

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 28, 1999

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice-Chair
Tracy Cook
Mike Miller
Doug Ouderkirk
Howard Steward

STAFF PRESENT

Alice Rouyer,
Planning Director
Gary Firestone,
City Attorney
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Barbara Cartmill

1.0 CALL TO ORDER

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

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes, August 16 & August 17, 1999

4.0 PLANNING COMMISSION MINUTES -- September 14, 1999

Doug Ouderkirk moved to approve the Planning Commission minutes of September 14, 1999, as presented. **Tracy Cook** seconded the motion. MOTION CARRIED 6-0.

Ayes: Hammang, Borden, Cook, Miller, Ouderkirk, Steward;
Nays: None.

5.0 PUBLIC COMMENTS -- None.

6.0 PUBLIC HEARINGS -- None.

7.0 OTHER BUSINESS / UPDATES
7.1 Matters From the Planning Director

Alice Rouyer presented a draft of the revised Vision and Mission of the City. The Council is inviting all the Boards, Commissions, Neighborhood Associations, Neighborhood leaders and activists to attend a Vision and Mission Session to review and give input on the revised documents. The session will be held Saturday, October 9, 1999, at 9:00 a.m. to 1:00 p.m.

Alice Rouyer announced that she would be on vacation from October 11 - 15, 1999. She will not be present at the October 12th meeting. That meeting will be held at the Public Safety Building.

October Calendar Events:

- October 9, 1999 Vision and Mission Session
- October 12, 1999 Planning Commission Meeting
- October 15, 1999 Clackamas County Growth Conference
- October 26, 1999 Planning Commission Worksession - Urban Forestry

The Riverfront Development Framework Plan was discussed September 22, 1999. There will be a second Town Hall meeting on September 27, 1999, to discuss refinements to this Plan at Milwaukie High School.

A memo was sent to the Commissioners on the Brookside Sewerage Pump Station changes and she asked for comments. There will be a decision soon on a minor modification of this CSO.

7.2 Matters From the Commission

Mike Miller stated that he is serving on a Parks and Recreation Board for Mt. Talbot. There will be two public open houses and he invited all to attend. The open houses will be held on October 9th and October 13th. He will send out information to the Commissioners and asked that they review it for questions or comments.

8.0 WORKSESSION

8.1 Discussion about the Urban Forestry Ordinance Program

Alice Rouyer reported that a lot of time and effort were previously put into this Program and it has been shelved since 1996. Staff is now prepared to implement the work of the Tree Committee in late 1999 and early 2000 and begin an Urban Forestry Program in Milwaukie. City Council reviewed the project schedule and provided staff with direction on preliminary policy questions.

Jim Coleman, City Attorney will use the input on this project to rewrite and modify portions of the 1996 Ordinance. It is hoped that public outreach will be completed by January, 2000, and ready for formal consideration through public hearings of the Ordinance in February, 2000.

The work done in 1994-1996 was the master planning and visioning work. At this point, Ordinance revisions are being considered.

Discussion followed on the policy questions:

1. Commission Support for the Urban Forestry Program.

A provision was included for a Milwaukie Urban Forestry Commission. Staff is proposing to now share the responsibilities originally intended for the Urban Forestry Commission between the Planning Commission and Parks and Recreation Board. The Parks and Recreation Board is very supportive of this recommendation and excited about being involved in the visioning and tree preservation on public property.

Commission Comments: There was a consensus of support among the Commissioners, with the following suggestions:

- Those who were involved in the original Tree Committee in 1994-1996 who are still interested be involved in the visioning process, in being able to participate.
- A member of the Planning Commission (Mike Miller/or designated member) attends the Parks and Recreation Board meetings when there are hearings concerning the Urban Forestry Program.

It was asked if the Commission representative would have to abstain from voting on Urban Forestry Program issues when or if they came before the Planning Commission? **Gary Firestone** stated that the Parks Board would deal with legislative matters on trees and public places. The chance of something coming before both Boards is small.

2. Program Budget and Overall Fiscal Impact.

If regulations are going to be added to the Ordinance, the City will need to implement policy for enforcement. There is currently \$40,000 budgeted to Urban Forestry. As the Program continues, more funds are going to be needed for administration, maintenance, education, and promotion. The public elements of the Ordinance would be housed in Public Works and the private property regulations would be housed in Planning. The Planning Commission need to consider the fiscal impact when making decision about the scope of regulating on private property.

3. Degree of Regulation on Private Property.

In 1996, there are three areas proposed for regulation.

- (1) Tree Removal on Undeveloped and Underdeveloped Land;
- (2) Removal and Major Pruning of Significant Trees or Groves of Trees;
- and
- (3) Tree Removal during Development or Redevelopment.

Tree Removal on Undeveloped and Underdeveloped Land.

Currently the Plan regulates removal of more than three trees greater than 20 inches in circumference or 5.78 inches in diameter in a calendar year on lots smaller than 35,000 square feet or more than six trees in a calendar year on lots greater than 35,000 square feet.

Other cities in the area have determined that undeveloped or underdeveloped means the property owner can divide the property into two lots or more. Single lots are not regulated. **Donald Hammang** stated that staff had determined that an under-utilized lot was defined as any lot that is greater than two times the allowable zoning and capable of being partitioned.

Commission Comments: The Commissioners were comfortable with staff's definition of twice the allowable zoning.

- On private property, do away with lot sizes and address the size of the tree on the underdeveloped/undeveloped lot.
- On private property there should be consistent sizing regulations so that it is easily understood by the public.
- Applications should come with good drawings showing the actual placement and the size of trees on the lot.

One goal is to retain groves of trees and protect properties from clear-cutting prior to development and the other goal is to protect significant trees.

Size could be a determining factor. However, some Dogwoods that are significant do not get up to a foot in diameter. Everything cannot be categorized by calling it a large tree.

Undeveloped/Underdeveloped Lands

- Size regulation large enough to allow the majority of people to remove small trees and shrubs.
- Size regulation should be 8-inches in diameter.
- Three trees can be cut without review in a calendar year when the tree exceeds the 8-inch threshold. Four or more trees being removed would require regulation.
- Ability to subdivide property -- make the standards apply to all, regardless of size or zone.

Significant Trees

The Ordinance regulates removal and major pruning of trees designated on the Significant Tree Inventory. The objective is to protect the large trees that have historical significance. Another approach to the tree inventory would be that every year a neighborhood group would be designated and given the opportunity during Arbor Week to plant trees in their area. The neighborhood would be responsible for placing these trees. Another option would be to ask the neighborhood groups to pick significant trees in their area that contribute to the livability in their neighborhood. Is there a way to honor significant trees that are not regulatory?

Commission comments:

- The property owner must agree to have the tree be designated as a significant tree.
- Significant tree designation will be an administrative approval as set out in the criteria on Pages 41 & 42.
- Once the tree is designated, it can be honored during Arbor Week rather than a public hearing.
- Park Board make recommendations for significance rather than an Arborist.
- Once honored as a significant tree, regulations apply.
- Removal and major pruning would require a public hearing.
- Staff to draft a recommendation for who decides the significant tree designation.
- If the significant tree is on public property, the City would have to agree.
- An administrative process for removal that runs with the property.
- Is there a maintenance procedure to keep these significant trees in good condition. (City Maintenance)

Discussion followed on whether there should be regulations to protect individual large trees. In lieu of significant tree designation, should there be a large-size threshold for individual trees.

- This would not protect valuable trees that will never get large in size. This designation should cover all types of trees, not just large ones.
- Size requirement should be trees larger than 18 inches in circumference.

Tree Removal During Development or Redevelopment

Development and redevelopment are not well-defined in the Ordinance as it is written today. This could include a deck, storage shed, addition to a house, etc. Staff recommends that it be specified in the Code that the City would review projects for conformance with the Tree Ordinance with Development Review (building permit).

Page 51 infers that every tree removed that has a circumference of 20 inches or greater of 5.78 inches in diameter would be regulated. This will be difficult to administer. This section can be re-written to review for compliance during building-permit review, subdivision review, or development review.

- Development and redevelopment can be defined as anything that requires a structural permit and/or planning review.

Gary Firestone noted that these regulations provide for conditions of approval. It needs to be decided how long these conditions will be effective. Will restrictions apply only at the time of development or how long after development. Permanent conditions of approval can be imposed.

- Size threshold is at 6 inches in diameter or greater shall be indicated on the site map.
- Trees 8 inches or larger are to be regulated.
- Mitigation process for removal of trees.

Staff was asked to make some recommendations as to what limitations can be put on the reasons for removing a tree in this ordinance. Due to the lateness of the hour, it was decided that this worksession would be continued until October 26, 1999.

9.0 DISCUSSION ITEMS - None.


10.0 OLD BUSINESS - None


11.0 NEXT MEETING - October 12, 1999

11.1 MLP-99-06/VR-99-04 - Gardiner/Sandblast, 5027 SE King Road

11.2 Street Vacation - 24th Avenue between Ochoco and Stubb -- Discussion only

Judith Borden moved to adjourn the meeting of September 28, 1999. **Mike Miller** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:36 p.m.


Donald Hammang, Chair


Shirley Richardson, Hearings Reporter

AGENDA
MILWAUKIE PLANNING COMMISSION
Milwaukie City Hall
10722 SE Main Street
Tuesday, September 28, 1999
6:30 pm

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Questions	
3.0	Information Items - City Council Minutes (upon approval by Council):	Information Only
3.1	August 16, 1999	
3.2	August 17, 1999	
4.0	Planning Commission Minutes:	Motion Needed
4.1	September 14, 1999	
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	
7.0	Other Business/Updates	Information Only Review and Comment
7.1	Matters from the Planning Director	
7.2	Brookside Pump Station Update	
8.0	Worksession	
8.1	Discussion about the Urban Forestry Ordinance Program	
9.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
10.0	Old Business	

11.0	Next Meeting: October 12, 1999	
11.1	MLP-99-06/VR-99-04 – Gardiner/Sandblast – 5027 SE King Road	
11.2	Street Vacation – 24 th Ave between Ochoco and Stubb – for discussion only	
	The above items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	

The Milwaukie Planning Commission welcomes your interest in these agenda items. Feel free to come and go as you please.

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 WHICH 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 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 CHAIR PERSON 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 CHAIR PERSON 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 COMMUNITY DEVELOPMENT DEPARTMENT DURING NORMAL OFFICE HOURS FOR INFORMATION ON THE PROCEDURES AND FEES INVOLVED.

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:

Donald Hammang, Chair
Judith Borden, Vice Chair
Barbara Cartmill
Tracy Cook
Mike Miller
Doug Ouderkirk
Howard Steward

Community Development Department Staff:

Martha Bennett, Community Development Director
Alice Rouyer, Planning Director
John Gessner, Associate Planner
Vacant Position, Assistant Planner
Jeanne Garst, Office Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Hearings Reporter



To: Planning Commission

From: Alice Rouyer, Planning Director *ACP*

Subject: Minor Modification to the Brookside Sewage Pump Station CSO-98-07

Date: September 20, 1999

Action Requested

Informational only.

Background

Please see the attached memorandum from Public Works staff concerning a minor modification request to the Brookside Sewage Pump Station Community Service Overlay.

Staff is prepared to approve the minor modification request, finding that it meets the following criteria outlined in Section 321.4 (C):

The Community Development may approve minor changes in any development permit, provided such change:

- 1. Does not increase the intensity of any use or the density of residential use;*
- 2. Meets all requirements of the underlying zone and specific standards;*
- 3. Does not significantly affect adjacent property or uses, will not cause any deterioration or loss of any natural feature or open space, nor significantly affect any public facility; and*
- 4. Does not affect any conditions specifically placed on the development by the Planning Commission or City Council.*

I am providing this information for you as a courtesy. I am happy to answer any questions at the September 28, 1999 work session meeting under "Matters from the Director".

C I T Y O F

MILWAUKIE
MEMORANDUM
September 20, 1999

TO: Alice Rouyer, Planning Director
FROM: Ali Safayi, Associate Engineer *A.S.*
SUBJECT: Brookside Sewage Pump Station (CSO 98-07)

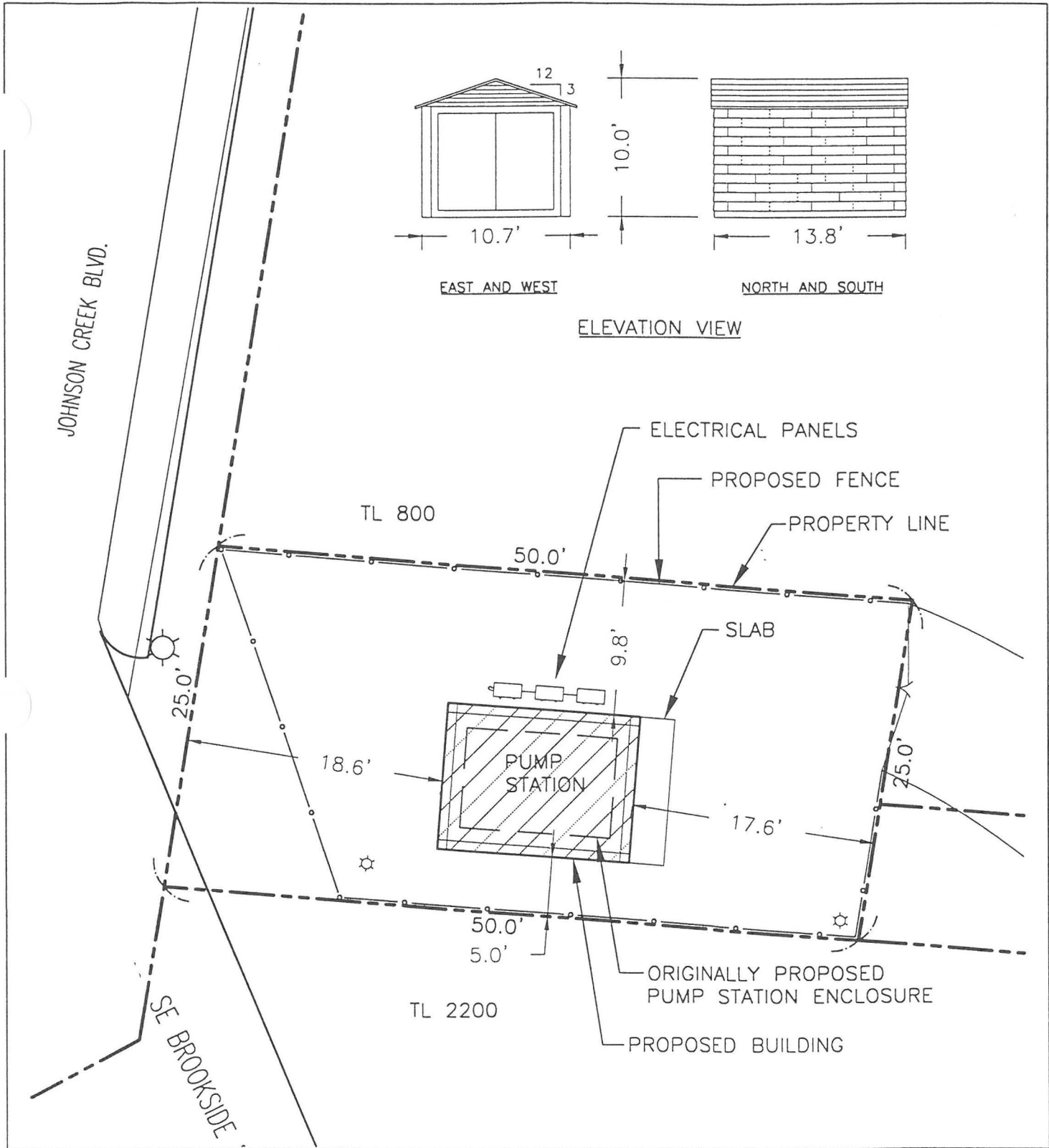
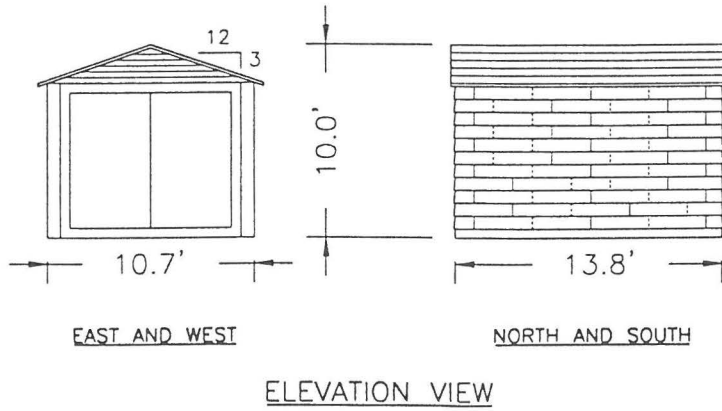
Action Requested: Approval to construct a small building to house the pumps instead of the originally proposed enclosure.

