indoor classic, collector car sales
File Numbers: E-07-01
NDA: Historic Milwaukie

STAFF REPORT

Ms. Shanks briefly summarized the proposal and the relevant criteria – so that we can move forward with this application. She stated that the applicants are Waid & Cynthia Fetty and the subject property is at 11153 SE 21st Avenue, which is right next to Bernard's Garage on SE 21st Avenue. **Ms. Shanks** said that the proposal is to operate a used classic car sales business out of the existing structure at that address. She told the commission that the property is in the Downtown Office zone and that currently that use is not an outright allowed use; it's a limited use – so it is not prohibited, but it's not outright allowed. **Ms. Shanks** said that the reason that we are here is for a use exception – which is very similar to a variance – with slightly different criteria. The five criteria are:

1. Exceptional circumstances apply to the property;
2. The proposed use would not be detrimental to other property owners;
3. Substantial justice would be afforded to all property owners;
4. There exists no other practical use of the property;
5. Economic hardship is not the primary basis for the request.

Ms. Shanks explained how the planning department staff takes the time to research the code language as well as the intent of the code to evaluate everything from building permits, counter questions, tree permits; anything and everything, including doing staff reports.

Ms. Shanks said that the current non-conforming business (Bernard's Garage), being a thriving business, the property owner is just not ready to redevelop the whole lot. So this is not so much of an economic issue, as just a timely issue.

Ms. Shanks pointed out on the map where the property is located in relation to the downtown area and the Downtown Office zone. Her presentation included an aerial view of the subject property and she explained where the two buildings lie on the same lot. **Ms. Shanks** showed a brief illustration of the vision for downtown when the Downtown Framework Plan was adopted. She explained the table outlining Allowed Uses in the Downtown Office Zone and the Limited Uses in the Downtown Office Zone.

Ms. Shanks stated that staff came to the conclusion that this was approvable with conditions. She said that some of the conditions relate to parking, which was talked about at the last meeting – per the parking standard, four parking spaces are the minimum required; two compact spaces were available on site – the condition that two more regular sized spaces be provided off site through a shared or leased parking agreement. **Ms. Shanks** said that there was a lot of discussion about the loading and unloading situation – and per Commissioner Churchill's suggestion, loading and unloading issues were reviewed by Engineering.

Ms. Shanks asked Zach Weigel, City Engineer, to review the loading and unloading situation again based on the applicant's proposal to possibly do some backing up either from the right of way or into the right of way from the building. After doing so, he decided to revise his original recommendation. The changes are reflected in Attachment 1 – which is adding an additional finding. She noted that whenever you add a condition, you have to have a finding that supports it. The finding comes out of Chapter 1400 of the code (Transportation Chapter). The code states "all driveways shall be designed to contain all vehicle backing movement on site". **Ms. Shanks** said that with that language, Zach Weigel supported that with some more findings and that became a condition, which is in Attachment 2.

Mr. Weigel clarified the first condition of approval – all vehicle-backing movements shall be contained onsite. **Commissioner Batey** asked if this applied to vehicles backing off or out of a trailer – because obviously the truck itself has to back from the right of way into the property. **Mr. Weigel** told her that it is not prohibited by the code. He stated that the provision in the code Section 19.1413.2(D) states that if you are on a collector road (which 21st Avenue is a collector) all vehicle backing movements have to be contained onsite and the driveway and parking area have to be designed to accommodate that.

Chair Klein asked if the applicant had a car that was on a trailer, would they be able to back that trailer into the site. **Mr. Weigel** stated that this would not be allowed. He said that the applicant would need to have an agreement with someone else to off-load any cars on their property. **Commissioner Coleman** asked if the cars are always drivable. **Mr. Fetty** replied that legally they have to be drivable. **Commissioner Batey** reiterated that according to the code, the applicant couldn't legally back from 21st Street into his garage. **Ms. Shanks** explained that the site is allowing the vehicle to completely turn around without having to do a three-point turn, and the other site requires them to do a three-point turn – but both have to come out forward when they are at the driveway. **Ms. Mangle** said that the concern comes from a trailer backing in or backing out of the site.

Mr. Weigel said that currently, in any single-family home that is built now, on a collector arterial, we would require their driveway be designed so that they could turn around and leave the property going forward, not backward. **Commissioner Coleman** questioned what the difference was between backing out of a driveway as opposed to backing out of one of the angled parking spaces. **Ms. Shanks** said that the difference is that no sidewalk

would be crossed over – it's the action of crossing over a sidewalk that is problematic for safety reasons.

Mr. Weigel said there are issues with being able to see if you are backing out of a garage, into the right-of-way; with clear vision, you have people parking on the street, people walking on the sidewalk – that is why backing movements are limited onsite in those situations.

QUESTIONS FROM THE COMMISSIONERS

Commission Churchill asked if this issue is addressed clearly in the code – to assure that we are consistently applying the code. **Commissioner Churchill** asked Mr. Monahan if we should be looking for a variance for that particular code in this condition. **Mr. Monahan** said that there would be an inconsistency if we were allowing the spaces for the vehicles parking outside to also back across the sidewalk. He stated that this is really a safety issue. **Commissioner Churchill** asked if, as the commission, we approve this, and it goes against our engineering parking recommendations, and should there be an accident, have we now been a party in contributing to that injury/accident by not following our engineering codes? **Chair Klein** said that he remembers the building is actually flat across and that there is probably 20 feet from the corner of the other building. He asked staff to look at a slide to help visually clarify his statement. **Ms. Shanks** said that we could add some more language to the findings section with regard to parking – saying that these are two existing parking spaces that are non-conforming.

Mr. Monahan said that making it clear that there will be the off site parking spaces, and that it is a business that will not generate a lot of traffic – therefore, we are not reducing the number of parking spaces required, and not making the matter any worse. **Ms. Mangle** said that the conditions state that we are also requiring that the employees of the store park in the off site parking stalls. **Mr. Monahan** clarified that we are recognizing that the people that are coming to the business every day are going to park off site and that it is an internet-based business which will have very few people coming to the site. He said the prime reason that there are the hours of operation, is because DMV requires them to be open specific hours.

Commissioner Churchill voiced his concern about the crossing gates and the retaining wall; that we are not creating a visual hazard. He said that he wanted to go on record with his concern regarding the safety issue. He asked Mr. Weigel what his opinion was regarding the clear vision area. **Mr. Weigel** stated that the retaining wall is definitely within the clear vision area (blocking vision) – anything over 36 inches tall and within 20 feet of the property line is in the clear vision area. **Chair Klein** asked Mr. Weigel what his opinion was regarding the two parking spaces. **Mr. Weigel** stated that if these were two new spaces that it would not be the ideal location. **Ms. Shanks** explained that the code determines the minimum number of parking spaces required by using a combination of the square footage of the building and the number of employees.

Ms. Mangle told the commissioners that in the Downtown Office zone, and the Downtown Commercial zone, the parking requirements are the same as anywhere else in the city. She noted that they are not special because it is downtown and that they don't acknowledge the fact that there is actually a lot of on street visitor parking. **Ms. Mangle** said that this is something that the TSP Downtown Parking group will be looking at. She said that in that sense, there is the requirement for four spaces off street, but the code requirement doesn't acknowledge that there is visitor parking available in that area on the street. Therefore, she is suggesting a little bit of flexibility; not necessarily advocating for those spots, but maybe making a requirement for three off site spots. **Commissioner Churchill** wondered what it would take to ensure clear vision with regards to the retaining wall and asked what would the wall need to be cut down to. **Mr. Weigel** said that it would need to be cut down to 36 inches. **Commissioner Churchill** proposed that having this done – bringing this into compliance – at a minimal cost – would actually increase the safety of the public.

Commissioner Bresaw asked about the minimum four parking spaces required by the code. **Ms. Shanks** said that you can reduce the number of spaces by ten percent – but ten percent of four doesn't get you down to three. She said that this is one of those requirements that is actually stated outright in the table – making it really clear – unlike some other uses where we can interpret a little bit more.

Mr. Monahan asked if we could reduce the number of parking spaces if the applicant agreed to use two spaces inside the structure for their own personal parking. **Chair Klein** said that since they can't back out – they would have to have the ability to turn around inside the building.

Chair Klein suggested that the commission take time to have the applicants speak at this time.

APPLICANT PRESENTATION

Mr. Fetty welcomed any questions that the commissioners might have for him. **Chair Klein** asked him if there was anything that makes this a “deal breaker”. **Mr. Fetty** said that nothing would be a “deal breaker”. He said that the cars that he is going to have can be turned around inside the building and he can deal with not loading inside the building. **Mr. Fetty** directed attention to the site map saying that there is an area next to the part that says Bernard's Auto Parts, which is a lot that on any given day there is a maximum of two cars parked there. **Mr. Fetty** said that he and Mr. Bernard agreed that this area is available for whatever he needs it for. He said as far as cutting the wall – if that works – he has no problem with doing that. He also said that if you wanted them to have four parking spots within 40 feet, he has access to do this.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Bresaw said that she recommends that there be no parking in the front of the building – due to safety concerns. She said too many cars along that street are parked on the sidewalk – and that it is so close to the building. **Commissioner Churchill** said that he agreed with Commissioner Bresaw. **Chair Klein** suggested that because Mr. Bernard has four spots to park on the other side of the building available, we could vacate these two spots, and this would solve the problem. **Ms. Mangle** said that there are actually a lot of under utilized parking spots in that part of town.

Chair Klein recapped that the two parking spots in front of the building will be eliminated, adding some signage noting that there is no parking, and then we need to establish where the four conditional parking spots will be located.

TESTIMONY IN FAVOR - None.

TESTIMONY IN OPPOSITION – None.

ADDITIONAL COMMENTS FROM STAFF

Ms. Mangle displayed a map of downtown parking – clarifying what the colors indicated from the utilization study that was done in October. She pointed out the spots that were less than 30% full during mid-day, to help the commission better understand her earlier comment with regards to the under utilization areas of the parking in downtown.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY – None.

APPLICANT'S CLOSING COMMENTS – None.

Chair Klein closed the public testimony of the hearing.

DISCUSSION AMONG THE COMMISSIONERS

Commissioner Batey said that she loves this use and thinks that this proposal is a great thing to have in downtown. She said she has problems with the code language – specifically, with Item 4; there exists no other ‘practical’ use of this property under the provisions of this title. **Commissioner Batey** said that she felt that this statement is not accurate – since there could be other approved uses in this zone. **Chair Klein** noted that it means that the practical use is what is ultimately designated for that area (i.e. it is not a two story building, because we don’t have 2nd story residential). After considerable discussion among the commissioners, they agreed that sometimes the code language hampers them in making decisions as well as having overly restricted zoning on an area where it is not viable.

Commissioner Newman asked if they approved this exception application, how long it lasts. **Mr. Monahan** stated that it is an exception, and it goes with the use, not the building – specific to this application.

Commissioner Newman stated that there was something that makes him uncomfortable about this. **Chair Klein** asked Commissioner Newman if his concern is if this could continue on forever, providing the owner of the building sells it to the applicant and then the applicant will be able to keep that forever. **Commissioner Newman** had concerns that approving this application might put off improving the area. He wanted to make sure that the business wouldn't become a used car lot downtown. **Commissioner Newman** said that his concern would be alleviated once the conditions are met, because the code would not allow this property to become a used car lot.

Commissioner Churchill recapped that Commissioner Bresaw's proposal was to remove the two parking spaces in the front of the business and that Chair Klein would like to recommend that we label those two spots "no parking" and also have signage to re-direct the parking.

Chair Klein said that if the applicant is ok with marking the new parking spaces in the front of the building, (directing any visitors to the new parking spaces), then he feels this is sufficient to satisfy the conditions of approval. **Commissioner Coleman** said that it seems like the applicant is willing to remove the parking spaces in the front of the business and use the four spaces along side the business, which would take care of any concerns.

Commissioner Batey asked if there was something that could be put into the conditions of approval that the City and the Engineering department to resolve with the applicants to ensure four parking spaces. **Ms. Shanks** said that regardless how these spaces were oriented, both would require them backing out. She also said that when you change a non-conforming use, we would never allow the situation to be created as it is now, and so to change it we would never be able to approve as a new parking situation.

Mr. Monahan interjected another idea – making the two parking spaces in the front of the building designated for the owner that can only be used for display of vehicles.

Ms. Shanks said that when drafting these conditions, she wanted to be clear -- 2B is clear; just change two to four parking spaces that are off site. But 2A she wondered if they wanted the front area to be painted signage on the ground as well as a sign. **Chair Klein** said that they felt that how the signage is handled would be up to the City Engineer. **Mr. Weigel** said that it would be usual to stripe the spaces "no parking".

Commissioner Coleman moved to change Attachment 2 to eliminate two parking spaces directly in front of subject property and to label the spaces "no parking" as well as to change the verbiage to say instead of adding two regular size parking spaces, to change it to four regular size parking spaces and to subsequently approve this application E-07-01. **Commissioner Churchill** seconded the motion.

Ayes: Bresaw, Batey, Coleman, Newman, Churchill, Klein

Nays: None

Motion carried 6-0.