Discussion:

1. In a public hearing held on January 12, 1999 the Planning Commission approved the CSO application for construction of the Brookside sewage pump station. This decision became final on February 3, 1999 with no appeals filed during the 15-day appeal period.
2. The plan that received approval called for a prefabricated enclosure 8.2 ft. by 7 ft. and 5.5 ft in height to protect the pump station. However, during the installation of the pump station it was revealed that due to lack of sufficient space inside, performing routine maintenance on the station would be impractical without removal of the entire enclosure. This could be a cumbersome and time-consuming process.
3. As a result, a larger space that allows the sewer maintenance crew to regularly monitor the pumps and to work on related apparatuses became necessary.

Project Description:

1. The proposed building will be 13.8 ft. by 10.7 ft. with a 10-foot ridge height and an 8-foot eave height as shown in the attached plan. Aesthetically, the proposed building will be an improvement to the approved enclosure by selecting building materials and colors that would match the surrounding environment.
2. Upon completion of the construction, the landscaping plan intended to enhance the view, the ballard system to protect the equipment against vehicular damage, and the lighting plan will be submitted for review and approval.



SCALE: 1" = 10'

BROOKSIDE SEWAGE PUMP STATION
PROPOSED PUMP HOUSE
CSO 98-06



January 19, 1999

File No. CS0-98-07

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission at a public hearing held on January 12, 1999 with regard to an application made by Milwaukie Public Works Department, for Community Services Overlay review for installation of a sewage pump station and related site improvements located at the northeastern corner of Brookside Drive and Johnson Creek Boulevard.

The Planning Commission approved application CSO-98-07 at the public hearing based upon the findings and conditions contained in the staff report and as amended at the public hearing. The officially adopted findings and conditions of approval are included with this notice.

Copies of the staff report and other written materials are available from Milwaukie Community Development Department on request. This action of the Planning Commission may be appealed to the Milwaukie City Council. An appeal of the decision must be filed within 15 days of the date of this notice. Community Development staff (786-7600) can provide information regarding the appeal process, forms, and fees. This decision will be final at 5:00 p.m. on February 3, 1999 if no appeal is filed..



Jim Crumley
Interim Planning Director

cc: Martha Bennett, Assistant City Manager, CD
Jim Brink, Public Works Director
Paul Roeger, P.E., Civil Engineer
Ali Safayi, Associate Engineer
Files CSO-98-07

Notice of Decision – CSO-98-07
January 19, 1999
page 2 of 3

FINDINGS OF APPROVAL OF CSO-98-07 BROOKSIDE PUMP STATION

1. The application is consistent with applicable objectives and policies of the Comprehensive Plan.
2. The application complies with requirements and standards of Zoning Ordinance Section 321 Community Service Overlay Zone.
3. The application has been administered in accordance with requirements of Zoning Ordinance Section 1011.3 Quasi-Judicial Review.
4. Construction and operation of the facility will not result in unacceptable adverse impacts to adjoining residential uses, as conditioned.
5. Site lighting during site visitation as requested at the public hearing, complies with applicable standards of the CSO zone.

CONDITIONS OF APPROVAL OF CSO-98-07 BROOKSIDE PUMP STATION

1. That Public Works Department works with Planning staff to develop a planting plan that minimizes view impacts of site development. Development of the plan may be deferred until the installation is complete so as to allow for the best selection and location of plant materials. Use of arbor vitae is to be avoided to the greatest extent possible.
2. That the site be monitored for noise impacts. In the event noise complaints are received, provisions should be implemented immediately for noise mitigation.
3. That soil erosion controls be installed and maintained until soil is stabilized.
4. That any improvements as may be needed for vehicle access be provided and shown on the site plan.
5. That the final site plan indicate a guard rail, as requested by Public Works, to protect against vehicular damage to equipment. Selection of guardrail design should be considerate of reducing view impacts. Designs that "blend" into the landscape are preferred.
6. That the site plan indicate lighting as needed for equipment operation, repair and maintenance. The lighting may only be illuminated during times when Public Works crews are on-site. The site plan is to indicate this restriction by way of a note on the plan. The type and location of fixtures are to be shown on the plan. Impacts to nearby residential uses are to be prevented.

Notice of Decision – CSO-98-07
January 19, 1999
page 3 of 3

7. That the final site plan be in substantial conformance with the plan submitted for approval and shown in Exhibit 4 of the January 5, 1999 Community Development staff report except as modified by conditions of this approval.



To: Planning Commission

From: Alice Rouyer, Planning Director *ARR*

Subject: Urban Forestry Program Work Session

Meeting Date: September 28, 1999

Date: September 20, 1999

Action Requested

Planning Commission review of the Urban Forestry project schedule and discussion of initial policy questions.

Background

In 1994, a group of citizens formed the Tree Committee and began working to develop a tree program. The Tree Committee adopted the following vision:

To distinguish Milwaukie as a 'Place of Trees'. Each gateway to the City and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

During 1995 and 1996, the Committee worked with city staff to outline an urban forestry program and develop a draft urban forestry ordinance. Both the Planning Commission and City Council reviewed the draft ordinance in late 1996. The project was set aside since that time, in response to other project demands and staff turnover.

Staff is now prepared to implement the work of the Tree Committee in late 1999 and early 2000 and begin an urban forestry program in Milwaukie. On August 30, 1999, the City Council reviewed the project schedule and provided staff with direction on preliminary policy questions. Staff is now seeking Planning Commission input on additional policy questions concerning the content of the urban forestry ordinance.

By the end of 2000, it is City Council's desire to apply for Tree City USA designation. This is awarded on an annual basis with an application deadline at the end of December each year. In order to qualify for this designation, the City must have the following elements in place:

- a. A Tree Board or Department (i.e. a supporting board who oversees the tree program and/or a staff team to oversee the program)
- b. A Community Tree Ordinance
- c. A Community Forestry Program with an Annual Budget of at least \$2 per capita (this is already included in the 1999/2000 budget).
- d. An Arbor Day Observance or Proclamation

Project Schedule

Listed below is the most current project schedule:

1. Planning Commission Work Session to review draft ordinance and review policy questions: September 28, 1999
2. Staff and the City Attorney to revise the 1996 draft: October 1999
3. Planning Commission work session to review the draft Urban Forestry Ordinance and preliminary public outreach strategy: October 26, 1999 or November 23, 1999
4. City Council Work Session to review draft ordinance and preliminary public outreach strategy: November or December, 1999.
5. Begin public outreach, including state-mandated notice to affected property owners: December and January 1999.
6. Planning Commission and City Council public hearings to adopt Urban Forestry Ordinance: January and February 2000.
7. Develop public information brochures and education program: Winter 2000.
8. Arbor Week public workshops and community tree observance: April 2000.
9. Begin Phase II of program development: Spring/Summer 2000
 - a. Develop Urban Forestry Master Plan; including street tree guidelines, policies for planting trees in public spaces, and tree education programs.

Proposed Urban Forestry Program

The proposed Urban Forestry Program from 1996 envisioned three main goals relating to education, city-sponsored programs and city regulations. The regulations are only

one part of the overall program (see attached Milwaukie Urban Forestry Program description—Attachment A). The goals are listed below with their associated action items:

- **Education:** *To increase the public awareness of the importance of the urban forest, the benefits of retaining trees, and the methods for their protection by working with other agencies, groups and individuals*
 - a. Significant Trees. *Education and assistance for maintenance and protection of trees in the city which are of unique importance because of their age, type, notability or historical association.*
 - b. Public Spaces. *Produce a brochure about planting, protection and proper maintenance of street trees for distribution to property owners.*
 - c. Underdeveloped or Undeveloped Lands. *Provide education and assistance for maintenance, protection and planting of trees on these properties. Provide information to property owners regarding the benefits of saving mature trees and the ways in which the city's development allow full property development.*
 - d. Developed Lands. *Provide education and assistance to property owners for maintenance, protection and planting of trees to enhance the urban forest.*
 - e. Natural Resource Areas. *Provide information to property owners regarding the benefits of protecting natural areas and the ways in which the city's development regulations allow full property development and protection of these resources.*
- **City Sponsored Programs:** *To develop and maintain publicly sponsored programs to preserve and enhance the urban forest. To set a positive community example by actively promoting the protection and maintenance of existing trees and the planting of trees on public properties and street rights-of-way.*
 - a. Significant Trees. *The City shall conduct an inventory of potentially significant trees in the city.*
 - b. Public Spaces. *The City shall establish a tree planting program for street trees in the city, first concentrating efforts in commercial areas of the city and on public properties. The City shall work to enhance the urban forest on city properties as well as work with other public agencies to enhance the urban forest on public lands.*
 - c. Undeveloped and Underdeveloped Lands. *The City shall work with property owners to improve the urban forest on developed public lands through tree planting and improved care and maintenance of existing trees.*

- d. Natural Resource Areas. *The City shall work to improve the urban forest in publicly owned natural resource areas through tree planting and improved care and maintenance of existing trees.*
- **City Regulations:** *To establish city regulations to protect the urban forest and significant trees that are clear and well-integrated with related city requirements and standards. To provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.*
 - a. Significant Trees. *Establish a significant tree designation process in the city Zoning Ordinance to provide protection to trees in the city that are of unique importance.*
 - b. Public Spaces. *Establish requirements for planting, proper maintenance and protection of street trees.*
 - c. Underdeveloped or Undeveloped Lands. *Establish standards and procedures for removal, protection and preservation of trees during development to maintain the maximum possible number of trees, while allowing development as provided by the applicable land use requirements. Establish incentives to encourage developers to meet or exceed minimum tree protection and planting standards. Establish standards to help mitigate the necessary loss of trees during the development of property. Establish specific landscaping standards that include trees in the landscaped areas of new developments and street tree planting in the adjacent street rights-of-way.*

Policy Questions

In evaluating the 1996 draft, staff and the City Attorney's office have concluded that the ordinance must be revised to be more compatible with the format of the Zoning Ordinance and Municipal Code (see attached memorandum from City Attorney Jim Coleman—Attachment B). Other policy questions must also be examined at this time prior to any adoption or consideration of the ordinance. At the September 28 work session, staff seeks the Planning Commission's input on the following policy questions:

1. Commission support for the Urban Forestry Program

The 1996 draft ordinance included provisions for a Milwaukie Urban Forestry Commission. The ordinance envisioned a five member commission including citizens having a professional background or interest in landscape architecture, arboriculture, or related field. The Commission's duties are outlined below:

1. *To study the problems and determine the needs of the city's urban forestry program.*
2. *To develop an Urban Forestry Master Plan for review and adoption by the City Council.*

3. *To develop and recommend amendments to city regulations that support the adopted Urban Forestry Master Plan, for review and adoption by the City Council.*
4. *To determine the types of trees to be planted in public places and street rights-of-way.*
5. *To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal and planting of trees on public and private lands.*
6. *To work with city departments, other agencies, volunteer organizations and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.*
7. *To prepare an annual program for tree care and tree planting in public places in the city.*
8. *To conduct a city-wide survey and inventory of significant trees.*
9. *To conduct public hearings.*

On August 30, staff requested the City Council's direction on the question of need for an Urban Forestry Commission. Creating a new commission requires both citizen and staff resources. Staff asked the Council to consider delegating the responsibilities of the Urban Forestry Commission to existing Commissions and Boards. Staff recommended that the Council consider the Planning Commission and Parks & Recreation Board as the supporting entities for the Urban Forestry Program. The Council responded favorably to this proposal, subject to more discussion with the affected entities. Based on this direction, staff recommends the following:

Proposed Planning Commission Responsibilities:

1. Conduct all public hearings associated with tree cutting, planting, and enforcement of regulations on both private property and in the right-of-way.
2. Maintain the urban forestry regulations for private property and the right-of-way. Recommend updates to City Council, as needed.

Proposed Parks & Recreation Board Responsibilities:

1. In coordination with staff, develop an Urban Forestry Master Plan for review and adoption by the City Council.
2. Review the annual program for tree care and tree planting in public places in the city.

3. Recommend amendments to city regulations that support the adopted Urban Forestry Master Plan for review and adoption by the City Council.
4. Maintain a street tree list to determine the types of trees to be planted in public places and street rights-of-way.
5. As needed, work with city staff, other agencies, and volunteer organizations to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
6. In coordination with staff, review a city-wide survey and inventory of significant trees.

Staff believes that the Planning Commission is already equipped to handle public hearings, administration and enforcement of regulations. The Parks & Recreation Board has the ability and vision to oversee the policies, work program and educational/advocacy efforts of urban forestry. Staff will be discussing this proposal with the Parks and Recreation Board on September 27, 1999 and report the outcome of that meeting to the Commission on September 28.

2. Program budget and overall fiscal impact

The city has \$40,000 budgeted for Urban Forestry during the 1999/2000 fiscal year. This is in response to the Tree City USA requirement that \$2 per capita be devoted to urban forestry. Staff is now in the process of considering all of the costs associated with administration of the program. These include the cost of educational programs, public outreach, and administration/enforcement of the regulations.

Currently, the city assumes no regular responsibility for tree maintenance in the right-of-way. Assuming more responsibility of tree maintenance will be costly. In addition, staff expects to retain a consulting arborist to provide technical assistance with the administration of the regulations. Under Policy Question #1 above, the responsibility for overseeing the urban forestry work program will be delegated to the Parks & Recreation Board. All of these fiscal impact questions will be balanced with the Parks & Recreation Board and City Council during the development of an Urban Forestry Master Plan in 2000 and the annual budget process. Nonetheless, the Planning Commission should weigh the cost of regulation and enforcement when considering different regulatory options, especially on private property. The \$40,000 budgeted toward urban forestry is unlikely to cover all staff time needed to review and enforce the regulations on private property or the cost of maintaining trees in the right-of-way.

3. Degree of regulation on private property

Staff received input from Council on October 1, 1996 and August 30, 1999 expressing reservations about how the regulation of private property would be accepted by the

public. In particular, the Council wanted to be sure that the ordinance and urban forestry program included a user-friendly, educational component and did not unduly burden any segment of the community. The question of regulation of tree removal or tree pruning on private property must be considered carefully. The goals surrounding such regulations must also be considered. Staff would request the Commission to critically consider if the following regulations are well-balanced considering the goal to both protect the urban forest and provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.

The 1996 draft Urban Forestry ordinance proposes regulation on private property for the following (please review the applicable sections of the attached Urban Forestry Municipal Code and Zoning Ordinance —Attachment C):

a. Tree Removal on Undeveloped and Underdeveloped Land (see Municipal Code Section xx.xx.090)

Regulates removal of more than three trees greater than 20 inches in circumference (or 5.78 inches in diameter) in a calendar year on lots smaller than 35,000 square feet or more than six trees in a calendar year on lots greater than 35,000 square feet.

Staff Issue/Question: Is 35,000 square feet a reasonable threshold? Are three trees and six trees reasonable thresholds?

b. Removal and Major Pruning of Significant Trees or Groves of Trees (see Municipal Code Section xx.xx.100)

Regulates removal and major pruning of trees designated on the Significant Tree Inventory. The City Council, Planning Commission, Historic Review Commission, property owner, or any other person may recommend that a tree be designated a significant tree to be included on the Significant Tree Inventory.

Staff Issue/Question: In order to be regulated, the tree must be deemed "significant". With this designation, more regulations and criteria are applied to cutting and pruning. The designation of "significant" trees by anyone other than the property owner will be controversial. Initially, it will also be costly for staff to complete a significant tree inventory city-wide. If the objective is to protect larger trees, it may be easier to simply regulate the cutting and pruning of individual trees greater than a certain size (e.g. 20 inches in diameter). The "significant" tree designation could be used for educational/promotional purposes in neighborhoods (i.e. each year neighborhood groups could designate and honor significant trees in their neighborhoods as an incentive for the property owners to preserve certain special trees).

c. Tree Removal During Development or Redevelopment (see Zoning Ordinance Section xx05.1 "Tree Protection")

Regulates removal of all trees on private property greater than 20 inches in circumference (or 5.78 inches in diameter when associated with a development or redevelopment application).

Staff Issue/Question: The terms "development and redevelopment" are not well-defined. Depending on the definition, this regulation could have major implications for property owners. Does the term "develop" or "redevelop" include the construction of a deck, storage shed, addition to a home? Staff would recommend that the Commission either consider deleting this regulation or narrowly defining "development" and "redevelopment." This regulation will have budgetary implications when considering administration, enforcement and the need to regularly inform the public about the requirement.

At the September 28 work session, staff can guide the Commission through a discussion of the private property issues and provide information concerning regulations from other nearby cities.