7.0 WORKSESSION ITEMS

Billboard Signs

Ms. Mangle asked the commissioners if anyone had any questions regarding the billboard sign at the Hannah-Harvester Building. **Commissioner Batey** stated that she wanted to make this an issue when they have a reading with Council – to the extent that they could clarify some of the things that came up in the e-mail exchange about Measure 37, etc. **Ms. Mangle** said that she will forward Commissioner Batey's e-mail on to Mr. Monahan.

Ms. Mangle asked Commissioner Batey to summarize her thoughts on this issue. **Commissioner Batey** said that there were two editorials in the Oregonian on Monday, April 30th, about mostly Washington County billboards. She said that she forwarded the information on to a list of people, including the City Council members, as well as others that she knew were interested in this issue. She reminded each of them that we have some billboards in our area; the ones on Hannah-Harvester and Hwy 224, etc. She said that many voiced their concerns – looking for a solution to avoid any more of this happening in our city.

Commissioner Batey said that there was some confusion about any applicability to Measure 37. **Mr. Monahan** stated that there has been quite a bit of discussion over the last couple of months about what jurisdictions are finding is approvable under Measure 37, regarding billboards. He said that legislature has passed two bills out of the House; one of them would go to the electorate if it passes out of the legislature. He said that it is an interesting bill where apparently the emphasis will be to deal with residential issues on Measure 37 and put the commercial issues, including billboards, on the back burner. **Mr. Monahan** stated that it indicates to him that the legislature would like to slow down the prospect of additional billboards.

Commissioner Batey said that her point behind initiating the e-mail chain was not the Measure 37 aspect, but was more about whether or not we should be looking at our code and revising our code. She wanted to know why we need roof signs anyway – should we be looking at maximum size limits, should we be looking a ways to foreclose people from replicating this elsewhere in the city.

Mr. Monahan told them that the other concern with Measure 37 is that Measure 37 has now established for all the people under today's code the right to use today's code. Local jurisdictions are going to be very hard pressed to take back or further restrict zoning regulations. **Ms. Mangle** said that we will continue to do this, but the risk is basically a rolling risk; every time we change the code, everyone for two years will have an open

shot at trying to get a Measure 37 claim to do what was in the old code. She said that is just part of the world we live in now in Oregon, and still, it only applies to people if there is no property transfer.

North Clackamas Park Horse Arena

Ms. Shanks referred to the draft letter stating that we have an IGA with the North Clackamas Park – we are the property owner – there is no regulation, or any agreement that gives us any specific authority to require them to do anything. However, she said that for good working relationships, presumably they would want to have a good working relationship with us and with you.

Chair Klein said that he read through the draft letter and liked the ending with the two year time period or other considerations in this area and he would say that even in that two year window he thinks that they should be looking at all options and then after that two year window, and no horse people come forward, then it needs to be opened up and available to anyone who can come up with some funding.

Commissioner Batey said that the Park District clearly said they were looking for money to address the surfacing problems, so if this proposal doesn't address the surfacing problem, what are they doing. **Ms. Shanks** clarified that when they got into the project (the whole ballpark project) they found out that the posts that surrounded the existing horse arena were rotten, so there was a safety issue, so they had to rip all of those out. **Ms. Shanks** quoted from Finding 1H of the decision; the horse arena will remain, however the dimensions of the arena may be reduced.

Chair Klein told the commission how pleased he was that the parking lot is done in North Clackamas Park because of the heavy usage of the park. **Ms. Shanks** encouraged all the commissioners to read the draft letter through and welcomed their comments either now or via e-mail.

Commissioner Bresaw commented that the last sentence could be misunderstood – that they can do something else. **Ms. Shanks** suggested maybe including something like “with appropriate approvals”. **Chair Klein** said that the fact is that he doesn't think it is feasible to trailer a horse, to drive to this park, to put them into this horse arena to walk around this horse arena. He said that if the horse people are enthusiastic about fixing this, then they will somehow build a buzz, they'll create an interest and they will find some sort of funding out there to fund their horse arena; which is fine. He stated that in his opinion, if after a two-year window, they can't do this, and then it should be opened up at that point in time to be allowed for other usage.

Ms. Shanks said that she attended a weekly construction meeting on site that included the project managers for both the contractor as well as for the park. She said that they were talking about the horse arena when it was brought up that the railings were all rotted and that there was no money in this project to do anything about this horse arena. She

said it was surprising to her why they would actually approve a horse arena without any money to maintain the horse arena.

Chair Klein said he felt that a resident of Milwaukie should be sitting on the board of the Stewards of the North Clackamas Park. **Ms Shanks** mentioned that JoAnn Herrigel is a staffer to that group and does attend those meetings. **Ms. Shanks** then asked if changing the sentence at the end to state “to end it within a two year time period. If at that time no funding or resources become available, that the district will consider a different use for this area and approach the City.” **Ms. Mangle** said that she could sign the letter and note that she is sending the letter on behalf of the Planning Commission.

7.1 “Paramedic” Code Fix List Review

Ms. Mangle told the commissioners that in last year’s 2006 work plan, one of the many things on that work plan was direction for staff to do a “paramedic” code fix list with the intent of just starting to capture a lot of the little things that come up in staff hearings or staff finds that get in the way of the intent of the code in doing good work. She said these are different than those that were talked about during the work plan sessions, which were really projects; that we know are going to take research, outreach, etc. These were just the kinds of things that we find in our staff meetings, as we’re talking about this, and we know it is just an error or unclear, or things that are really not the intent of the code – that need to be corrected or changed. **Ms. Mangle** said that the Planning staff has been tracking this for about a year and these are the kinds of things that have been picked up along the way. She had Ryan Marquardt organize this for the commission, mostly to let you know that we are doing this. She encouraged them to let the planning staff know if they come across anything they feel needs to be looked at.

Ms. Mangle said that these were put into three different categories:

- A) Typo level changes that really don’t affect meaning or intent
- B) Fixing them might involve a minor policy change
- C) Some of the bigger things, that will take a little bit more work

Ms. Mangle said that starting with Section A, all of these changes would require a hearing before Planning Commission and a hearing before City Council to be adopted, no matter how small they are. She said that she would like their opinion/feedback about what they think about going through these as staff has a little bit of time, or we could just try to bundle them all together the next time we do a code project.

Commissioner Bresaw asked about Section A, Number 5, Mislabeled minimum density problem – 19.301.309. She asked if net acre is after you subtract the streets and the sidewalks. She asked if 8.7 would be 8 or 9. **Ms. Shanks** said that you basically just do a calculation, and when you get the number, and then you figure out how to round it. **Ms. Shanks** said that one of the things that our code doesn’t have is a rule for how you “round” – we tend to “round” up for parking spaces. She stated that it is the number after you divide by 8.7 that is more the issue. **Ms. Mangle** said that the inconsistencies and

the gaps are the kinds of things that take a lot of planning staff time to figure things out – the reason to change it so that future staff don't have to deal with these issues. **Ms. Mangle** said that in tackling that code change, some of them will require a little research to figure out what the code change would be.

Commissioner Bresaw asked about the section about parallel parking dimension – 19.503.10. **Ms. Mangle** explained why it was on the list and reminded them that this is just a running list – when and if the planning staff comes back with a proposal, we will explain more of the rationale – what the change would mean, where we got it from, etc. She said that it might be possible that staff would bring a few at a time, at a reasonable pace. **Commissioner Batey** commented that she understood that there has to be a balance between not biting off too much versus how much time it takes to actually get the package through Planning Commission and then through Council – whatever works best for the planning staff. **Ms. Mangle** said that this project would not be started until after July 15th due to the numerous TSP meetings that are currently underway.

Ms. Mangle asked the commissioners to put the “Paramedic” code fix recap behind the Code Revision Projects tab in their work session notebook for future reference.

8.0 DISCUSSION ITEMS

Ms. Mangle reminded the commission that next Tuesday, May 15th is the annual Planning Commission and City Council work plan discussion. She said that everyone is welcome – but not required. She said she thought that on some of the smaller committees, just the chair will come, but it would be great if all could come. **Ms. Mangle** said that it would be a work session from 5:30pm – 7:00pm in the conference room. She said that CUAB is first, Planning Commission second, and then DLCD.

9.0 OLD BUSINESS -- None. .

10.0 OTHER BUSINESS / UPDATES -- None.

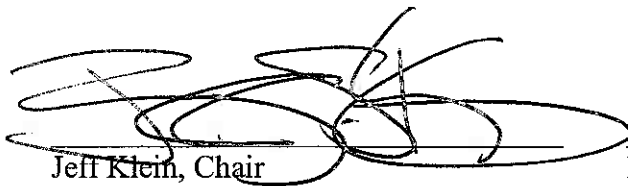
11.0 NEXT MEETING - May 22, 2007 – Work session – Downtown Parking Update

Ms. Mangle said that the next Downtown Parking workshop will be on May 31st. She was hoping to do a preliminary presentation here but she will be scrambling to get it all together for the 31st. She said at the first Downtown Parking workshop we talked mostly about immediate changes that we were making to better manage the system. **Ms. Mangle** said that the next workshop will be about future conditions and what will happen as downtown re-develops and what the city's role is for providing parking. She would appreciate it if one of the Planning Commissioners could come to that workshop. She said it would be at City Hall on Thursday, May 31st from 5:30pm – 7:30pm. **Ms. Mangle**

said that there will also be a follow up bike meeting – continuing to make progress on the pedestrian plan. She thought it would be good to start bringing parts of the TSP as a briefing early on so that by the time the commission gets it in October, they will be comfortable with what we are doing. She said that she would have Ryan Marquardt come and brief the commission on the Pedestrian Master Plan part of the TSP. She stated that she would also do her best to try and get something together for the parking.

Commissioner Bresaw moved to adjourn the meeting of May 8, 2007. **Commissioner Newman** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:30 p.m.



Jeff Klein, Chair



Karin Gardner, Transcriber

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, May 8, 2007 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 Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	Motion Needed
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	
6.2	Public Hearing -- Continued from 4/24/07 Type of Hearing: Minor Quasi-Judicial Applicant: Waid & Cynthia Fetty Owner: Jim Bernard Location: 11153 SE 21 st Avenue Proposal: Indoor Classic, Collector Car Sales File Number: E-07-01 NDA: Historic Milwaukie Staff Person: Susan Shanks	Discussion and Motion Needed For These Items
7.0 7.1	Worksession Items “Paramedic” Code Fix List Review	
8.0	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 22, 2007 – Worksession – Downtown Parking Update The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

ist for Future Meetings:

June 12, 2007

Milwaukie Planning Commission Statement

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

Public Hearing Procedure

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

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

Milwaukie Planning Commission:

Jeff Klein, Chair
Dick Newman, Vice Chair
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Scott Churchill
Paulette Qutub
Aine Coleman

Planning Department Staff:

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



To: Planning Commission

From: Katie Mangle, Planning Director *KM*

Date: April 27, 2007 for May 8, 2007 meeting

Subject: Code Fix list

Action Requested

Consider the code fix list developed by staff and provide direction about implementing the changes under consideration.

Background Information

As part of the 2006 Planning Commission Work Plan, Commissioners directed staff to prepare a list of "paramedic" code fixes to track needed changes to the code. Over the past year staff has been developing a list of these fixes. A few were adopted along with the Sign Code revisions in December 2006. The remaining fixes are presented in the attached document for the Planning Commission's review. The code fixes under consideration are grouped into three sections:

- Section A – Code fixes that are simple and do not affect the meaning or intent of existing regulations.
- Section B – Code fixes that may involve a minor policy change, but are basically consistent with the existing code and Comprehensive Plan.
- Section C – Changes that are new regulation or a change in regulation

All amendments will require some level of research, editing, and work session discussion.

Key Questions

- 1) Aside from the attached list, are there other specific code changes needed of which you are aware?
- 2) How should staff proceed with the attached fixes? Some options include:
 - Proceed, as time allows, to adopt the simplest code changes presented in Section A.
 - Discuss items from Sections B and C in a work session, and work to adopt some items from these sections along with fixes in Section A.
 - Wait to address the issues in Sections A, B and C as part of a larger code maintenance project.

Attachments

Code Fixes Under Consideration, 2007

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City of Milwaukie – Planning Department Code Fixes Under Consideration, 2007

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
1	Double frontage lots - 19.103	"Front lot line" definition does not include through lot ("double frontage") situations. Though through lots are discouraged by the Land Division process, they do exist and require some process for determining which lot lines are which.	The definition references the lot line separating the lot from the public street. It adds that for corner lots, the front lot line is the lot line toward which the development faces. The definition should be changed to include through lots in the same category as corner lots.
2	Transposed definitions - 19.103	The definition of "Structured Parking" has language clearly intended to be in the "Temporary or transitional facility" definition. The definition of "Temporary or transitional facility" has language that defines a temporary parking or loading area.	Correct the language so that the terms and definitions match. Versions of the code prior to 2000 contain the language as it should read.
3	Omitted word – 19.103	The definition for "Rear Yard" should say that it is measured at right angles to the rear lot line, but the word "angles" is omitted.	Add "angles" to the definition
4	Outdated references to interior lots - 19.301-309	Standards for lot size, lot frontage, and side yard setbacks refer to interior lots and single-family attached dwellings. Because single-family attached dwellings are defined as duplexes, townhome-style development with interior single-family lots is not possible. The language is confusing and superfluous.	Remove language related to interior single-family attached dwellings for setbacks, lot size, and lot frontage. This is not a policy change because the allowed uses and their definitions already preclude townhouse-style development.