4. Process

The Municipal Code and Zoning Ordinance offers the following process for obtaining approval to remove or prune trees:

- a. Undeveloped/Underdeveloped Land. Notice and posting is provided on the tree. Any person may request a public hearing within 14 days of the date of posting.
- b. Removal and Major Pruning of Significant Trees and Groves of Trees. If a tree is dead, the tree may be removed in accordance with a Type I administrative review, requiring no public notice. If the tree is removed or pruned due to any reason besides the health of the tree, the decision is referred to the Urban Forestry Commission for final decision in accordance with Minor Quasi-Judicial review.
- c. Tree Removal during development or Redevelopment. The ordinance states that "the decision making authority for the related development application shall also be authorized to implement this section."

The Commission should determine if these review processes are appropriate. The process defined for item "c" is confusing because the terms "development or redevelopment" are undefined (as noted in the previous section). The question of staff review vs. Planning Commission review is significant. The Commission should consider if tree removal and pruning decisions would be most appropriately considered by staff or the Commission. Staff would recommend that all tree cutting/removal requirements be decided administratively with the ability to appeal to the Commission. Staff would seek the technical assistance of a consulting arborist in reviewing tree removal/pruning applications.

5. *Regulating Trees in "Public Places"*

In Section xx.xx.080, removal and major pruning of street trees or trees in public places are regulated. This generally pertains to trees in a city park, street right-of-way or other public place. The term "other public place" needs to be either eliminated or defined better.

6. *Authorize staff and the City attorney to clean up sections of the ordinance*

Both staff and the City Attorney have identified areas of the ordinance that either do not belong in the regulations or need better definition to be legally defensible. The Planning Commission should expect staff to return with a revised draft that removes discrepancies and clarifies requirements.

CITY OF MILWAUKIE URBAN FORESTRY PROGRAM

Discussion Draft

August 1, 1996

THE URBAN FOREST

An urban forest is the integrated system of plants, animals, soil, air, water and people that exist in and around human communities. The urban forest includes all of the vegetation in our communities ranging from our residential landscapes to industrial plantings. It includes trees living on undeveloped, rural sites to those planted alongside transportation corridors.

The urban forest is a component of a community's infrastructure that is as essential as roads, sewer and other public utilities and a necessity for the human ecosystem. It is the living system which maintains livability in our communities by enhancing the comfort and preserving the beauty, health, and purity of our environment. Although much of the urban forest is a product of natural plant propagation, in most communities the majority of the urban forest is the result of careful planting and maintenance.

As our communities continue to grow, creating higher density urban centers and developing forest and farmland, we must preserve key elements of the existing urban forest, plan for its continuing renewal and design future enhancements.

VALUES OF THE URBAN FOREST

Aesthetic & Physical Benefits

Creation of City Spaces. Trees provide a unifying design element to outdoor environments. Rows of trees spaced evenly along a street tie together the many different architectural styles that may exist on a block. Planted in groups, large trees create grand outdoor spaces and punctuate important locations. They provide beauty, and a variety of textures, colors and shapes which change with the seasons and enliven the often mundane urban environment. Trees also provide historical links to the past as living memorials to local history.

Community Health. Trees contribute to the health of a community by creating comfortable environments that provide opportunities for contact with nature. Their seasonal changes of color, form and texture provide beauty and interest. The wildlife they attract provide soothing nature noises such as rustling leaves and singing birds which tend to soften the harsher noises associated with urban environments. Studies show that contact with nature speeds the healing process and acts as a preventive for future disease. Urban forests also provide active and passive recreational opportunities close to work and home environments. Trees create environments

which are conducive to stress reduction and relaxation. In fact, patients recovering from surgery in hospitals require less pain medication, and have shorter recovery periods if they have views of vegetation and nature instead of blank building walls.

Environmental Benefits

Solar Radiation. Trees contribute to the comfort of the environment by blocking solar radiation. Their shade creates cool outdoor and indoor environments and reduces heat absorption by buildings and paved surfaces.

Air Cooling. Trees cool environments through the process of evapotranspiration. In this process, trees release water into the atmosphere and cool the air. It is estimated that one large tree can potentially release 400 gallons of water into the air each day when the temperature is high and water is readily available to the tree (U.S. Forest Service, 1988). In fact, the larger the leaf and crown of a tree, the greater its ability to block solar absorption by buildings and paved surfaces and release water into the atmosphere to cool the air resulting in a temperature change of as much as 9 degrees.

"Heat Island" Effect. In urban environments, trees decrease the concentrations of pollutants which create the "heat island" effect. "Heat islands" are areas in urban environments which have higher temperatures because of gases and particulates in the atmosphere, which insulate an area from natural cooling forces, as in a greenhouse. Trees reduce the "heat island" effect by partially absorbing the dust particles, carbon dioxide, nitrous oxides, ammonia, sulfur dioxide, and ozone through their leaves (Arnold, 1993).

Air Quality. Because high concentrations of carbon dioxide are often localized in urban environments urban forests remove 10 times more of the toxin than rural forests (U.S. Forest Service, 1988). In fact, one healthy tree can remove as much as 48 pounds of carbon dioxide from the atmosphere per year (U.S. Forest Service, 1988). After absorbing carbon dioxide, trees utilize it for photosynthesis and return oxygen to the atmosphere for human consumption. Also, one large, mature tree can also remove almost 50 pounds of particulates each year from the atmosphere (U.S. Forest Service, 1988).

Heat Loss. Trees capture heat below their crowns during cool weather creating more comfortable indoor and outdoor environments. When it is cold outside, trees capture heat before it is re-radiated into the atmosphere maintaining warmer environments close to the ground and in nearby structures.

Wind Control. Trees maintain comfortable environments by slowing winds. In fact, when planted in groups such as a hedgerow, trees can completely block winds forcing wind up and over the tops of the trees for a distance equal to the height of the trees. Also, unlike tall buildings in an urban environment which often create wind tunnels, the permeability of the tree crown moves the wind through a tree and slows it down. This results in more comfortable outdoor environments and protects structures from heat loss.

Erosion Control. Trees also prevent erosion by reducing the amount and velocity of run-off common in urban areas. As a community increases land densities to accommodate more growth, more surface area is paved. The loss of pervious surfaces increases the likelihood of erosion because less water can be absorbed back into the earth. Because of this, there is more water moving across the ground at a higher velocity which causes erosion. Trees provide storm water control by absorbing excess water through their roots. This reduces the amount of run-off which preserves topsoil and keeps silt and soils from moving into rivers, lakes and streams.

Water Quality. Urban forests also enhance a community's water quality. Tree roots absorb water intercepting it before it moves into the wastewater treatment system. In effect, the water is filtered and returned eventually to the urban water supply aquifer. Storm sewer systems are often overloaded in urban areas, particularly during heavy periods of rainfall, allowing toxic run-off and other waste to enter rivers, lakes and streams. By absorbing and filtering run-off, trees alleviate the wastewater system of the burden of less toxic waste and allow it to process more dangerous effluent.

Noise Control. Trees reduce noise pollution inherent in urbanized environments. When planted in groups 35-100 feet wide, trees can effectively reduce noise pollution. When planted on earth berms that are tall enough to hide the noise source, traffic noise can be reduced by half. Trees are also highly effective when used in conjunction with walls that reach the base of the tree crowns (World Forestry Center, 1989). Trees and the wildlife they attract also provide "white noise" of singing birds and rustling leaves that can mute the noises of urban environments.

Wildlife Habitat. Urban forests provide wildlife habitat in urban environments. Trees provide homes and a food source for plants and animals. In turn, plants and animals function to purify air and water enhancing the natural and human environment. They also create opportunities for humans to interact and study plants and animals without venturing far from work or home.

Economic Benefits

Property Values. The beauty and soothing qualities of trees increase property values. Tree-lined streets increase home values by up to 21 percent as compared to homes on streets without trees (Arnold, 1988). Homes landscaped with trees have a 3.5-4% higher value than similar homes without trees. In fact, the Internal Revenue Service recognizes the value of trees to property value by recognizing monetary losses by accidental tree removal or damage.

Energy Savings. The cooling and heat retention functions of carefully sited trees can reap tremendous savings in heating and cooling costs. One tree can provide up to \$273 in environmental savings per year through cooling, erosion and storm water control, wildlife habitat and air pollution reduction. In 50 years, these savings can total almost \$60,000 per tree. Even considering the high maintenance costs of trees, \$2.68 worth of value has been found for every \$1 spent on maintenance (U.S. Forest Service, 1988).

Homeowners can reduce their cooling costs by 10 to 50 percent by planting three deciduous trees around their home. The trees should be planted on the southern and western sides of the house to

block hot afternoon sun in the summer. Homeowners can also reduce their heating costs by strategically planting trees to insulate their house and block cold winds in the winter. Typically, planting coniferous trees, which provide a dense, impermeable barrier year round, on the north side of the house is most effective. Also, deciduous trees planted on the southern and western sides of a house allow winter sun to permeate a dwelling providing additional warmth in the winter, thereby reducing heating costs.

PRESENT SITUATION IN MILWAUKIE

Key question: What do you have?

Description of Tree Resources in the City

- **Street trees.** Street trees are only found in relatively few locations in the city. The majority of these are in the downtown or are associated with new commercial development. Some of these trees are either inappropriate as street trees and/or improperly maintained.
- **Undeveloped properties.** The remaining undeveloped properties in the city are typically small, ranging in size from one-half to five acres. Of these, a significant number have mature trees which are likely to be lost if they are developed using existing development practices.
- **Developed properties.** The number and type of trees on developed properties varies, particularly with the age of the development. Residential properties in the older sections of the city tend to have larger lots with mature trees that were retained or planted at the time of development. New residential and commercial development is generally characterized with younger ornamental trees and a few mature trees that were saved during development. Many of these developments lack any mature, native trees.

Existing Urban Forestry Management and Protection Programs

- **Existing city programs.** The city presently does not sponsor any programs to promote good urban forest management.
- **Existing city regulations.** The city has a number of regulatory provisions in the Zoning Ordinance which either require or encourage tree preservation. Chapter 319 Planned Development Zone, allows flexibility in residential development which can make it easier for a developer to reach the allowed density for the property while preserving significant natural amenities on the property, including trees. Techniques such as density transfer, relaxing dimensional standards (e.g., minimum lot size and building setbacks), and density bonuses all provide opportunities for developers to preserve rather than remove trees.

Chapter 320 Willamette Greenway Zone provides some protection of trees within the greenway.

Chapter 322 Natural Resource Overlay Zone requires the protection of identified significant areas such as wetlands and stream corridors. Because significant trees are typically associated with these environmentally sensitive areas, they are protected by this section of the Zoning Ordinance.

Finally, the Zoning Ordinance has minimum landscaped area standards for each zoning district, as well as general landscaping provisions. However, the ordinance does not include specific landscaping standards for developing properties or for street trees.

Issue Statement

To protect and enhance the urban forest the following issues must be resolved and integrated into the urban forestry program.

Overmature Trees. In areas where the urban forest was planted at the same time, new trees should be phased in before the entire forest is overmature.

Tree Replacement. As trees are removed because of disease, age or accidental damage, they need to be replaced.

Tree Removal. Diseased and dangerous trees should be removed to protect people and property as well as the remaining tree stock from damage.

Tree Siting. Standards should require spacing for tree planting and safe distances from intersections, driveways and paved areas.

Appropriate Tree Species. Certain tree characteristics should be required according to the neighborhood or district in a community. For example, large leafed, broad-headed trees that create interlocking canopies across the width of city streets are often appropriate for neighborhood areas, whereas in commercial areas with large delivery trucks, narrower trees may be more appropriate. Also, certain tree species are better than others at providing cooling and absorption of pollution.

Tree Size Requirements. In urban areas, larger caliper trees must be installed to prevent accidental damage and vandalism.

Historic Tree Species. In areas which have historically planted certain tree species, the same or similar species must be used as replacements to retain the area character.

Native Tree Replacement. An urban forest must also preserve and/or restore the native landscape. Although many native trees are inappropriate street trees due to leaf litter and shallow roots, they should be planted in places such as parks, residences, plazas and greenways as often as the plant palette allows.

Protecting Existing Trees. Guidelines should be developed which outline a health observation and maintenance schedule for existing trees, providing a process for protecting trees during construction activities, and installing protective measures such as tree grates for better tree health.

Landowner Education. Landowners must be educated on properly maintaining good tree health. Improper pruning practices should be discouraged, and access to pest control and the proper procedures for tree removal should be provided.

CITY OF MILWAUKIE URBAN FORESTRY PROGRAM

Key question: What does the city want to achieve?

Vision Statement

The Vision of the Milwaukie Urban Forestry Program is to distinguish Milwaukie as a "Place of Trees." Each gateway to the city and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

Mission Statement

It is the Mission of the city to implement the Milwaukie Urban Forestry Program based on the Tree City USA standards, which will increase the existing stock of trees by insuring that more trees are planted, and to provide for an ongoing public education program which promotes the proper conservation, planting, pruning, and removal of trees.

Program Goals

The Urban Forestry Program has goals for three basic program elements which are:

- Education;
- City sponsored programs; and
- City regulations.

Under each of these program elements are actions which are intended to implement the goals. These actions are related to:

- *Significant trees* which are of special importance to the City or a neighborhood, because of their age, type, notability, or historical association.
- *Public spaces* that include public properties and street rights-of-way.
- *Underdeveloped or undeveloped lands* which have not been developed to the full extent permitted under the current development regulations.
- *Developed lands* which are developed to the full extent permitted by the current development regulations.
- *Natural resource areas* that include wetlands, flood plains, drainage ways, that are designated as a Natural Resource Overlay Zone in the Zoning Ordinance.

Education

Goal

To increase the public awareness of the importance of the urban forest, the benefits of retaining trees, and the methods for their protection by working with other agencies, groups, and individuals.

Actions

- **Significant Trees**

Education and assistance for maintenance and protection of trees in the city which are of unique importance because of their age, type, notability, or historical association.

- **Public Spaces**

Produce a brochure about planting, protection, and proper maintenance of street trees for distribution to property owners.

- **Underdeveloped or Undeveloped Lands**

Provide education and assistance for maintenance, protection, and planting of trees on these properties.

Provide information to property owners regarding the benefits of saving mature trees and the ways in which the city's development regulations allow full property development and protection of existing trees.

- **Developed Lands**

Provide education and assistance to property owners for maintenance, protection, and planting of trees to enhance the urban forest.

Focus educational efforts with property owners to increase the urban forest canopy in areas with few trees.

- **Natural Resource Areas**

Provide information to property owners regarding the benefits of protecting natural areas and the ways in which the city's development regulations allow full property development and protection of these resources.

City Sponsored Programs

Goals

To develop and maintain publicly sponsored programs to preserve and enhance the urban forest.

To set a positive community example by actively promoting the protection and maintenance of existing trees and the planting of trees on public properties and street rights-of-way.

Actions

- **Significant Trees**

The city shall conduct an inventory of potentially significant trees in the city.

- **Public Spaces**

The city shall establish a tree planting program for street trees in the city, first concentrating efforts in commercial areas of the city and on public properties.

The city shall work to enhance the urban forest on city properties as well as work with other public agencies to enhance the urban forest on public lands.

- **Underdeveloped or Undeveloped Lands**

The city shall work with property owners to improve the urban forest through tree planting and improved care and maintenance of existing trees.

- **Developed Lands**

The city shall work with property owners to improve the urban forest on developed public lands through tree planting and improved care and maintenance of existing trees.

- **Natural Resource Areas**

The city shall work to improve the urban forest in publicly owned natural resource areas through tree planting and improved care and maintenance of existing trees.

City Regulations

Goals

To establish city regulations to protect the urban forest and significant trees that are clear and well integrated with related city requirements and standards.

To provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.

Actions

- **Significant Trees**

Establish a significant tree designation process in the city Zoning Ordinance to provide protection to trees in the city that are of unique importance.

- **Public Spaces**

Establish requirements for planting, proper maintenance, and protection of street trees.

- **Underdeveloped or Undeveloped Lands**

Establish standards and procedures for removal, protection, and preservation of trees during development to maintain the maximum possible number of trees, while allowing development as provided by the applicable land use requirements.

Establish incentives to encourage developers to meet or exceed minimum tree protection and planting standards.

Establish standards to help mitigate the necessary loss of trees during the development of property.

Establish specific landscaping standards that include trees in landscaped areas of new developments and street tree planting in the adjacent street rights-of-way.

- **Developed Lands**

Establish specific landscaping standards that require trees in landscaped areas and street tree planting in the adjacent street rights-of-way when nonconforming properties are redeveloped. The extent of these requirements should vary depending upon the extent of the proposed redevelopment.

- **Natural Resource Areas**

Continue to protect natural resource areas as provided in Chapter 322.