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
5	Mislabeled minimum density problem - 19.301-309	The minimum density section of the residential zones is poorly worded. These sections currently read "Minimum development densities...shall be at least 7.0 to 8.7 dwelling units per net acre." It should be clearer that these are minimum and maximum densities.	Change the section heading to "Development density" rather than "Minimum density". Revise the text to read " Minimum development density...shall be at least ___ dwelling units per net acre and not more than ___ dwelling units per net acre."
6	Vegetated Corridor Width - 19.322 Table 1	It is unclear if the width of the vegetated corridor is centered on a river, or applied on both sides of the outer banks of the river. Based on the map of the Water Quality Resource zones, it appears that the corridor is applied to the outer boundaries of a water feature, i.e.; both sides of a stream have a 25-foot buffer.	Change the table heading or add a footnote to indicate that the corridor width is applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.
7	Incorrect reference – 19.322.3	The application requirements in the Water Quality Resource Zone are listed as 19.322.6. They are actually in 19.322.9.	Correct the reference.
8	Maps for Mixed Use Overlay - 19.318.9	The code lists specific sites in Subareas 2 and 4. These areas are identified in the Regional Center Master Plan, but the document is not readily available. It would help to add a map to the code indicating the boundaries of these sites.	Add a map.

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
9	Additional street setbacks - 19.300 (All)	Table 19.1409.2 contains additional setbacks on certain major traffic streets in the city. There is no direction in any of the base zones to look at this table to see if additional setbacks apply, and this has occasionally been an unpleasant surprise for staff and applicants.	Include a section in each zone that states that additional yard setbacks apply as listed in Table 19.1409.2.
10	Unnecessary definition - 19.323.3	The Design and Landmarks Committee (DLC) is defined in the Historic Preservation overlay zone, but is not mentioned elsewhere in this section.	Delete the DLC from the definition section in 19.323
11	Incorrect reference – 19.322.7.E and 19.322.7.F.3	The appeals process for demolition of an historic property is the same appeals for alteration, described in 19.322.5.F. These code sections references 19.322.6.F	Correct the references.
12	Reference clear vision standards - 19.402.B.1	Regulations for fences, walls and shrubs do not reference the section of the code where clear vision standards exist.	The text should change to, "...maintain unobstructed vehicle vision...as part of the <u>regulations in Chapter 12.24</u> and clear vision determination process in <u>19.1409.2.E</u> 19.1400."
13	Reference clear vision standards - 19.426.5	The standards for flag lot fencing and screening do not reference the clear vision standards of the code or fence regulations in 19.402.	Add a sentence at the end of 19.426.5.A that reads "Fencing and screening must conform to the clear vision standards of 19,1409.2(E) and Chapter 12.24. Fencing shall conform to the standards of 19.402(B)."

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
14	Inconsistent parallel parking dimension - 19.503.10 Table	The stall depth for a parallel parking space is 8 feet, while the stall width is 9 feet. For compact parallel spaces, the stall depth is 7.5 and the width is 7 feet.	The dimensions are inconsistent, since stall depth and stall width should be the same for parallel spaces. Suggest making compact stall width and depth 7.5 feet for compact stalls and 9 feet for regular stalls.
15	Incorrect language - 19.503.19	The parking ratio table contains a reference to duplex.	Suggest changing this reference to single family attached dwelling to be consistent with the rest of the code.
16	Reference commercial vehicle definition - 19.503.21.E	This section prohibits commercial vehicles over 1.5 tons from being parked or stored in residential zones. This section should reference an existing definition of "commercial vehicle" in 10.04.090.	Amend 19.503.21.E to include a reference to Commercial vehicles, as defined in 10.04.090.
17	Transposed parking ratio - 19.503.9 Table	The minimum and maximum allowed parking ratios for elementary, middle and high schools are reversed.	Switch the ratios so that they are correct.
18	Unnecessary code section - 19.602.2	Churches and other public buildings used to be permitted as a conditional use, but are now governed by the community service use chapter (19.321). This code section is a remnant of the time when such buildings were conditional uses. Standards for churches and public buildings are now in 19.321, and this section is no longer needed.	Delete this section. The only time this could ever be applicable is if a church or public building was proposed in the Willamette Greenway zone. It is clearer if only one set of standards exist for churches and public buildings.

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
19	HIE standard 'hidden' in purpose statement - 19.707.1	A standard for Home Improvement Exceptions (HIEs) is embedded within the purpose statement. The standard is that no more than 250 square feet of floor area can be approved through a home improvement exception. It is an important standard, and it is obscured by its location.	Add new section after 19.707.2 A starting with "The total floor area..." and ending with "...to projects that exceed the 250 square foot limit."
20	Inconsistent HIE standards - 19.707.2	Home Improvement Exceptions (HIEs) are allowed for single-family detached dwellings in certain zones and for single-family attached dwellings in other zones. HIEs must meet all the standards of 19.707.2. The single family detached vs. attached distinction is in two separate standards in 19.707.2, and no dwelling can fall into both the single family attached and single family detached category.	Combine into one standard, keep all of A and add, "or for an addition to an existing two-family residential unit...."
21	Typographical error - 19.709	The review procedure for a Home Improvement Exception is listed as "Type H". This is a typographical error, and should be listed as a Type II review.	Change to Type II.
22	Consistency with Oregon Revised Statutes (ORS) - 19.1001.5.C	Update completeness determination process to reflect current ORS	Will require some research to determine what needs to be changed. Such changes are administrative because we must follow State statutes in processing land use applications.
23	Annexation process clarification - 19.1011.4, 19.1500	Annexations (per City Attorney) are legally exempt from 120-day clock and should say so either in 19.1011.4 or 19.1500.	As suggested, probably best to add this in 19.1500, but maybe in 19.1011.4.

Section A

Fixes incorrect reference, typos, add references to existing code; minor changes that do not change the intent or meaning of regulations

#	Name-Code Section	Problem Statement	Solution
24	Incorrect code reference – 19.1409.1.C	Refers to transportation facility adequacy requirements in 19.1408. These are actually in 19.1407.	Change reference to 19.1407.
25	Incorrect code reference – 19.1413.C	Refers to flag lot standards in Title 17. Flag lot standards are now in 19.426.	Change the reference to 19.426.
26	DLC referred to as a 'commission' - Multiple Sections	The Design and Landmarks Committee is still referenced as a Commission in many sections.	Correct the references.
27	14.16.060.H.3	A design review for internally illuminated awnings was added in the December 2006 changes to the sign code. It should specify that such awnings require design review and subject to Minor Quasi-judicial review in 19.1011.3.	Add reference that such signs are permitted subject to Minor Quasi-judicial design review.

Section B

Changes include minor policy change; clarification of current interpretation that may not be self-evident in the code

#	Name-Code Section	Problem Statement	Solution
1	Definition of multifamily development based on ownership - 19.103	Multifamily apartment and multifamily condominium dwelling units are differentiated by ownership. The City does not regulate based on ownership, making that distinction irrelevant.	Combine these definitions and remove references to ownership.
2	Definition of multifamily development based on structures - 19.103	Multifamily apartments and condominiums are defined as a single structure, but multifamily developments can have more than one structure. By this definition, a lot with multiple duplexes would not be a multifamily development.	Remove the reference to single structure and common walls so that multifamily development is defined as three or more dwelling units on one lot. Note that this may impact Transition Area Review (19.416), which is triggered by "multifamily" projects.
3	Definition of "Zoning Hardship" - 19.103, 19.503.8	Modifications to required parking standards are allowed, but modifications that are the result of a "zoning hardship" must get a variance, rather than a modification. It is not clear what is meant by "zoning hardship."	Add a definition in 19.103 or further explanation in 19.503.8 of what constitutes a zoning hardship. The consensus of Planning Department staff is that a zoning hardship occurs when the site characteristics and development standards of the code make it impossible for a site to meet the minimum parking numbers. This differs from a site that could meet the standards, but chooses to ask for a modification.

Section B

Changes include minor policy change; clarification of current interpretation that may not be self-evident in the code

#	Name-Code Section	Problem Statement	Solution
4	Contiguous lots - 19.103	Definition of "Lot" is area under control or ownership by one entity. In situations where one entity owns contiguous legal lots that could be built separately, this definition defines all such areas as one lot. The definition also does not state that a lot must be contiguous, so an owner could make an argument that geographically separate areas of land constitute a lot.	Change to, "...or area of <u>contiguous</u> land owned by ...one distinct ownership. <u>When one owner controls an area defined by multiple adjacent legal lots or parcels, the owner may define a lot boundary coterminous with one or more legal lot or parcel boundaries within the distinct ownership.</u> "
5	Story vs. half-story - 19.103	There is an overlap in the definition in "story" and "half-story", such that the lower level of a building can meet both definitions.	Leave the definition of story as is, but change half story to read "if the (ceiling of a level in a building) is less than 6' above grade for more than 50% of the total perimeter <u>and</u> or is not more than 10' above grade at any point..."
6	Lot density and minimum lot size relationship - 19.304-309	Minimum lot area and lot area per dwelling unit have an ambiguous relationship in these zones. For example, the R2 zone reads, "Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average of two thousand five hundred (2500) square feet for each dwelling unit over one." It is unclear if a second unit can be built on a 5000 square foot lot, or if 7500 square feet are required for two units.	Planning staff has interpreted these requirements as non-additive, so that two dwelling units can be built on a 5000 square foot lot, rather than requiring 5000 square feet for the first dwelling unit and an additional 2500 square feet for a second. Change language to reflect this interpretation.

Section B

Changes include minor policy change; clarification of current interpretation that may not be self-evident in the code

#	Name-Code Section	Problem Statement	Solution
7	"Character" of vegetated area - 19.304-308	The minimum vegetation standards of these zones require a minimum percentage of lot area to be vegetated, and require at least half the area to be "of the same general character as the area with dwelling units." The intent is probably to ensure useable open space for residents of multifamily dwellings, but the description is vague.	Change the standard to a more performance-based standard. One idea is "at least half the required vegetated area must be suitable for outdoor recreation by residents." This would ensure that not all the landscaped area is planted in dense vegetation, such as juniper, or steeply sloped.
8	Gross acres vs. net acres - 19.314.1	A standard of the Manufacturing (M) zone is that a use must have 10 employees per acre. It is unclear if this is per net acre or gross acre. This could be problematic because there are bodies of water and steep slopes within the M zone and there can be a significant difference between gross acres and net buildable acres.	Planning staff has interpreted this as net acres, and suggests that the word "net" be added to this standard.
9	Willamette Greenway Buffer plan required - 19.320.5.E	The application requirements state that a vegetation/buffer plan is required for all Willamette Greenway (WG) conditional use permits. Because the WG zone extends hundreds of feet inland from the river, there are instances where a property does not contain any of the vegetation buffer (defined as 25' upland from high water line), and a vegetation/buffer plan is not necessary.	Add a provision "if the proposed development impacts the vegetation buffer described in 19.320.8."

Section B

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#	Name-Code Section	Problem Statement	Solution
10	Which setbacks are affected by Additional Street Setbacks - 19.300 (All)	Table 19.1409.2 contains additional setbacks on certain major traffic streets in the city. In addition to the problem that this table is not well-referenced (see above), staff is uncertain if it should apply to side yards as well as front yards.	Decide whether this applies to all yard setbacks, or just front yards. This will affect the placement of the suggested code revision in Section A.
11	Requiring consent of neighbors for keeping animals - 19.403.C and D	These regulations for keeping bees and livestock require consent from neighbors within 100 feet of the property. City legal counsel advised that these provisions are an abdication of City police power and are not enforceable. Additionally, the regulations for keeping of livestock require compliance with sanitary codes. This is an archaic reference and is not associated with anything regulated by the city or by building codes.	Delete these provisions from both sections of the zoning code.
12	CB and antenna height - 19.403.E	This section regulates radio and CB towers as accessory structures. The confusing section is "Such structures ...shall conform to height, yard, and other standards of the zoning ordinance." The 15' height limit for accessory structures is part of the zoning ordinance, as are the height standards for the base zones in 19.300. There is no guidance on which section should prevail.	This section of code predates the accessory structure regulations from 2002, which means that the original reference was to the heights of the base zones. Amended it to read, "shall conform to height, yard, and other standards of <u>the use zones in Chapter 19.300</u> the zoning ordinance."

Section B

Changes include minor policy change; clarification of current interpretation that may not be self-evident in the code

#	Name-Code Section	Problem Statement	Solution
13	Separation between buildings on the same lot - 19.409	Requires a 6-foot separation between buildings used for dwelling purposes and other buildings on the site, as measured from closest point to closest point.	Past staff has indicated that the intent of this regulation should apply to all buildings on a lot, not just buildings used for dwelling purposes. Suggest removing the "used for building purposes" clause.
14	When bicycle parking is required, how much must be covered? - 19.505.5	Currently requires covered parking if more than 10% of automobile spaces are covered. The second sentence requires half of the bicycle spaces to be covered if more than 10 bike parking spaces are required. The relationship between these clauses is not clear.	The main idea of the regulation is that some bike parking is required to be covered. To simplify the phrasing it should read, "A minimum of 50% of bicycle spaces shall be covered and/or enclosed (lockers) when 10% or more of automobile parking is covered or when more than 10 bicycle spaces are required."
15	Unreasonable setbacks required for existing buildings in WG review - 19.602.1	This section requires yard setbacks of 2/3 the height of the principal structure for conditionally permitted uses in residential zones. This is problematic for existing structures that undergo a Willamette Greenway review, which requires that the structure and use be permitted conditionally.	Suggest adding, "this requirement is not applicable to existing structures undergoing conditional use review as part of a Willamette Greenway zone review."