PROPOSED URBAN FORESTRY PROGRAM

Key question: How do get what you want?

Program Management

The Urban Forestry Program is proposed to be managed by the Milwaukie Urban Forestry Commission (MUFC) with support by other existing city committees and decision makers, the city staff, volunteer groups, government agencies, and individuals.

- **The Milwaukie Urban Forestry Commission (MUFC)**

The city shall create the MUFC consisting of five members. The members shall include citizens and others with established professional expertise in the areas or landscape architecture, arboriculture, or related field. The following factors shall serve as criteria in making appointments to the Commission:

1. Citizens interested in trees as a major component of Milwaukie's physical and aesthetic environment.
2. A minimum of two members of the Commission shall have professional background in landscape architecture or design, arboriculture, ornamental horticulture, or related field.

The MUFC shall be appointed by the City Council. The terms of office shall be three years and until their successors are appointed and qualified. Terms for the five members shall be staggered so that one or two commissioner positions are up for appointment each calendar year. Members may serve consecutive terms. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate council action.

Vacancies on the MUFC shall be filled by appointment by the mayor, subject to approval of the City Council

The MUFC shall hold regular meetings at least once each month, and may hold such additional meetings as it deems necessary. A majority of the Commission shall constitute a quorum of the purpose of transacting the business of the Commission. The MUFC shall, as soon as practical after the time of annual appointments of a member of the Commission, elect a chairperson and vice-chairperson.

The Commission shall keep a public record of all proceedings, resolutions, findings, determinations, and transactions, which shall be filed with the City Clerk.

The duties of the MUFC shall be:

1. To study the problems and determine the needs of the city's Urban Forestry Program.

2. To develop a recommended Urban Forestry Program for review and adoption by the Planning Commission and City Council.
3. To develop recommended amendments to city regulations that support the adopted Urban Forestry Program for review and adoption by the Planning Commission and City Council.
4. To determine the type of trees to be planted in public places and street rights-of-way.
5. To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal, and planting of trees on public and private lands.
6. To work with other agencies, volunteer organizations, and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
7. To prepare an annual program for tree care and tree planting in public places in the city.
8. To conduct a city-wide survey and inventory of significant trees.

- **Decision Makers and Other Committees**

Decision makers including city staff, the Planning Commission, and the City Council will be responsible for implementation of all of the regulatory provisions enacted as part of the Urban Forestry Program. This will primarily occur during the review of land development applications.

Other advisory committees such as the Parks Committee and the Historic Review Committee should be advised of the Urban Forestry Program and the ways in which they can support the program.

- **City Staff**

Any regulatory provisions related to the Urban Forestry Program will involve the city staff in five primary ways:

1. Staff support for the MUFC.
2. Communication with prospective applicants for land development and ensuring these individuals are aware of the related standards.

3. Review of administrative land development applications including land use applications and building permits to ensure compliance with Urban Forestry Program code requirements.
4. Staff report and recommendations for land use applications that require Planning Commission and/or City Council approval.
5. General code enforcement of Urban Forestry Program regulations (e.g., tree cutting provisions on undeveloped land).

A major issue here is how to provide this necessary staff support. Currently, the city staff does not have any specific forestry-related duties other than enforcement of existing code requirements for natural areas and the Willamette River Greenway which indirectly protect trees. Options could include a new city forester position or assigning specific responsibilities to a number of staff departments or individuals.

- **Other Parties**

In order to build grass-roots (tree-roots?) support for the program, volunteer groups, other agencies, property owners, etc. should be actively engaged in the city's Urban Forestry Program. This will enhance the city's efforts and provide greater tangible results that in turn will create more support and excitement about the program.

Education Program

- The MUFC shall establish public information and education programs to promote the protection, maintenance, and enhancement of the urban forest. These programs shall offer education to all sectors of the public, including private property owners, developers, school children, city employees, neighborhood associations, and other groups interested in tree preservation.
- The city shall develop materials that describe quantifiable benefits of trees, tree care, related regulations (including this Section), and resources.
- The City shall develop an educational program on pests, diseases, invasive nonnatives, and other threats to the urban forest, and will encourage biological controls and organic maintenance practices.
- At a minimum, the City shall review its inventory of "Significant" trees and notify property owners at 3-year intervals of the existence of a "Significant" tree on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.
- Educational activities carried out by other groups.

City Sponsored Programs

- Participate in the Tree City USA program by establishing a program for tree planting, education, and regulation that is supported by annual city funding of \$1.00 per capita.
- Work with other organizations, such as Friends of Trees, to implement tree planting and care programs.

City Regulations

- **Program Description**

This portion of the program will be the most successful with an education program. Often the key to a successful regulatory program is community understanding and support of the purpose of the code requirements. In addition, a major emphasis should be given to providing incentives so developers actually want to meet or exceed tree protection and planting standards.

- **Proposed Regulatory Amendments**

City of Milwaukie Comprehensive Plan policies to support the urban forestry program.

City of Milwaukie Zoning Ordinance provisions to regulate removal of trees and planting of street trees in conjunction with development applications.

City of Milwaukie Subdivision Ordinance provisions to require street trees as part of the public improvement standards.

Municipal Code provisions to create the Milwaukie Urban Forestry Commission, identify MUFC duties, establish a process for designating and protecting significant trees, and establishing penalties for code violations.

Program Cost

- New staff responsibilities and time/monetary commitment.
- Involvement of volunteer groups.
- Funding options (e.g., general fund, fees, grant programs, etc.).

PROPOSED MONITORING PROGRAM

Key question: Are you getting what you want?

The method for measuring the performance of the program should be described. This should include how the urban forest has been maintained or enhanced by the program and how it has worked administratively for the city as well as property owners and developers.

kl.HD/ACT.Comp. Plan Revision 255
Urban Forestry Prg. Dft/2

ATTACHMENT B
2 PAGES

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PUBLIC WORKS

RAMIS
CREW
ORRIGAN &
BACHRACH, LLP

ATTORNEYS AT LAW
1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Alice Rouyer, Planning Director
FROM: James M. Coleman, City Attorney's Office
DATE: September 16, 1999
RE: Code Formatting for Tree Regulations

The October, 1996 draft of the proposed tree regulations is formatted such that it is proposed to be a single unified code chapter. For reasons that we have discussed, the single chapter approach doesn't fit well with the existing structure of the Milwaukie Code (MMC). I have some suggestions on the placement in the code of the various sections of the 1996 draft. These suggestions assume that the recommendations you have made concerning program oversight and the role of the master plan are ultimately adopted. The section references are to the 1996 draft.

MMC Title 16 houses most of the City regulations relating to environmental protection. Currently MMC Chapter 16.32 contains the City's tree cutting regulations. These were adopted last year and address only cutting of trees in the public right of way. The definitions used were taken from the 1996 draft, with some modification. I suggest that 16.32 be used as the focal point for the regulatory provisions relating to trees.

MMC 16.32 will include draft sections .010, Purpose; .020, Definitions; .080, Street Trees and Trees in Public Places; .090, Tree Removal on Undeveloped and Underdeveloped Land; .100, Significant Trees and Groves of Trees; and 110, Penalties and Mitigation (modified to coordinate with MMC 1.08, Code Enforcement Procedures). Some redrafting will occur to all sections for clarification purposes. Parallel references will be placed in the Zoning Ordinance and the Subdivision code, MMC Title 17, to make clear reference to the approval standards which apply in the development review processes. The "Type II" administrative review process from the Zoning Ordinance, MZO 1011.2, will be referenced and used for the administrative decision making processes related to trees.

Memorandum re:
September 16, 1999
Page 2

The City Council gave direction that the duties assigned in draft section .030 to the Urban Forestry Commission will be split and assigned to the Planning Commission (regulatory), MMC 2.16; and the Park and Recreation Board, MMC 2.12 (policy and oversight). The referenced chapters will be amended to reflect the additional responsibilities.

Decisions must be made on the remaining sections of the draft, .040, Duties of the Community Development Director; .050, Master Plan; .060, Education; and .070, License.

If the license requirements are adopted they logically fit within MMC Title 5, Business Taxes, Licenses and Regulations. Title 5 currently contains the city licensing and regulatory requirements for a limited number of targeted business types. This special license requirement for "tree care" is similar to the other licensing requirements of Title 5.

Most of the provisions of the other sections are not of a regulatory nature and do not need to be placed in the City Code. The duties defined for the Director are restatements of administrative responsibilities that currently exist and that are not unique to the urban forestry program. The creation and administration of a Master Plan document can be referenced generally in the Park and Recreation Board scope of responsibilities, along with the desire for an active education program. The regulatory components of the Master Plan will be included in the MMC, as outlined above, with the directory components included in the policy document adopted and administered by the Park and Recreation Board.

These suggestions are one, and not the only way to integrate the proposed tree regulatory program into the MMC. First and most importantly the staff must receive policy direction on the issues you raise in the companion memo. Once those choices are made, a discussion can occur on the most effective placement of the regulatory provision in the code.

Please give me a call if you have questions concerning the recommendations in this memo.

SECTION XX.XX - MILWAUKIE MUNICIPAL CODE**URBAN FORESTRY**

Annotated Discussion Draft

October 31, 1996

(related sections from 3/4/96 draft)

XX.XX.010 Purpose (1501)

The purpose of this Section is to facilitate the implementation of an Urban Forestry Program, based on Tree City USA standards, which will increase the existing stock of trees by insuring that more trees are planted, and to provide for an ongoing public education program which promotes the proper conservation, planting, pruning, and removal of trees. The vision is to distinguish Milwaukie as a "Place of Trees." Each gateway to the City and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

XX.XX.020 Definitions (1502)

Arboriculture: Refers to that part of horticulture which deals with the study and care of trees and other woody plants.

Canopy: Area of the tree above ground, including the trunk and branches, measured in mass or volume.

City: City of Milwaukie.

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

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

Dead tree: The tree is lifeless.

Developed land: A parcel or parcels of land developed to the full extent permitted by the current development regulations.

Drip line: The perimeter measured at the outermost canopy.

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

Grove: A stand of three or more trees of the same species or mix, which form a visual and biological unit.

ISA: International Society of Arboriculture.

Major pruning: Removal of over 20 percent of the trees canopy, or injury or cutting of over 10 percent of the root system, during any 12-month period.

MUFC: Milwaukie Urban Forestry Commission.

Owner: Includes, for the purposes of this Section, any person with a freehold interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owners consent.

Person: Any individual, firm, association, corporation, agency, or organization of any kind.

Pruning: Trimming or removing any part of the branching structure of a plant in either the crown, trunk, or root areas based on standards of the International Society of Arboriculture (ISA).

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

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

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

Significant tree: A tree which has been designated by the MUFC to be of special importance to the City or a neighborhood, because of its age, type, notability, or historical association. significant trees include all trees within a Natural Resource Overlay Zone or jurisdictional wetland.

Street tree: Any tree located within a street right-of-way.

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

Tree: Any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a definitely formed crown.

Underdeveloped land: A parcel or parcels of land which have not been developed to the full extent permitted under the current development regulations.

Undeveloped land: A parcel or parcels of land which have not been committed to development permitted under the current development regulations. A vacant, platted subdivision lot or partition parcel is considered undeveloped for purposes of this section.

Urban forest: An urban forest is the integrated system of plants, animals, soil, air, water and people that exist in and around human communities. The urban forest includes all of the vegetation in our communities ranging from our residential landscapes to industrial plantings. It includes trees living on undeveloped, rural sites to those planted alongside transportation corridors.

Comment: The definitions still need work. A clear set of definitions will save staff time (probably yours!) making interpretations and resolving misunderstandings.

XX.XX.030 Milwaukie Urban Forestry Commission (introduction)

- A. The city shall create the Milwaukie Urban Forestry Commission (MUFC) consisting of five members. The members shall include citizens and others with established professional expertise in the areas of landscape architecture, arboriculture, or related field. The following factors shall serve as criteria in making appointments to the MUFC
1. Citizens interested in trees as a major component of Milwaukie's physical and aesthetic environment.
 2. A minimum of two members of the MUFC shall have professional background in landscape architecture or design, arboriculture, ornamental horticulture, or related field.
- B. The MUFC shall be appointed by the City Council. The terms of office shall be three years and until their successors are appointed and qualified. Terms for the five members shall be staggered so that one or two commissioner positions are up for appointment each calendar year. Members may serve consecutive terms. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate City Council action.
- C. Vacancies on the MUFC shall be filled by appointment by the mayor, subject to approval of the City Council

- D. The MUFC shall hold regular meetings at least once each month, and may hold such additional meetings as it deems necessary. A majority of the MUFC shall constitute a quorum of the purpose of transacting the business of the MUFC. The MUFC shall, as soon as practical after the time of annual appointments of members, elect a chairperson and vice-chairperson.
- E. The MUFC shall keep a public record of all proceedings, resolutions, findings, determinations, and transactions, which shall be filed with the City Clerk.
- F. The duties of the MUFC shall be:
1. To study the problems and determine the needs of the city's urban forestry program.
 2. To develop a recommended Urban Forestry Master Plan for review and adoption by the City Council.
 3. To develop recommended amendments to city regulations that support the adopted Urban Forestry Master Plan for review and adoption by the City Council.
 4. To determine the type of trees to be planted in public places and street rights-of-way.
 5. To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal, and planting of trees on public and private lands.
 6. To work with city departments, other agencies, volunteer organizations, and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
 7. To prepare an annual program for tree care and tree planting in public places in the city.
 8. To conduct a city-wide survey and inventory of significant trees.
 9. To conduct public hearings.

Comment: The work load will probably be slightly less if this body is a board, but guidance and assistance from the city staff will be needed for development and implementation of educational and other programs as well as clerical assistance for meetings, agendas, etc..

XX.XX.040 Community Development Director

- A. The Community Development Director or designee shall assist the Milwaukie Urban Forestry Commission in the discharge of its duties.
- B. When requested by the MUFC, the Community Development Director may retain the services of appropriate professionals to advise the MUFC.
- C. The Community Development Director shall periodically update specifications for planting, pruning, removing, and maintaining trees. Prior to implementation, all amendments to specifications shall be reviewed by the MUFC and adopted by the City Council.
- D. The Community Development Director shall prepare the annual budget for the urban forestry program.
- E. The Community Development Director shall provide all supervision of tree planting, maintenance, and removal conducted by city employees as well as all city regulations which implement the adopted Urban Forestry Master Plan.
- F. The Community Development Director shall maintain a list of approved varieties of trees that may be planted within any street right-of-way or other public area, consistent with the provisions of the plan.

Comment: There clearly is some start-up work for your department. Also the on-going staff time commitment could vary significantly depending upon the scope and number of tree programs.

XX.XX.050 Urban Forestry Master Plan

- A. The Milwaukie Urban Forestry Commission shall develop and periodically recommend amendments to the Milwaukie Urban Forestry Master Plan and implementing measures which at a minimum, include the following:
 - 1. Educational programs sponsored by the city to increase public awareness and interest in the Milwaukie Urban Forest Master Plan;
 - 2. Urban forestry programs to maintain or enhance the urban forest;
 - 3. Designation and protection of significant trees or groves of trees;
 - 4. Regulations relating to planting, maintenance, or removal of street trees and trees in other public spaces;

5. Regulations relating to tree removal on undeveloped or underdeveloped land; and
 6. Tree protection during development of property.
- B. When all or a portion of this plan is developed, it shall be submitted for public hearings before the MUFC and City Council. The City Council shall determine if the plan should be adopted and implemented.

Comment: The various staff commitments are discussed throughout this report.

XX.XX.060 Education (1504)

- A. The MUFC shall establish public information and education programs to promote the protection, maintenance, and enhancement of the urban forest. These programs shall offer education to all sectors of the public, including private property owners, developers, school children, city employees, neighborhood associations, and other groups interested in tree preservation.
- B. The MUFC shall develop materials that describe quantifiable benefits of trees, tree care, related regulations, and resources.
- C. The MUFC shall develop an educational program on pests, diseases, invasive non-native, and other threats to the urban forest, and will encourage biological controls and organic maintenance practices.

XX.XX.070 Tree Care License (1503)

A. Permit Requirements

Any person engaged in the business of removing, pruning, or trimming trees in the city of Milwaukie shall hold a valid Tree Care License, in addition to a regular Business License, to conduct business in the city.

- B. To obtain a Tree Care License the applicant must comply with the following:
 1. Proof of public liability and property damage insurance in an amount to be set by the city. This proof needs to be filed with the city at the time of each renewal and must remain in force for the term of the permit.
 2. Proof that at least one member of the staff is an arborist certified by the ISA and that this member is responsible for the work performed under the Tree Care License.

3. All work must comply with the rules and objectives of this title. All work is subject to inspection by the city for compliance with city standards.
4. All tree care or tree maintenance companies holding a valid City Business License at the time this Section becomes effective will have one full year to meet the above standards.