Section B

Changes include minor policy change; clarification of current interpretation that may not be self-evident in the code

#	Name-Code Section	Problem Statement	Solution
16	120-day clock requirements - 19.1002	This section deals with the 120 days during which the City has to make a final decision on a land use application. The language of "received and deemed complete" is confusing since the date an application is received and the date it is deemed complete are almost always separate. The ORS implies that the 120-day clock begins once the application is deemed complete, whether it was complete as submitted or not.	Clarify this language by either eliminating the word "received" or expand it to say "...received and deemed complete. <u>The 120-day clock shall start on the date an application is received if it was complete as submitted.</u> "
17	Improvements required for all land divisions - 17.32.020	17.32.020 makes it appear that Required Improvements only apply to subdivisions, when in fact they should apply to any boundary change that increases the number of lots or parcels.	Add an applicability section to make it clear that Required Improvements apply to all land divisions (not just subdivisions as loosely stated in 17.32.020). This is consistent with the requirements of 19.1400.

Section C

Includes policy changes, new regulations or change in regulations

#	Name/Code Section	Problem Statement	Solution
1	Comprehensive Plan references in the Zoning Code – Multiple sections	Comp. Plan goals, policies, objectives listed as approval criteria in zoning code. These are legally unsound criteria because they are not specific enough and duplicative (i.e., zoning code should implement Comp Plan without having to refer back to it.)	Requires research to identify problems within the code and develop alternatives.
2	Duplexes and Single Family Attached dwellings - 19.103 and Base Zones	Single-family attached dwellings and interior lot language in the definition section and residential base zones are confusing. The definition of "single-family attached" means a duplex, and the definition of "interior single-family attached" is unnecessary because a two-unit structure does not have any interior units. Townhomes, which are a type of single family attached dwelling allowed downtown, are not defined.	Add a definition that defines duplex as a single structure on one lot with two dwelling units. Add a definition of townhouse as a single family dwelling on one lot that shares at least one common wall with another townhouse.

Section C**Includes policy changes, new regulations or change in regulations**

#	Name/Code Section	Problem Statement	Solution
3	Development on legally landlocked parcels - 19.412	This code section limits development permits on lots of less than 3,000 square feet or lots that do not have frontage on a public street. This conflicts with 19.1409.1.D, which allows development on legally created lots that have no street frontage if an access easement is provided. City legal counsel advised that the code section of 19.1409 should prevail. It has since been used to approve one building permit and was cited in a pre-application conference as an option for developing on a landlocked lot.	19.412 should be changed to "However, no dwelling shall be built on a lot with less than 3000 square feet, or with no frontage <u>or approved access described in 19.1409.1</u> on a public street."
4	Flag lot screening - 19.426.5	Currently, the text of this section requires screening only along flag lot driveways. Staff in place at the time this section of the code was adopted indicated that the intention was to require screening on all boundaries of a flag lot. Additionally, a diagram should be added to illustrate where screening is required.	The community would likely support this change because it further mitigates the impacts of flag lots. A text change that could achieve the desired result is "Continuous screening along the <u>flag lot boundaries and</u> flag lot driveway that is not part of the parent lot ..." and add diagram for illustration
5	Affordable housing requirements - 19.419	The code provides an incentive for affordable housing, but has no requirement that affordably priced units go to families that have low incomes.	The intent of having affordable housing is clear, and the requirement that the units go to low-income persons is consistent with that intent. An implementation mechanism needs to be researched though. Looking to other cities zoning codes is a good place to start.

Section C

Includes policy changes, new regulations or change in regulations

#	Name/Code Section	Problem Statement	Solution
6	Accessory structures for multifamily dwellings - 19.402.A	The limitation on accessory structure size in residential zones seems ill-suited for multifamily dwellings. A multifamily complex may have an exercise room, central garage, or other structure common to such developments that is larger than 800 square feet.	Current staff believes that the size limit is not appropriate for multifamily dwellings, however other accessory structure regulations related to design are desirable. If this policy direction is appropriate, the regulations can be amended or reorganized to standards that apply for single-family detached and attached dwellings, and standards that apply to all residential accessory structures.
7	Flagpoles - 19.414, 19.401	Flagpoles are allowed to exceed the base zone height restrictions if they are attached to a structure. However, freestanding flagpoles are presumably an accessory structure. Because of this, they are not allowed in front yards and limited to 15 feet in height for residential uses and base zone heights for non-residential zones.	Practically, this is a problem since many freestanding flag poles are out of conformance. A proposed change is to add 19.403.F "Standalone flagpoles are considered accessory structures and are not subject to height limitations if the pole is under 6 inches in diameter. A flagpole may be placed in any yard, but must maintain a 5' setback from any property line."
8	Applicability of Off-Street Parking and Loading standards - 19.502	This code section defines the applicability for when development must conform to the standards of 19.500. As it is written, a parking lot expansion not associated with other development does not need to comply with the standards. This is because an expansion or parking lot development by itself does not increase parking and loading demand.	One idea for a change is "...development, remodeling, and changes in use that increase parking and loading demand <u>or capacity on site</u> ." Idea 2: Add section C "The standards and procedures of 19.500 shall apply to the development or expansion of any off-street parking are not associated with development, change in use, or remodeling."

Section C Includes policy changes, new regulations or change in regulations			
#	Name/Code Section	Problem Statement	Solution
9	Zones where structured parking is allowed - 19.507.1	The structured parking regulations prescribe the zones in which structured parking can be constructed. It does not allow for structured parking in high-density residential zones, such as ROC, R1B and R1.	This has not yet been a problem. However, it seems appropriate to allow structured parking in such high-density zones.
10	Multiple RVs stored uncovered on large lots - 19.503.22.B	This section limits lots under one acre to one RV or pleasure craft stored in an unenclosed area. However, there is no restriction for lots over one acre, which would allow an unlimited number of unenclosed RVs and/or pleasure crafts.	Add a clause that places a limit on the number of unenclosed RVs/pleasure crafts for large lots. A suggestion from the Code Compliance Officer is: "On lots larger than one acre, one additional recreational vehicle or private pleasure craft which is not located in an enclosed structure is allowed for each half-acre of area over one acre."
11	Storage of RVs in front yards - 19.503.22.F	This section encourages RVs and pleasure crafts to be stored in side or rear yards. The intent of 'encourage' is clear, but it is not appropriate language for the zoning code.	Either change the code to read that RVs and pleasure crafts are required to be stored in side or rear yards, or modify the section to make it clear that such items may be stored in the front yard.