C. Revocation of the Tree Care License

The Community Development Director may revoke or suspend the license for any of the following reasons:

1. Failure to provide or continue the insurance required to maintain the license.
 2. Failure to uphold the good standards of tree care required by the city.
 3. Irresponsible or unethical business practices.
 4. Reckless or endangering practices on the job site.
 5. Failure to comply with the requirements of the Urban Forestry Master Plan.
- D. License revocation or suspension may be appealed to the City Manager's Office within 10 days of notification. All decisions by the City Manager's Office will be final and not subject to further appeals.

Comment: As we discussed, this could become a very significant administrative and enforcement task. Notifying contractors, many of which are small operators that come from outside of the city, would be difficult to monitor along with responding to citizen complaints. Are general business licenses required for landscapers, etc.? If so, I recommend that the city develop an education component that is coordinated with the business licenses program. If a tree care license is required, it probably makes the most sense to train your code enforcement officer to deal with this task.

XX.XX.080 Street Trees and Trees in Public Places (1505)

A. Permit for Major Pruning or Removal of Street Trees or Trees in Public Places

1. Applicability

No person shall conduct major pruning or removal of any tree in a city park, street right-of-way, or other public place, without a permit issued by the city of Milwaukie. Tree pruning, as defined in this title, shall not require a permit. This Section does not apply to significant trees or groves of trees in Section XX.XX.100.

2. Review Process

- a. A permit application for major pruning or tree removal shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The applicant shall post notice of the major pruning or removal permit application on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
- c. The notice shall state that the tree removal permit(s) is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request that a hearing be held on the application by filing a written request for a hearing within 14 days of the date of the posting.
- d. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
- e. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the major pruning or removal request.
- f. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to this Section.
- g. The major pruning or tree removal permit(s) shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a hearing. The applicant shall maintain the posting and marking for the full 14 days.

3. Approval Standards

The Community Development Director shall issue permits to property owners for major pruning or removal of street trees or trees in public places, only if one or more of the following criteria are satisfied:

- a. There is need for the proposed major pruning will be done according to ISA standards, and qualified persons will perform the work.
 - b. It is determined by the arborist that the tree is dead or diseased and cannot be saved, according to current ISA standards.
 - c. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.
 - d. The tree has lost its value as a street tree due to damage from natural or accidental causes, or for some other reason it can be established that it should be removed.
 - e. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, or adjacent property, or the general public. If an imminent hazard exists, the Community Development Director may issue an emergency permit for removal. The removal shall be accomplished in accordance with accepted arboricultural standards.
4. All work performed on street trees pursuant to a permit issued by the Community Development Director under this Section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the Community Development Director.
 5. For the removal of a street tree, the Community Development Director may condition the permit with a requirement to replace the tree, when determined to be appropriate by the Director. In such case, the full cost of removal and replacement shall be borne by the owner.

B. Planting - Street Trees

1. Applicability

No person shall plant a tree within a street right-of-way or public place without a permit issued by the city of Milwaukie.

2. Review Process

- a. An application for a street tree planting permit shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. A planting plan shall be submitted as part of the application.

- c. Planting procedures must follow ISA standards, which are available from the Community Development Department.

3. Approval Standards

The Community Development Director shall issue permits to plant street trees or trees in public places when the proposed trees and their location and spacing are consistent with the Milwaukie Urban Forestry Master Plan.

4. New or Improved Streets

Any new public street, proposed change in a public street right-of-way, or improvement of an existing street shall, where feasible, include allowances for tree and landscape planting. Plans and specifications for planting such areas shall be integrated with review and approval of these plans by the City Engineer in coordination with the Community Development Director.

Comment: Once I get some additional information from other cities about how they handle trees in the right-of-way, we can discuss our options more intelligently.

XX.XX.090 Tree Removal on Undeveloped and Underdeveloped Land (1507)

A. Applicability

1. This Section does not apply to significant trees in Section XX.XX.100.
2. This Section does not apply to tree removal which is reviewed pursuant to any other provisions of the Milwaukie Zoning Ordinance or Subdivision Ordinance.
3. The requirements of this Section apply to the removal of trees on undeveloped or underdeveloped, commonly-owned, contiguous property under the following conditions:
 - a. The trees to be removed have a circumference of 20 inches or greater, measured 4 1/2 feet above the ground;
 - b. More than 3 trees which meet or exceed the size threshold in Section A. 3. a. are removed in a calendar year on properties smaller than 35,000 square feet; and
 - c. More than 6 trees which meet or exceed the size threshold in Section A. 3. a. are removed in a calendar year on properties equal to or larger than 35,000 square feet.

Comment: I assume that the revised code will include a lower threshold that will exclude smaller, developed lots. The staff time here could be significant because of the education that would be needed to make property owners aware of the regulations as well as the time for enforcement and response to complaints. Some prohibition to tree removal on undeveloped property is needed to help prevent clearing property before submitting a development application.

B. Tree Removal Permit

The Community Development Director shall review a tree removal permit application according to the following provisions:

1. Review Process

- a. The property owner shall submit an application for tree removal to the Community Development Department on forms provided by the Community Development Director.
- b. The applicant shall post notice of application for a tree removal permit on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
- c. The notice shall state that the tree removal permit(s) are pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request that a hearing be held on the application by filing a written request for a hearing within 14 days of the date of the posting.
- d. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
- e. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the removal request.
- f. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to this Section.
- g. The tree removal permit or permits shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a hearing. The applicant shall maintain the posting and marking for the full 14 days.

2. Approval Standards

The Community Development Director shall issue permits to property owners to remove trees only if one or more the following conditions are met:

- a. Trees will be retained along natural drainageways and water areas to preserve riparian habitats and to minimize erosion.
- b. Trees will be retained along property lines to serve as buffers to adjacent property.
- c. Trees will be retained in sufficiently large areas and in dense stands to ensure against wind throw.
- d. The trees to be removed pose a safety hazard to pedestrian or vehicular traffic, threaten to cause disruption of public services, or pose a safety hazard to persons or buildings.
- e. The trees to be removed are diseased or weakened by age, storm, fire, or other injury.

XX.XX.100 Significant Trees and Groves of Trees (1509)

A. Significant Tree Designation

1. Inventory of Significant Trees and Groves of Trees
 - a. An inventory shall be prepared which includes those trees that potentially meet the significant tree designation criteria in Section XX.XX.100 A. 3.
 - b. The MUFC shall conduct an inventory of significant trees and groves of trees within the city. Members of the MUFC or other volunteers may collect the inventory information. To complete a tree inventory, information about the tree population shall be gathered systematically. Inventory information shall include size, location, general tree condition, and maintenance needs of the trees listed. The public shall be encouraged to provide recommendations for designations. The MUFC shall review and update the significant tree inventory annually.

- c. Property annexed to the City shall have an inventory made of significant trees, and those trees shall be added to the inventory list within 6 months of annexation.

2. Designation of Significant Trees

- a. The MUFC, City Council, Planning Commission, Historic Review Commission, a property owner, or any other person, organization, or legal entity may recommend to the city that a tree be designated as a significant tree.
- b. The MUFC shall hold at least one public hearing on the proposed significant tree designations pursuant to the Major Quasi-Judicial review procedures in Section 1011.4. The MUFC shall substitute for the Planning Commission.
- c. If the City Council approves a significant tree designation or designations, the MUFC shall establish or amend the list of designated significant trees and groves of trees accordingly.
- d. The significant tree designations may be amended at any time, following the procedures established for the original list (Section 1011.4). Any party, as described in Section XX.XX.100 A. 2. a., may initiate proceedings to remove the designation of a tree or grove as significant.
- e. At a minimum, the city shall review its list of designated significant trees/tree groves and notify property owners at 3-year intervals of the existence of designation on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.

3. Designation Criteria

a. Individual Significant Trees

An individual tree or grove of trees shall be considered significant based on one or more of the following findings:

- (1) The tree has a distinctive size, shape, age, or location which warrants a significant status.
- (2) The tree has special botanical significance as a specimen in the Milwaukie area.
- (3) The tree is significant due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or other wildlife habitat.

- (4) The tree is significant based upon its association with historic figures, properties, or general growth and development of the city.

b. Significant Groves of Trees

A grove shall be considered significant based on one or more of the following findings:

- (1) The grove is relatively mature and is in a state of health which would warrant preservation.
- (2) The grove has a purity of species composition, is of rare or unusual nature, and/or is an exceptional example of a type of forest such as riparian or woodland.
- (3) Unique species, including but not limited to, Oregon White Oak, Giant Sequoia, Dogwood, and other native and nonnative species.
- (4) The grove has a crucial functional and/or aesthetic relationship to a natural resource or wildlife habitat.
- (5) The grove has historic significance, based on its association with historic figures, properties, or general growth and development of the city, as determined by the Historic Review Commission.
- (6) Over 60 years old determined by such indicators as:
 - (a) The age of the buildings in the area.
 - (b) The bark character of the tree.
 - (c) Information obtained from residents of the area.
 - (d) The ring counts of nearby stumps for comparison of age.
- (7) Visibility from the right-of-way of public streets.
- (8) Relative value

B. Removal of Significant Trees or Groves of Trees

1. Applicability

This Section does not apply to tree removal which is reviewed and approved pursuant to any other provisions of the Milwaukie Zoning Ordinance and Subdivision Ordinance.

2. Review Process

- a. An application for removing a significant tree or grove of trees shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The property owner or authorized agent must submit information on the location and size of the parcel; the location, type, and size of the tree(s) in question; and the reason for the desired action. The information and reasons shall address any appropriate criteria based on the type of area and tree designation. The City shall require the verification of any stated tree illness, safety problem, etc. by an arborist certified by the ISA, paid at the expense of the applicant.
- c. If justification for removal is based upon the health of the tree, and a visual inspection by the Community Development Director cannot establish that the tree is dead or dying, the applicant shall submit a report from an ISA-certified arborist attesting to the condition of the tree.
- d. If the tree is dead or it is determined by an ISA-certified arborist that it cannot be saved, the Community Development Director shall approve the removal application in accordance with a Type I administrative review process.
- e. If justification for removal is due to reasons other than health of the tree, the Community Development Department shall prepare a report evaluating the need or desire to remove the tree and make a recommendation. The report shall be forwarded to the MUFC which shall hold a public hearing on the matter, pursuant to Section 1011.3, Minor Quasi-Judicial review, with the MUFC taking the place of the Planning Commission.
- f. If an imminent hazard exists, the Community Development Director may issue an emergency permit for removal without a hearing before the MUFC. The removal shall be accomplished according to ISA standards.

3. Approval Standards

The application for removal of a significant tree, for reasons other than the health of the tree, shall be approved by the MUFC if the request satisfies one or more of the following criteria:

- a. That the tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.

- b. That the tree has lost its significance, in terms of its original designation on the list, due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of significance.
- c. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, or adjacent property, or the general public.

C. Major Pruning of Significant Trees or Grove of Trees (1511)

1. Applicability

This Section applies only to major pruning of significant trees or groves of trees.

2. Review Process

- a. An application for major pruning of significant trees or grove of trees shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The property owner or authorized agent must submit information on the location and size of the parcel; the location, type, and size of the tree(s) in question; and the reason for the desired action. The information and reasons shall address any appropriate criteria based on the type of area and tree designation. The City shall require the verification of any stated tree illness, safety problem, etc. by an arborist certified by the ISA, paid at the expense of the applicant.
- c. The Community Development Director shall prepare a report evaluating the need perform major pruning and make a recommendation. The report shall be forwarded to the MUFC which shall hold a public hearing on the matter, pursuant to Section 1011.3, Minor Quasi-Judicial review, with the MUFC taking the place of the Planning Commission.
- d. If an imminent hazard exists, the Community Development Director may issue an emergency permit for major pruning without a hearing before the MUFC. The major pruning shall be accomplished according to ISA standards.

3. Approval Standards

An application for major pruning shall be approved if the person or company performing the work has a valid Tree Care License as provided in Section XX.XX.070; the major pruning shall be accomplished according to ISA standards; and the request satisfies one or more of the following criteria:

- a. It is determined by the arborist that the tree is diseased and major pruning, according to current ISA standards, is necessary to save the tree.
- b. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and major pruning is required to prevent damage to such improvements or property.
- c. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, adjacent property, or the general public, and major pruning is necessary to resolve the problem.

4. Conditions of Approval

All permits for major pruning shall be issued subject to the following conditions:

- a. Trees subject to this Section shall be removed or pruned following pruning standards of the ISA; those standards shall be provided to all applicants by the city at the time the permit is issued.
- b. It is the responsibility of the applicant to assure that all significant trees are removed or pruned in a manner which insures safety to individuals and to public and private property.
- c. For the removal of a tree, the MUFC may condition the permit with a requirement to replace the tree. In such case, the full cost of removal and replacement shall be borne by the owner.
- d. Other conditions, as the MUFC shall attach, in keeping with the purpose and intent of this Section.

5. Permit Exemptions

- a. Imminent danger. If an imminent danger exists to the public, or any property owner or occupant, the Community Development Director may issue an emergency removal permit. The removal shall be in accordance with ISA standards and be the minimum necessary to eliminate the imminent danger.

Penalty for incorrect danger assessment. If it is determined that imminent danger did not exist, or that the hazardous condition had existed for over 60 days and the owner delayed in applying for a permit, mitigation by the property owner shall be required as established in Section XX.XX.110 C.

- b. Maintenance. Regular maintenance or pruning (as defined in this title) which do not require removal of over 20 percent of the trees canopy, tree topping, or disturbance of over 10 percent of the root system during any 12-month period.

6. All work performed pursuant to a permit issued under this Section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the approval authority.

Comment: I am assuming that this will be deleted and no staffing considerations are necessary.

XX.XX.110 PENALTIES AND MITIGATION (1512)

A. Voluntary Compliance and Penalties

Any violation of the terms of this title, its plans, or conditions of approval of any permit issued is a Class A infraction. Each calendar day of violation of the terms of this title, its plans, or conditions of approval of any permit issued is a new offense. In addition, the City Attorney shall institute any necessary legal proceedings to enforce the provisions of this Section. These rights shall be in addition to any other remedies allowed by law. Upon discovery of a violation, the City shall notify the violator of the process available for voluntary compliance and the penalty provisions of this Section. The City shall offer the violator an opportunity to enter into a voluntary compliance agreement. If the violator fails to enter into a voluntary compliance agreement, the violator shall be subject to the penalties and procedures of this Section.

B. Tree Removal

1. Voluntary compliance process. A voluntary compliance agreement shall contain the following:
 - a. A commitment by the violator to submit and carry out a tree replacement program which is approved by the City.
 - b. Payment of a fee in accordance with the city's fee schedule established for this purpose. The fee will be calculated based upon staff time devoted to the investigation of the violation and review and approval of the voluntary compliance agreement and related compliance inspections.
 - c. Appropriate mitigation measures as described in Section 1512.2.
2. Penalties. Any person, firm, or corporation causing the removal of a tree protected by this title who does not enter into a voluntary compliance agreement may upon conviction be fined a sum of not less than \$500 or not to exceed the equivalent of 3 times the appraised value of the tree, based on the latest revision of the Council of Tree and Landscape Appraisers' evaluation method, plus the cost of prosecution, including attorneys fees for each tree removed. In addition, conviction shall carry

with it the revocation of all current development permits issued for the site and cause a prohibition on all development of the property to be recorded against the property for a period of 5 years.

C. Removal Mitigation

1. If tree removal (or major pruning resulting in permanent harm to the tree) is completed without receiving a permit; or if tree removal is performed under the imminent danger provision and, after an investigation, it is determined that the danger did not exist, or that the hazardous condition had existed for over 60 days and the owner knowingly delayed applying for a permit; or in any other situation where tree removal was performed in violation of this Title; then replacement is based on the replacement value of the tree, as based on the latest revision of the "Manual of Tree and Landscape Appraisers." Mitigation shall be based on the following alternatives, singularly or in combination:
 - a. Replacement with one or more trees, of a type and size approved by the City, resulting in the same or higher value of the removed tree, except that the value can be no less than the cost of the tree replacement as specified by the ISA's "Guide for Plant Appraisal."
 - b. The replacement value of the removed tree to be paid to the City. Such funds shall be used by the City to plant new trees on public property.
 - c. One or more trees of a species acceptable to the City, in which the caliper size cumulative square inches of the replacement trees equal the caliper size cumulative square inches of the removed tree(s).
 - d. Mitigation shall be completed within one year. The owner shall be responsible for the continued health of the new tree(s) including regular watering.
2. Mitigation completion. Where it is determined that tree removal was performed in violation of this Title, all permit processing on work for that parcel shall be suspended until mitigation is complete.

C. Other Penalties

Violations of this Title are subject to the mitigation requirements described above plus any penalties set forth in the City of Milwaukie Municipal Code.

Comment: I am assuming that this will be changed substantially based on City Council comments.

OR WE COULD HAVE ALL SPECIFICATIONS HERE AS FOLLOWS:

- a. Types of trees
 - (1) Tree selection must be from the foregoing approved "City of Milwaukie Street Tree" list and shall conform to the type, size, and grade.
 - (2) Where street blocks have been assigned one species, cultivar, or variety, only this species, cultivar, or variety may be planted.
 - (3) The size of the tree(s) shall be not less than 1 1/2 inches in diameter at 6 inches above ground level, and at least 10 feet in height in neighborhoods; and 3 inches in diameter and 15 feet in height around public buildings and commercial development.
 - (4) All trees shall have single straight trunks, well developed leaders, and tops and roots characteristic of the species, cultivar, or variety. All plants must be free of insects, diseases, mechanical injuries, and other objectionable features when planted.
- b. Spacing and height requirements and restrictions
 - (1) Trees will be spaced as follows:
 - (a) Small or narrow trees spaced 25 feet to 30 feet apart.
 - (b) Medium trees spaced 30 feet to 40 feet apart.
 - (c) Large trees spaced no less than 40 feet apart.
 - (2) Minimum planting distance may be amended at the discretion of the Community Development Director if warranted by existing or proposed driveways, hydrants, power poles, and other similar improvements located on or near the street row.
- c. No tree(s) shall be planted in planting strips (areas between the sidewalk and curb) which is less than 4 feet wide; unless partial cuts are made in the sidewalk, or specific conditions warrant; and then only by approval of the Community Development Director. In commercial areas where there is a large volume of pedestrian traffic, approved 4-foot-by-4-foot tree grates will be placed around the base of the tree(s).
- d. Where the planting strip is less than 18 inches wide, planting is recommended to be on private property, whenever there is room for appropriate planting, with the written consent of the property owner.

- e. All trees planted within the planting strip shall be midway between the curb and sidewalk. They shall be planted at least 30 feet from the projected property line at a street intersection, and a minimum of 1_ feet from the curb or where the curb would be on any street. Trees shall be located at least 10 feet from any driveway or alley. Trees must be planted at least 25 feet from existing street lights, 2 feet from property lines, and for traffic sign clearance.
- f. In sections where there are no sidewalks, tree planting shall consider the probable location of any future sidewalk.
- g. Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than 7_ feet above the sidewalk level, and over the street at an elevation not less than 11 feet above the street level. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height not less than 14 feet above the street.
- h. When planting any tree(s), all above and below ground utilities shall be considered, with utility location being determined prior to any excavation. Tree species selection shall take into account all utility constraints.

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**SECTION XX00 - MILWAUKIE ZONING ORDINANCE
URBAN FORESTRY
Annotated Discussion Draft
October 31, 1996**

XX01 PURPOSE

The purpose of this Section is to provide standards and procedures to implement the Milwaukie Urban Forestry Master Plan.

XX02 APPLICABILITY

The standards and procedures of Section XX00 shall apply to all new commercial, industrial, institutional, and residential development and redevelopment.

XX03 DEFINITIONS

SELECTED DEFINITIONS FROM THE MUNICIPAL CODE SHOULD BE INCLUDED HERE

XX04 STREET TREES

XX04.1 Street Trees Required

Street trees are required, as provided in Section XX04.2, for any construction, renovation, expansion, or alteration of an existing use or portion of a use that is nonconforming, and has a development permit value that exceeds 50 percent of the value of the land, as determined by the County Assessor. Permit value shall be determined by the Building Official.

If the development permit value is less than 50 percent of the land value, then an amount equal to at least 2 percent of the development permit value shall be utilized to meet the street tree requirements and standards of Section XX04.2.

XX04.2 Street Tree Standards

The Community Development Director shall issue permits to plant street trees or trees in public places when the proposed trees and their location and spacing are consistent with the Milwaukie Urban Forestry Master Plan. *A SEPARATE STANDARDS MANUAL WILL BE PROVIDED WHICH DESCRIBES THE TYPES OF TREES TO BE PLANTED AS WELL AS THE CARE AND MAINTENANCE METHODS TO BE USED.*

Comment: Staff time needed here. However, if the manual is done thoroughly and clearly, implementation could be relatively easy for city staff and developers. This standards manual could also be used to help

administer any subdivision street requirements.

XX05 TREE PROTECTION

XX05.1 Application Review Process

A. Applicability

This Section applies to all trees on private property which have a circumference of 20 inches or greater measures 4 1/2 feet above grade. Significant trees or groves of trees are not regulated by this Section and shall be subject to Section XX.XX.100 of the Milwaukie Municipal Code.

B. Application Information

If tree removal is proposed as part of an application to develop or redevelop property, the applicant shall submit the following supplemental information:

1. The location, size, and species of all trees subject to this Section. Groves of trees which are to be protected do not need to have each tree individually delineated; however, the number of trees in each grove shall be included.
2. Information showing the need for tree removal including, but not limited to building or access locations, parking areas, existing development on the property, relevant easements, utility locations, and grading.
3. A protection plan all trees proposed to be preserved, which indicates how those trees or groves will be protected from soil compaction, construction activities, grade changes, and soil erosion. This protection plan shall be part of the landscape plan incorporating other landscape requirements.
4. Where the trees proposed for removal cannot be maintained because of their health, the Community Development Director may request the verification of a qualified arborist, at the property owners expense, to confirm the health of the trees.

C. Review Process

The decision making authority for the related development application shall also be authorized to implement this Section.

D. Approval Criteria

Trees of 20-inch circumference or larger at 4 1/2 feet above grade shall be preserved unless the applicant proves to the satisfaction of the approval authority that removal is necessary because of one or more of the following:

1. Trees must be removed because they pose a safety hazard to pedestrian or vehicular traffic, threaten to cause disruption of public services, or pose a safety hazard to persons or buildings.
2. Trees are diseased or irreversibly weakened by age, storm, fire, or other injury.
3. Removal is necessary to provide adequate access immediately around the proposed structure for construction equipment.
4. Tree removal is necessary to accomplish a public purpose, such as the installation of public facilities and utilities, or construction of a public street.
5. Removal is necessary to provide adequate access as required by city standards.
6. Trees must be removed to accommodate essential grade changes needed to develop the property.
7. Trees must be removed to accommodate on-site surface water drainage and utility installation.
8. Trees must be removed to accommodate driveways, buildings, or other permanent improvements so as to avoid unreasonable economic hardship.
9. Compliance with other ordinances or codes.
10. Trees must be removed to allow efficient use of solar energy equipment.
11. For criteria 3 through 10 above, the applicant shall show evidence of exploring alternative designs which would increase tree protection.

E. Conditions of Approval

The approval authority may attach conditions of approval which include, but are not limited to:

1. Retaining trees along natural drainageways and water areas to preserve riparian habitats and to minimize erosion.
2. Retaining trees along property lines to serve as buffers to adjacent property.
3. Retaining trees in sufficiently large areas and in dense stands to ensure against wind throw.

4. Relocating the proposed structure(s) to retain trees, if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than two percent of the total improvement value, excluding land cost.
5. Planting of new trees with a minimum diameter of 1 1/2 inches measured 6 inches above grade, unless a different size requirement is specified by the approval authority.

Comment: Because this would be administered along with reviews of development applications, it should not require much additional staff time. However, some expertise should be available to make tougher calls about construction methods to be used near trees that are to be saved.

XX05.2 Significant Trees and Groves of Trees

If any significant trees or groves of trees are proposed to be removed or have major pruning performed as part of the proposed development plan, approval for such removal or major pruning shall be obtained as provided in Section XX.XX.100 of the Milwaukie Municipal Code.

XX05.3 Yard Setback Variance

A. Variance for Significant Trees or Groves of Trees

The approval authority may authorize a variance from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, a proposed development would result in the removal of trees or groves of trees that have been designated as significant according to Section XX.XX.100 of the Milwaukie Municipal Code.

B. Circumstances for Granting a Variance

A variance to the side, front, and/or rear yard setback requirement by up to 50 percent may be approved by the approval authority if necessary to retain designated significant trees or groves of trees. Variances may be made for subdivision and partition lots, provided the average lot size for the request meets density requirements of the applicable zoning district.

C. Review Process

The yard setback variance shall be subject to the variance procedure in Section 704 of this title.

D. Conditions of Approval

The approval authority may attach conditions necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this title.

Comment: I assume this section will be deleted.

XX05.4 Protection of Trees During Development

A. Applicability

Protection measures shall apply for all trees which are to be retained in areas immediately adjacent to construction. The applicant shall submit a plan outlining these protection measures prior to issuance of building or other land development permits.

B. Protection Measures

Protection of trees to be retained may be accomplished by, but not limited to the following:

1. Restricting the filling, excavation, stacking or storing of any materials or equipment, or compacting of the earth in any way within the area defined by the drip line of any tree to be retained.
2. Erecting and maintaining rope barriers, or the placing of hay bales on the drip line, to protect roots. In addition, the applicant may provide supervision whenever equipment or trucks are moving near trees.
3. Where the grade level adjoining a tree to be retained is to be raised, the applicant may construct a dry rock wall or rock well around the tree. The diameter of this wall or well shall be greater than or equal to the trees drip line.
4. Restricting the installation of impervious surface material within the area defined by the drip line of any tree to be retained.
5. Restricting the lowering of the grade level around any tree to be retained within the greater of the following areas:
 - a. The area defined by the drip line of the tree.
 - b. An area around the tree equal to 1 foot in diameter for each 1 inch of tree caliper.

6. Pruning of branches and roots, fertilizing, and watering as appropriate for any trees which are to be retained.
7. Excavations and driveways shall not be located within 6 feet of any tree, or within 80 percent of the distance between the drip line and the tree trunk, whichever is the greater distance. During such excavation or construction, this distance shall be protected and no temporary building, building material, vehicle, or debris kept within this area. Exceptions to this distance may be approved upon a favorable report by a certified arborist.
8. Before starting and during the erection, repair, alteration, or removal of any building or structure within the drip line or designated distance from a tree that is to be retained, there shall be a sufficient fence to prevent injury to the tree from construction activity (directly or as a result of soil compaction in the root area).
9. When development is proposed within a significant grove, or when significant trees are located within a site proposed for development, a tree preservation or tree removal plan demonstrating preservation methods shall be prepared by an ISA-certified arborist and submitted for approval.

Comment: A little additional time will be needed to determine conditions of approval. Some time will be needed in the field as the project is being built to ensure that the tree-related conditions are being met along with the others.

TITLE 17 - MILWAUKIE SUBDIVISION ORDINANCE

CHAPTER 17.28 DESIGN STANDARDS

17.28.020 Streets

- Q. Street Trees. Street trees shall be planted by the developer within the planting strips of any new subdivision in conformity with the Street Tree Plan for the area. All such planting shall be done in accordance with the planting specifications governing the placement of street trees as provided by the Community Development Director. All trees shall be planted within 18 months of completion of public improvements, or the recordation of the subdivision map or partition plat, whichever shall occur first.

Comment: A little additional time will be needed to determine conditions of approval. Some time will be needed to obtain financial assurances for the street trees and for field work as the project is being built to ensure that the tree-related conditions are being met along with the others.

OR WE COULD HAVE ALL SPECIFICATIONS HERE AS FOLLOWS:

A. Types of Trees

1. Tree selection must be from the foregoing approved "City of Milwaukie Street Tree" list and shall conform to the type, size, and grade.
2. Where street blocks have been assigned one species, cultivar, or variety, only this species, cultivar, or variety may be planted.
3. The size of the tree(s) shall be not less than 1 1/2 inches in diameter at 6 inches above ground level, and at least 10 feet in height in neighborhoods; and 3 inches in diameter and 15 feet in height around public buildings and commercial development.
4. All trees shall have single straight trunks, well developed leaders, and tops and roots characteristic of the species, cultivar, or variety. All plants must be free of insects, diseases, mechanical injuries, and other objectionable features when planted.

B. Spacing and height requirements and restrictions

1. Trees will be spaced as follows:
 - a. Small or narrow trees spaced 25 feet to 30 feet apart.
 - b. Medium trees spaced 30 feet to 40 feet apart.
 - c. Large trees spaced no less than 40 feet apart.
2. Minimum planting distance may be amended at the discretion of the Community Development Director if warranted by existing or proposed driveways, hydrants, power poles, and other similar improvement located in or near the street row.

C. No tree(s) shall be planted in planting strips (areas between the sidewalk and curb) which is less than 4 feet wide; unless partial cuts are made in the sidewalk, or specific conditions warrant; and then only by approval of the Community Development Director. In commercial areas where there is a large volume of pedestrian traffic, approved 4-foot-by-4-foot tree grates will be placed around the base of the tree(s).

D. Where the planting strip is less than 18 inches wide, planting is recommended to be on private property, whenever there is room for appropriate planting, with the written consent of the property owner.

E. All trees planted within the planting strip shall be midway between the curb and sidewalk. They shall be planted at least 30 feet from the projected property line at a street intersection, and a minimum of 1 1/2 feet from the curb or where the curb would be on any

street. Trees shall be located at least 10 feet from any driveway or alley. Trees must be planted at least 25 feet from existing street lights, 2 feet from property lines, and for traffic sign clearance.

- F. In sections where there are no sidewalks, tree planting shall consider the probable location of any future sidewalk.
- G. Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than 7 feet above the sidewalk level, and over the street at an elevation not less than 11 feet above the street level. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height not less than 14 feet above the street.
- H. When planting any tree(s), all above and below ground utilities shall be considered, with utility location being determined prior to any excavation. Tree species selection shall take into account all utility constraints.

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To: Planning Commission

From: Alice Rouyer, Planning Director *ARR*

Subject: Urban Forestry Program Work Session

Meeting Date: September 28, 1999

Date: September 20, 1999

Action Requested

Planning Commission review of the Urban Forestry project schedule and discussion of initial policy questions.

Background

In 1994, a group of citizens formed the Tree Committee and began working to develop a tree program. The Tree Committee adopted the following vision:

To distinguish Milwaukie as a 'Place of Trees'. Each gateway to the City and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

During 1995 and 1996, the Committee worked with city staff to outline an urban forestry program and develop a draft urban forestry ordinance. Both the Planning Commission and City Council reviewed the draft ordinance in late 1996. The project was set aside since that time, in response to other project demands and staff turnover.

Staff is now prepared to implement the work of the Tree Committee in late 1999 and early 2000 and begin an urban forestry program in Milwaukie. On August 30, 1999, the City Council reviewed the project schedule and provided staff with direction on preliminary policy questions. Staff is now seeking Planning Commission input on additional policy questions concerning the content of the urban forestry ordinance.

By the end of 2000, it is City Council's desire to apply for Tree City USA designation. This is awarded on an annual basis with an application deadline at the end of December each year. In order to qualify for this designation, the City must have the following elements in place:

- a. A Tree Board or Department (i.e. a supporting board who oversees the tree program and/or a staff team to oversee the program)
- b. A Community Tree Ordinance
- c. A Community Forestry Program with an Annual Budget of at least \$2 per capita (this is already included in the 1999/2000 budget).
- d. An Arbor Day Observance or Proclamation

Project Schedule

Listed below is the most current project schedule:

1. Planning Commission Work Session to review draft ordinance and review policy questions: September 28, 1999
2. Staff and the City Attorney to revise the 1996 draft: October 1999
3. Planning Commission work session to review the draft Urban Forestry Ordinance and preliminary public outreach strategy: October 26, 1999 or November 23, 1999
4. City Council Work Session to review draft ordinance and preliminary public outreach strategy: November or December, 1999.
5. Begin public outreach, including state-mandated notice to affected property owners: December and January 1999.
6. Planning Commission and City Council public hearings to adopt Urban Forestry Ordinance: January and February 2000.
7. Develop public information brochures and education program: Winter 2000.
8. Arbor Week public workshops and community tree observance: April 2000.
9. Begin Phase II of program development: Spring/Summer 2000
 - a. Develop Urban Forestry Master Plan; including street tree guidelines, policies for planting trees in public spaces, and tree education programs.