Section C

Includes policy changes, new regulations or change in regulations

#	Name/Code Section	Problem Statement	Solution
12	Home Improvement Exceptions and lot coverage vs. floor area - 19.707.1	The floor area approved through a Home Improvement Exception (HIE) is limited to 250 square feet of floor area and no more than 100 square feet of floor area may extend into a side yard. This standard is extremely difficult to implement when the HIE is requested for lot coverage standards. Lot coverage limits the roof area on a lot, while floor area limits the interior space. Depending upon the number of stories and size of eaves and overhangs, the floor area on a lot can vary widely among lots with equal lot coverage. Implementing the 250 square feet of floor area standard requires assumptions about the maximum floor area that could be allowed under a given lot coverage. The floor area limit for side yards is easier to calculate because the setback line provides a measuring point from which to determine the amount of floor area that extends into the yard.	Staff has invented a couple of methods for implementing this standard. While they are workable, they are complicated, not completely accurate, and are not something that applicants could determine by themselves. One suggestion is to limit the overall lot coverage to no more than a 5% increase from the base zone standard and keep the requirement that no more than 100 square feet of floor area extend into a required side yard. We are still open to suggestions, but all other approaches with respect to limiting overall floor area are too difficult to calculate and have too many assumptions

Section C Includes policy changes, new regulations or change in regulations			
#	Name/Code Section	Problem Statement	Solution
13	Unrealistic timeframe for Type II reviews - 19.1011.2.A	Timeframe for Type II decisions (15 days to tentative notice of decision (TNOD)) is not realistic about the time required to refer applications to other departments/agencies; additional clarification is needed for the process of re-notifying in case a TNOD is changed without a public hearing (new 14 day comment period OR it becomes final, public receives notice, and may appeal to PC within 15 days of final NOD date)	Staff needs to draft new language for these changes. We are currently not following the code language for issuing decisions within 15 days. Instead, we are using a 21-day standard.
14	Standing to appeal Planning Commission decisions - 19.1000	It is not clear who has standing to appeal a Planning Commission decision.	A solution will require consultation with the City Attorney with respect to ORS and LUBA decisions.
15	No appeal process for Type I decisions - 19.1011.1 and 19.1011.1.B	Reference to appeal process (19.1001) is incorrect. No appeal process exists for Type I applications.	A clear review process for Type I reviews needs to be created. The current reference is to an appeal process of a Planning Director's Determination.
16	No appeal process for Type II decisions - 19.1011.2.B	The reference to appeals of a Type II decision points to the appeal process for Planning Commission decisions.	Staff lists a 15-day appeal period on Type II decisions during which a decision can be appealed to the Planning Commission. The code language does not strictly support this. A specific Type II appeal process should be created.
17	Utility easement standards - 17.28.030.A	The County wants us to delete utility easements.	Change the code language to whatever is suggested by Clackamas County.

Section C

Includes policy changes, new regulations or change in regulations

#	Name/Code Section	Problem Statement	Solution
18	Superfluous submission requirements - 17.20 and 17.24	Plat Information	Per a meeting with the County Surveyor, our requirements for Preliminary and Final Plats are excessive because we require information that is reviewed only by the County. This should be part of a larger project to simplify Title 17 and what we require for applications.
19	Tree removal for public improvements - 16.32.020.C	None of the Approval Standards for removing a tree in the right-of-way allows for removal of the tree when it is in the way of a public improvement project	Add another approval criteria that allows removal for this reason. Also add language that allows for some discretion on the part of the Engineering Director regarding tree removal in these situations (i.e.; allow the Engineering Director to apply for removal permits for trees that might be affected by a project, but leave trees in place if it is feasible to preserve or build around them).
20	Tree removal criteria - 16.32.020.C.1.c	One approval standard for tree removal is "or for some other reason it can be established that it should be removed". This is ambiguous taken in context with whole paragraph.	The clause is unclear in its current location. One option is to separate it into another approval standard, but it might not be good to have such a broad, catch-all standard. Another option is to delete it entirely.
21	No standards for access easements - 19.1409.1.D	This section allows access easements for lots legally non-conforming with regard to frontage. However, no standards exist for access easements. This is an issue for existing landlocked lots and when a parcel has frontage on a street from which it cannot take access (such as an arterial, collector, or unimproved right-of-way) and requires an access easement.	If we do decide to adopt standards, they should probably be in 19.1400. This is a bigger project that will require looking at other cities and coordinating with the CCFD.

Section C Includes policy changes, new regulations or change in regulations			
#	Name/Code Section	Problem Statement	Solution
22	Temporary signs - 14.12.010	Our temporary sign standards allow for 16 square foot signs on a property. This is too small for commercial properties, which has lead to businesses having to get permits for signs that are only in place for a few weeks. This is a workload issue for planning and code enforcement staff. Also, there is no limit on the amount of temporary signage a property can have. While it hasn't been abused, the potential exists for a property owner to place many 16 square foot signs on a property.	Allow larger temporary signs on non-residential properties. Limit the total amount of temporary signage for any one property, either by number of signs or overall square feet.
23	Illuminated signs downtown - 14.16.060.H	There is no prohibition on LED readerboard or other electronically changing signs downtown. Such signs are probably not appropriate for the character of downtown.	Add a section that prohibits signs that change copy or display through electronic display, such as LED readerboards or any type of moving electronic display.
24	Distinction between driveways, drive aisles, and driveway approaches - 19.500 and 19.1400	The standards for driveways, drive aisles and curb cuts are overlapping and not clearly distinguished between different code sections.	The standards of 19.1400 need to be changed so that it is clear they refer to driveway accesses. There needs to be language that differentiates an aisle from a driveway. In general, 19.500 needs to be structured differently to clearly differentiate between all the requirements that apply to parking lots (commercial/MFR only?) and all other parking areas (SFR?). There is also a need to have more dimensions for driveways in R zones, especially when the driveways are serving more than one SFR.

Section C

Includes policy changes, new regulations or change in regulations

#	Name/Code Section	Problem Statement	Solution
25	Development on legally landlocked parcels - 19.1409; 19.426	There is a concern about development on landlocked lots that were created prior to when City approval was required. Development on these lots is akin to flag lot development. One way to mitigate the impact of development on land locked parcels is to apply some or all of the flag lot development standards, possibly including setbacks, tree preservation, and screening.	Amend the language of 19.426 to make it applicable to legally landlocked parcels that gain access through an access easement.