Proposed Urban Forestry Program

The proposed Urban Forestry Program from 1996 envisioned three main goals relating to education, city-sponsored programs and city regulations. The regulations are only

one part of the overall program (see attached Milwaukie Urban Forestry Program description—Attachment A). The goals are listed below with their associated action items:

- **Education:** *To increase the public awareness of the importance of the urban forest, the benefits of retaining trees, and the methods for their protection by working with other agencies, groups and individuals*
 - a. Significant Trees. *Education and assistance for maintenance and protection of trees in the city which are of unique importance because of their age, type, notability or historical association.*
 - b. Public Spaces. *Produce a brochure about planting, protection and proper maintenance of street trees for distribution to property owners.*
 - c. Underdeveloped or Undeveloped Lands. *Provide education and assistance for maintenance, protection and planting of trees on these properties. Provide information to property owners regarding the benefits of saving mature trees and the ways in which the city's development allow full property development.*
 - d. Developed Lands. *Provide education and assistance to property owners for maintenance, protection and planting of trees to enhance the urban forest.*
 - e. Natural Resource Areas. *Provide information to property owners regarding the benefits of protecting natural areas and the ways in which the city's development regulations allow full property development and protection of these resources.*
- **City Sponsored Programs:** *To develop and maintain publicly sponsored programs to preserve and enhance the urban forest. To set a positive community example by actively promoting the protection and maintenance of existing trees and the planting of trees on public properties and street rights-of-way.*
 - a. Significant Trees. *The City shall conduct an inventory of potentially significant trees in the city.*
 - b. Public Spaces. *The City shall establish a tree planting program for street trees in the city, first concentrating efforts in commercial areas of the city and on public properties. The City shall work to enhance the urban forest on city properties as well as work with other public agencies to enhance the urban forest on public lands.*
 - c. Undeveloped and Underdeveloped Lands. *The City shall work with property owners to improve the urban forest on developed public lands through tree planting and improved care and maintenance of existing trees.*

- d. Natural Resource Areas. *The City shall work to improve the urban forest in publicly owned natural resource areas through tree planting and improved care and maintenance of existing trees.*
- **City Regulations:** *To establish city regulations to protect the urban forest and significant trees that are clear and well-integrated with related city requirements and standards. To provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.*
 - a. Significant Trees. *Establish a significant tree designation process in the city Zoning Ordinance to provide protection to trees in the city that are of unique importance.*
 - b. Public Spaces. *Establish requirements for planting, proper maintenance and protection of street trees.*
 - c. Underdeveloped or Undeveloped Lands. *Establish standards and procedures for removal, protection and preservation of trees during development to maintain the maximum possible number of trees, while allowing development as provided by the applicable land use requirements. Establish incentives to encourage developers to meet or exceed minimum tree protection and planting standards. Establish standards to help mitigate the necessary loss of trees during the development of property. Establish specific landscaping standards that include trees in the landscaped areas of new developments and street tree planting in the adjacent street rights-of-way.*

Policy Questions

In evaluating the 1996 draft, staff and the City Attorney's office have concluded that the ordinance must be revised to be more compatible with the format of the Zoning Ordinance and Municipal Code (see attached memorandum from City Attorney Jim Coleman—Attachment B). Other policy questions must also be examined at this time prior to any adoption or consideration of the ordinance. At the September 28 work session, staff seeks the Planning Commission's input on the following policy questions:

1. Commission support for the Urban Forestry Program

The 1996 draft ordinance included provisions for a Milwaukie Urban Forestry Commission. The ordinance envisioned a five member commission including citizens having a professional background or interest in landscape architecture, arboriculture, or related field. The Commission's duties are outlined below:

1. *To study the problems and determine the needs of the city's urban forestry program.*
2. *To develop an Urban Forestry Master Plan for review and adoption by the City Council.*

3. *To develop and recommend amendments to city regulations that support the adopted Urban Forestry Master Plan, for review and adoption by the City Council.*
4. *To determine the types of trees to be planted in public places and street rights-of-way.*
5. *To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal and planting of trees on public and private lands.*
6. *To work with city departments, other agencies, volunteer organizations and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.*
7. *To prepare an annual program for tree care and tree planting in public places in the city.*
8. *To conduct a city-wide survey and inventory of significant trees.*
9. *To conduct public hearings.*

On August 30, staff requested the City Council's direction on the question of need for an Urban Forestry Commission. Creating a new commission requires both citizen and staff resources. Staff asked the Council to consider delegating the responsibilities of the Urban Forestry Commission to existing Commissions and Boards. Staff recommended that the Council consider the Planning Commission and Parks & Recreation Board as the supporting entities for the Urban Forestry Program. The Council responded favorably to this proposal, subject to more discussion with the affected entities. Based on this direction, staff recommends the following:

Proposed Planning Commission Responsibilities:

1. Conduct all public hearings associated with tree cutting, planting, and enforcement of regulations on both private property and in the right-of-way.
2. Maintain the urban forestry regulations for private property and the right-of-way. Recommend updates to City Council, as needed.

Proposed Parks & Recreation Board Responsibilities:

1. In coordination with staff, develop an Urban Forestry Master Plan for review and adoption by the City Council.
2. Review the annual program for tree care and tree planting in public places in the city.

3. Recommend amendments to city regulations that support the adopted Urban Forestry Master Plan for review and adoption by the City Council.
4. Maintain a street tree list to determine the types of trees to be planted in public places and street rights-of-way.
5. As needed, work with city staff, other agencies, and volunteer organizations to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
6. In coordination with staff, review a city-wide survey and inventory of significant trees.

Staff believes that the Planning Commission is already equipped to handle public hearings, administration and enforcement of regulations. The Parks & Recreation Board has the ability and vision to oversee the policies, work program and educational/advocacy efforts of urban forestry. Staff will be discussing this proposal with the Parks and Recreation Board on September 27, 1999 and report the outcome of that meeting to the Commission on September 28.

2. Program budget and overall fiscal impact

The city has \$40,000 budgeted for Urban Forestry during the 1999/2000 fiscal year. This is in response to the Tree City USA requirement that \$2 per capita be devoted to urban forestry. Staff is now in the process of considering all of the costs associated with administration of the program. These include the cost of educational programs, public outreach, and administration/enforcement of the regulations.

Currently, the city assumes no regular responsibility for tree maintenance in the right-of-way. Assuming more responsibility of tree maintenance will be costly. In addition, staff expects to retain a consulting arborist to provide technical assistance with the administration of the regulations. Under Policy Question #1 above, the responsibility for overseeing the urban forestry work program will be delegated to the Parks & Recreation Board. All of these fiscal impact questions will be balanced with the Parks & Recreation Board and City Council during the development of an Urban Forestry Master Plan in 2000 and the annual budget process. Nonetheless, the Planning Commission should weigh the cost of regulation and enforcement when considering different regulatory options, especially on private property. The \$40,000 budgeted toward urban forestry is unlikely to cover all staff time needed to review and enforce the regulations on private property or the cost of maintaining trees in the right-of-way.

3. Degree of regulation on private property

Staff received input from Council on October 1, 1996 and August 30, 1999 expressing reservations about how the regulation of private property would be accepted by the

public. In particular, the Council wanted to be sure that the ordinance and urban forestry program included a user-friendly, educational component and did not unduly burden any segment of the community. The question of regulation of tree removal or tree pruning on private property must be considered carefully. The goals surrounding such regulations must also be considered. Staff would request the Commission to critically consider if the following regulations are well-balanced considering the goal to both protect the urban forest and provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.

The 1996 draft Urban Forestry ordinance proposes regulation on private property for the following (please review the applicable sections of the attached Urban Forestry Municipal Code and Zoning Ordinance —Attachment C):

a. **Tree Removal on Undeveloped and Underdeveloped Land (see Municipal Code Section xx.xx.090)**

Regulates removal of more than three trees greater than 20 inches in circumference (or 5.78 inches in diameter) in a calendar year on lots smaller than 35,000 square feet or more than six trees in a calendar year on lots greater than 35,000 square feet.

Staff Issue/Question: Is 35,000 square feet a reasonable threshold? Are three trees and six trees reasonable thresholds?

b. **Removal and Major Pruning of Significant Trees or Groves of Trees (see Municipal Code Section xx.xx.100)**

Regulates removal and major pruning of trees designated on the Significant Tree Inventory. The City Council, Planning Commission, Historic Review Commission, property owner, or any other person may recommend that a tree be designated a significant tree to be included on the Significant Tree Inventory.

Staff Issue/Question: In order to be regulated, the tree must be deemed "significant". With this designation, more regulations and criteria are applied to cutting and pruning. The designation of "significant" trees by anyone other than the property owner will be controversial. Initially, it will also be costly for staff to complete a significant tree inventory city-wide. If the objective is to protect larger trees, it may be easier to simply regulate the cutting and pruning of individual trees greater than a certain size (e.g. 20 inches in diameter). The "significant" tree designation could be used for educational/promotional purposes in neighborhoods (i.e. each year neighborhood groups could designate and honor significant trees in their neighborhoods as an incentive for the property owners to preserve certain special trees).

c. **Tree Removal During Development or Redevelopment (see Zoning Ordinance Section xx05.1 "Tree Protection")**

Regulates removal of all trees on private property greater than 20 inches in circumference (or 5.78 inches in diameter when associated with a development or redevelopment application).

Staff Issue/Question: The terms "development and redevelopment" are not well-defined. Depending on the definition, this regulation could have major implications for property owners. Does the term "develop" or "redevelop" include the construction of a deck, storage shed, addition to a home? Staff would recommend that the Commission either consider deleting this regulation or narrowly defining "development" and "redevelopment." This regulation will have budgetary implications when considering administration, enforcement and the need to regularly inform the public about the requirement.

At the September 28 work session, staff can guide the Commission through a discussion of the private property issues and provide information concerning regulations from other nearby cities.

4. Process

The Municipal Code and Zoning Ordinance offers the following process for obtaining approval to remove or prune trees:

- a. Undeveloped/Underdeveloped Land. Notice and posting is provided on the tree. Any person may request a public hearing within 14 days of the date of posting.
- b. Removal and Major Pruning of Significant Trees and Groves of Trees. If a tree is dead, the tree may be removed in accordance with a Type I administrative review, requiring no public notice. If the tree is removed or pruned due to any reason besides the health of the tree, the decision is referred to the Urban Forestry Commission for final decision in accordance with Minor Quasi-Judicial review.
- c. Tree Removal during development or Redevelopment. The ordinance states that "the decision making authority for the related development application shall also be authorized to implement this section."

The Commission should determine if these review processes are appropriate. The process defined for item "c" is confusing because the terms "development or redevelopment" are undefined (as noted in the previous section). The question of staff review vs. Planning Commission review is significant. The Commission should consider if tree removal and pruning decisions would be most appropriately considered by staff or the Commission. Staff would recommend that all tree cutting/removal requirements be decided administratively with the ability to appeal to the Commission. Staff would seek the technical assistance of a consulting arborist in reviewing tree removal/pruning applications.

5. *Regulating Trees in "Public Places"*

In Section xx.xx.080, removal and major pruning of street trees or trees in public places are regulated. This generally pertains to trees in a city park, street right-of-way or other public place. The term "other public place" needs to be either eliminated or defined better.

6. *Authorize staff and the City attorney to clean up sections of the ordinance*

Both staff and the City Attorney have identified areas of the ordinance that either do not belong in the regulations or need better definition to be legally defensible. The Planning Commission should expect staff to return with a revised draft that removes discrepancies and clarifies requirements.

**CITY OF MILWAUKIE
URBAN FORESTRY PROGRAM****Discussion Draft****August 1, 1996****THE URBAN FOREST**

An urban forest is the integrated system of plants, animals, soil, air, water and people that exist in and around human communities. The urban forest includes all of the vegetation in our communities ranging from our residential landscapes to industrial plantings. It includes trees living on undeveloped, rural sites to those planted alongside transportation corridors.

The urban forest is a component of a community's infrastructure that is as essential as roads, sewer and other public utilities and a necessity for the human ecosystem.

It is the living system which maintains livability in our communities by enhancing the comfort and preserving the beauty, health, and purity of our environment. Although much of the urban forest is a product of natural plant propagation, in most communities the majority of the urban forest is the result of careful planting and maintenance.

As our communities continue to grow, creating higher density urban centers and developing forest and farmland, we must preserve key elements of the existing urban forest, plan for its continuing renewal and design future enhancements.

VALUES OF THE URBAN FOREST**Aesthetic & Physical Benefits**

Creation of City Spaces. Trees provide a unifying design element to outdoor environments. Rows of trees spaced evenly along a street tie together the many different architectural styles that may exist on a block. Planted in groups, large trees create grand outdoor spaces and punctuate important locations. They provide beauty, and a variety of textures, colors and shapes which change with the seasons and enliven the often mundane urban environment. Trees also provide historical links to the past as living memorials to local history.

Community Health. Trees contribute to the health of a community by creating comfortable environments that provide opportunities for contact with nature. Their seasonal changes of color, form and texture provide beauty and interest. The wildlife they attract provide soothing nature noises such as rustling leaves and singing birds which tend to soften the harsher noises associated with urban environments. Studies show that contact with nature speeds the healing process and acts as a preventive for future disease. Urban forests also provide active and passive recreational opportunities close to work and home environments. Trees create environments

which are conducive to stress reduction and relaxation. In fact, patients recovering from surgery in hospitals require less pain medication, and have shorter recovery periods if they have views of vegetation and nature instead of blank building walls.

Environmental Benefits

Solar Radiation. Trees contribute to the comfort of the environment by blocking solar radiation. Their shade creates cool outdoor and indoor environments and reduces heat absorption by buildings and paved surfaces.

Air Cooling. Trees cool environments through the process of evapotranspiration. In this process, trees release water into the atmosphere and cool the air. It is estimated that one large tree can potentially release 400 gallons of water into the air each day when the temperature is high and water is readily available to the tree (U.S. Forest Service, 1988). In fact, the larger the leaf and crown of a tree, the greater its ability to block solar absorption by buildings and paved surfaces and release water into the atmosphere to cool the air resulting in a temperature change of as much as 9 degrees.

"Heat Island" Effect. In urban environments, trees decrease the concentrations of pollutants which create the "heat island" effect. "Heat islands" are areas in urban environments which have higher temperatures because of gases and particulates in the atmosphere, which insulate an area from natural cooling forces, as in a greenhouse. Trees reduce the "heat island" effect by partially absorbing the dust particles, carbon dioxide, nitrous oxides, ammonia, sulfur dioxide, and ozone through their leaves (Arnold, 1993).

Air Quality. Because high concentrations of carbon dioxide are often localized in urban environments urban forests remove 10 times more of the toxin than rural forests (U.S. Forest Service, 1988). In fact, one healthy tree can remove as much as 48 pounds of carbon dioxide from the atmosphere per year (U.S. Forest Service, 1988). After absorbing carbon dioxide, trees utilize it for photosynthesis and return oxygen to the atmosphere for human consumption. Also, one large, mature tree can also remove almost 50 pounds of particulates each year from the atmosphere (U.S. Forest Service, 1988).

Heat Loss. Trees capture heat below their crowns during cool weather creating more comfortable indoor and outdoor environments. When it is cold outside, trees capture heat before it is re-radiated into the atmosphere maintaining warmer environments close to the ground and in nearby structures.

Wind Control. Trees maintain comfortable environments by slowing winds. In fact, when planted in groups such as a hedgerow, trees can completely block winds forcing wind up and over the tops of the trees for a distance equal to the height of the trees. Also, unlike tall buildings in an urban environment which often create wind tunnels, the permeability of the tree crown moves the wind through a tree and slows it down. This results in more comfortable outdoor environments and protects structures from heat loss.

Erosion Control. Trees also prevent erosion by reducing the amount and velocity of run-off common in urban areas. As a community increases land densities to accommodate more growth, more surface area is paved. The loss of pervious surfaces increases the likelihood of erosion because less water can be absorbed back into the earth. Because of this, there is more water moving across the ground at a higher velocity which causes erosion. Trees provide storm water control by absorbing excess water through their roots. This reduces the amount of run-off which preserves topsoil and keeps silt and soils from moving into rivers, lakes and streams.

Water Quality. Urban forests also enhance a community's water quality. Tree roots absorb water intercepting it before it moves into the wastewater treatment system. In effect, the water is filtered and returned eventually to the urban water supply aquifer. Storm sewer systems are often overloaded in urban areas, particularly during heavy periods of rainfall, allowing toxic run-off and other waste to enter rivers, lakes and streams. By absorbing and filtering run-off, trees alleviate the wastewater system of the burden of less toxic waste and allow it to process more dangerous effluent.

Noise Control. Trees reduce noise pollution inherent in urbanized environments. When planted in groups 35-100 feet wide, trees can effectively reduce noise pollution. When planted on earth berms that are tall enough to hide the noise source, traffic noise can be reduced by half. Trees are also highly effective when used in conjunction with walls that reach the base of the tree crowns (World Forestry Center, 1989). Trees and the wildlife they attract also provide "white noise" of singing birds and rustling leaves that can mute the noises of urban environments.

Wildlife Habitat. Urban forests provide wildlife habitat in urban environments. Trees provide homes and a food source for plants and animals. In turn, plants and animals function to purify air and water enhancing the natural and human environment. They also create opportunities for humans to interact and study plants and animals without venturing far from work or home.

Economic Benefits

Property Values. The beauty and soothing qualities of trees increase property values. Tree-lined streets increase home values by up to 21 percent as compared to homes on streets without trees (Arnold, 1988). Homes landscaped with trees have a 3.5-4% higher value than similar homes without trees. In fact, the Internal Revenue Service recognizes the value of trees to property value by recognizing monetary losses by accidental tree removal or damage.

Energy Savings. The cooling and heat retention functions of carefully sited trees can reap tremendous savings in heating and cooling costs. One tree can provide up to \$273 in environmental savings per year through cooling, erosion and storm water control, wildlife habitat and air pollution reduction. In 50 years, these savings can total almost \$60,000 per tree. Even considering the high maintenance costs of trees, \$2.68 worth of value has been found for every \$1 spent on maintenance (U.S. Forest Service, 1988).

Homeowners can reduce their cooling costs by 10 to 50 percent by planting three deciduous trees around their home. The trees should be planted on the southern and western sides of the house to

block hot afternoon sun in the summer. Homeowners can also reduce their heating costs by strategically planting trees to insulate their house and block cold winds in the winter. Typically, planting coniferous trees, which provide a dense, impermeable barrier year round, on the north side of the house is most effective. Also, deciduous trees planted on the southern and western sides of a house allow winter sun to permeate a dwelling providing additional warmth in the winter, thereby reducing heating costs.

PRESENT SITUATION IN MILWAUKIE

Key question: What do you have?

Description of Tree Resources in the City

- **Street trees.** Street trees are only found in relatively few locations in the city. The majority of these are in the downtown or are associated with new commercial development. Some of these trees are either inappropriate as street trees and/or improperly maintained.
- **Undeveloped properties.** The remaining undeveloped properties in the city are typically small, ranging in size from one-half to five acres. Of these, a significant number have mature trees which are likely to be lost if they are developed using existing development practices.
- **Developed properties.** The number and type of trees on developed properties varies, particularly with the age of the development. Residential properties in the older sections of the city tend to have larger lots with mature trees that were retained or planted at the time of development. New residential and commercial development is generally characterized with younger ornamental trees and a few mature trees that were saved during development. Many of these developments lack any mature, native trees.

Existing Urban Forestry Management and Protection Programs

- **Existing city programs.** The city presently does not sponsor any programs to promote good urban forest management.
- **Existing city regulations.** The city has a number of regulatory provisions in the Zoning Ordinance which either require or encourage tree preservation. Chapter 319 Planned Development Zone, allows flexibility in residential development which can make it easier for a developer to reach the allowed density for the property while preserving significant natural amenities on the property, including trees. Techniques such as density transfer, relaxing dimensional standards (e.g., minimum lot size and building setbacks), and density bonuses all provide opportunities for developers to preserve rather than remove trees.

Chapter 320 Willamette Greenway Zone provides some protection of trees within the greenway.

Chapter 322 Natural Resource Overlay Zone requires the protection of identified significant areas such as wetlands and stream corridors. Because significant trees are typically associated with these environmentally sensitive areas, they are protected by this section of the Zoning Ordinance.

Finally, the Zoning Ordinance has minimum landscaped area standards for each zoning district, as well as general landscaping provisions. However, the ordinance does not include specific landscaping standards for developing properties or for street trees.

Issue Statement

To protect and enhance the urban forest the following issues must be resolved and integrated into the urban forestry program.

Overmature Trees. In areas where the urban forest was planted at the same time, new trees should be phased in before the entire forest is overmature.

Tree Replacement. As trees are removed because of disease, age or accidental damage, they need to be replaced.

Tree Removal. Diseased and dangerous trees should be removed to protect people and property as well as the remaining tree stock from damage.

Tree Siting. Standards should require spacing for tree planting and safe distances from intersections, driveways and paved areas.

Appropriate Tree Species. Certain tree characteristics should be required according to the neighborhood or district in a community. For example, large leafed, broad-headed trees that create interlocking canopies across the width of city streets are often appropriate for neighborhood areas, whereas in commercial areas with large delivery trucks, narrower trees may be more appropriate. Also, certain tree species are better than others at providing cooling and absorption of pollution.

Tree Size Requirements. In urban areas, larger caliper trees must be installed to prevent accidental damage and vandalism.

Historic Tree Species. In areas which have historically planted certain tree species, the same or similar species must be used as replacements to retain the area character.

Native Tree Replacement. An urban forest must also preserve and/or restore the native landscape. Although many native trees are inappropriate street trees due to leaf litter and shallow roots, they should be planted in places such as parks, residences, plazas and greenways as often as the plant palette allows.

Protecting Existing Trees. Guidelines should be developed which outline a health observation and maintenance schedule for existing trees, providing a process for protecting trees during construction activities, and installing protective measures such as tree grates for better tree health.

Landowner Education. Landowners must be educated on properly maintaining good tree health. Improper pruning practices should be discouraged, and access to pest control and the proper procedures for tree removal should be provided.

CITY OF MILWAUKIE URBAN FORESTRY PROGRAM

Key question: What does the city want to achieve?

Vision Statement

The Vision of the Milwaukie Urban Forestry Program is to distinguish Milwaukie as a "Place of Trees." Each gateway to the city and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

Mission Statement

It is the Mission of the city to implement the Milwaukie Urban Forestry Program based on the Tree City USA standards, which will increase the existing stock of trees by insuring that more trees are planted, and to provide for an ongoing public education program which promotes the proper conservation, planting, pruning, and removal of trees.

Program Goals

The Urban Forestry Program has goals for three basic program elements which are:

- Education;
- City sponsored programs; and
- City regulations.

Under each of these program elements are actions which are intended to implement the goals. These actions are related to:

- *Significant trees* which are of special importance to the City or a neighborhood, because of their age, type, notability, or historical association.
- *Public spaces* that include public properties and street rights-of-way.
- *Underdeveloped or undeveloped lands* which have not been developed to the full extent permitted under the current development regulations.
- *Developed lands* which are developed to the full extent permitted by the current development regulations.
- *Natural resource areas* that include wetlands, flood plains, drainage ways, that are designated as a Natural Resource Overlay Zone in the Zoning Ordinance.

Education

Goal

To increase the public awareness of the importance of the urban forest, the benefits of retaining trees, and the methods for their protection by working with other agencies, groups, and individuals.

Actions

- **Significant Trees**

Education and assistance for maintenance and protection of trees in the city which are of unique importance because of their age, type, notability, or historical association.

- **Public Spaces**

Produce a brochure about planting, protection, and proper maintenance of street trees for distribution to property owners.

- **Underdeveloped or Undeveloped Lands**

Provide education and assistance for maintenance, protection, and planting of trees on these properties.

Provide information to property owners regarding the benefits of saving mature trees and the ways in which the city's development regulations allow full property development and protection of existing trees.

- **Developed Lands**

Provide education and assistance to property owners for maintenance, protection, and planting of trees to enhance the urban forest.

Focus educational efforts with property owners to increase the urban forest canopy in areas with few trees.

- **Natural Resource Areas**

Provide information to property owners regarding the benefits of protecting natural areas and the ways in which the city's development regulations allow full property development and protection of these resources.

City Sponsored Programs

Goals

To develop and maintain publicly sponsored programs to preserve and enhance the urban forest.

To set a positive community example by actively promoting the protection and maintenance of existing trees and the planting of trees on public properties and street rights-of-way.

Actions

- **Significant Trees**

The city shall conduct an inventory of potentially significant trees in the city.

- **Public Spaces**

The city shall establish a tree planting program for street trees in the city, first concentrating efforts in commercial areas of the city and on public properties.

The city shall work to enhance the urban forest on city properties as well as work with other public agencies to enhance the urban forest on public lands.

- **Underdeveloped or Undeveloped Lands**

The city shall work with property owners to improve the urban forest through tree planting and improved care and maintenance of existing trees.

- **Developed Lands**

The city shall work with property owners to improve the urban forest on developed public lands through tree planting and improved care and maintenance of existing trees.

- **Natural Resource Areas**

The city shall work to improve the urban forest in publicly owned natural resource areas through tree planting and improved care and maintenance of existing trees.

City Regulations

Goals

To establish city regulations to protect the urban forest and significant trees that are clear and well integrated with related city requirements and standards.

To provide regulatory incentives to encourage property owners and developers to meet or exceed city standards for tree protection and planting.

Actions

- **Significant Trees**

Establish a significant tree designation process in the city Zoning Ordinance to provide protection to trees in the city that are of unique importance.

- **Public Spaces**

Establish requirements for planting, proper maintenance, and protection of street trees.

- **Underdeveloped or Undeveloped Lands**

Establish standards and procedures for removal, protection, and preservation of trees during development to maintain the maximum possible number of trees, while allowing development as provided by the applicable land use requirements.

Establish incentives to encourage developers to meet or exceed minimum tree protection and planting standards.

Establish standards to help mitigate the necessary loss of trees during the development of property.

Establish specific landscaping standards that include trees in landscaped areas of new developments and street tree planting in the adjacent street rights-of-way.

- **Developed Lands**

Establish specific landscaping standards that require trees in landscaped areas and street tree planting in the adjacent street rights-of-way when nonconforming properties are redeveloped. The extent of these requirements should vary depending upon the extent of the proposed redevelopment.

- **Natural Resource Areas**

Continue to protect natural resource areas as provided in Chapter 322.

PROPOSED URBAN FORESTRY PROGRAM

Key question: How do get what you want?

Program Management

The Urban Forestry Program is proposed to be managed by the Milwaukie Urban Forestry Commission (MUFC) with support by other existing city committees and decision makers, the city staff, volunteer groups, government agencies, and individuals.

- **The Milwaukie Urban Forestry Commission (MUFC)**

The city shall create the MUFC consisting of five members. The members shall include citizens and others with established professional expertise in the areas or landscape architecture, arboriculture, or related field. The following factors shall serve as criteria in making appointments to the Commission:

1. Citizens interested in trees as a major component of Milwaukie's physical and aesthetic environment.
2. A minimum of two members of the Commission shall have professional background in landscape architecture or design, arboriculture, ornamental horticulture, or related field.

The MUFC shall be appointed by the City Council. The terms of office shall be three years and until their successors are appointed and qualified. Terms for the five members shall be staggered so that one or two commissioner positions are up for appointment each calendar year. Members may serve consecutive terms. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate council action.

Vacancies on the MUFC shall be filled by appointment by the mayor, subject to approval of the City Council

The MUFC shall hold regular meetings at least once each month, and may hold such additional meetings as it deems necessary. A majority of the Commission shall constitute a quorum of the purpose of transacting the business of the Commission. The MUFC shall, as soon as practical after the time of annual appointments of a member of the Commission, elect a chairperson and vice-chairperson.

The Commission shall keep a public record of all proceedings, resolutions, findings, determinations, and transactions, which shall be filed with the City Clerk.

The duties of the MUFC shall be:

1. To study the problems and determine the needs of the city's Urban Forestry Program.

2. To develop a recommended Urban Forestry Program for review and adoption by the Planning Commission and City Council.
3. To develop recommended amendments to city regulations that support the adopted Urban Forestry Program for review and adoption by the Planning Commission and City Council.
4. To determine the type of trees to be planted in public places and street rights-of-way.
5. To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal, and planting of trees on public and private lands.
6. To work with other agencies, volunteer organizations, and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
7. To prepare an annual program for tree care and tree planting in public places in the city.
8. To conduct a city-wide survey and inventory of significant trees.

- **Decision Makers and Other Committees**

Decision makers including city staff, the Planning Commission, and the City Council will be responsible for implementation of all of the regulatory provisions enacted as part of the Urban Forestry Program. This will primarily occur during the review of land development applications.

Other advisory committees such as the Parks Committee and the Historic Review Committee should be advised of the Urban Forestry Program and the ways in which they can support the program.

- **City Staff**

Any regulatory provisions related to the Urban Forestry Program will involve the city staff in five primary ways:

1. Staff support for the MUFC.
2. Communication with prospective applicants for land development and ensuring these individuals are aware of the related standards.

3. Review of administrative land development applications including land use applications and building permits to ensure compliance with Urban Forestry Program code requirements.
4. Staff report and recommendations for land use applications that require Planning Commission and/or City Council approval.
5. General code enforcement of Urban Forestry Program regulations (e.g., tree cutting provisions on undeveloped land).

A major issue here is how to provide this necessary staff support. Currently, the city staff does not have any specific forestry-related duties other than enforcement of existing code requirements for natural areas and the Willamette River Greenway which indirectly protect trees. Options could include a new city forester position or assigning specific responsibilities to a number of staff departments or individuals.

- **Other Parties**

In order to build grass-roots (tree-roots?) support for the program, volunteer groups, other agencies, property owners, etc. should be actively engaged in the city's Urban Forestry Program. This will enhance the city's efforts and provide greater tangible results that in turn will create more support and excitement about the program.

Education Program

- The MUFC shall establish public information and education programs to promote the protection, maintenance, and enhancement of the urban forest. These programs shall offer education to all sectors of the public, including private property owners, developers, school children, city employees, neighborhood associations, and other groups interested in tree preservation.
- The city shall develop materials that describe quantifiable benefits of trees, tree care, related regulations (including this Section), and resources.
- The City shall develop an educational program on pests, diseases, invasive nonnatives, and other threats to the urban forest, and will encourage biological controls and organic maintenance practices.
- At a minimum, the City shall review its inventory of "Significant" trees and notify property owners at 3-year intervals of the existence of a "Significant" tree on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.
- Educational activities carried out by other groups.

City Sponsored Programs

- Participate in the Tree City USA program by establishing a program for tree planting, education, and regulation that is supported by annual city funding of \$1.00 per capita.
- Work with other organizations, such as Friends of Trees, to implement tree planting and care programs.

City Regulations

- **Program Description**

This portion of the program will be the most successful with an education program. Often the key to a successful regulatory program is community understanding and support of the purpose of the code requirements. In addition, a major emphasis should be given to providing incentives so developers actually want to meet or exceed tree protection and planting standards.

- **Proposed Regulatory Amendments**

City of Milwaukie Comprehensive Plan policies to support the urban forestry program.

City of Milwaukie Zoning Ordinance provisions to regulate removal of trees and planting of street trees in conjunction with development applications.

City of Milwaukie Subdivision Ordinance provisions to require street trees as part of the public improvement standards.

Municipal Code provisions to create the Milwaukie Urban Forestry Commission, identify MUFC duties, establish a process for designating and protecting significant trees, and establishing penalties for code violations.

Program Cost

- New staff responsibilities and time/monetary commitment.
- Involvement of volunteer groups.
- Funding options (e.g., general fund, fees, grant programs, etc.).

PROPOSED MONITORING PROGRAM

Key question: Are you getting what you want?

The method for measuring the performance of the program should be described. This should include how the urban forest has been maintained or enhanced by the program and how it has worked administratively for the city as well as property owners and developers.

kl.HD/ACT.Comp. Plan Revision 255
Urban Forestry Prg. Dft/2

ATTACHMENT B
2 PAGES

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RAMIS
CREW
DRRIGAN &
BACHRACH, LLP

ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Alice Rouyer, Planning Director

FROM: James M. Coleman, City Attorney's Office

DATE: September 16, 1999

RE: Code Formatting for Tree Regulations

The October, 1996 draft of the proposed tree regulations is formatted such that it is proposed to be a single unified code chapter. For reasons that we have discussed, the single chapter approach doesn't fit well with the existing structure of the Milwaukie Code (MMC). I have some suggestions on the placement in the code of the various sections of the 1996 draft. These suggestions assume that the recommendations you have made concerning program oversight and the role of the master plan are ultimately adopted. The section references are to the 1996 draft.

MMC Title 16 houses most of the City regulations relating to environmental protection. Currently MMC Chapter 16.32 contains the City's tree cutting regulations. These were adopted last year and address only cutting of trees in the public right of way. The definitions used were taken from the 1996 draft, with some modification. I suggest that 16.32 be used as the focal point for the regulatory provisions relating to trees.

MMC 16.32 will include draft sections .010, Purpose; .020, Definitions; .080, Street Trees and Trees in Public Places; .090, Tree Removal on Undeveloped and Underdeveloped Land; .100, Significant Trees and Groves of Trees; and 110, Penalties and Mitigation (modified to coordinate with MMC 1.08, Code Enforcement Procedures). Some redrafting will occur to all sections for clarification purposes. Parallel references will be placed in the Zoning Ordinance and the Subdivision code, MMC Title 17, to make clear reference to the approval standards which apply in the development review processes. The "Type II" administrative review process from the Zoning Ordinance, MZO 1011.2, will be referenced and used for the administrative decision making processes related to trees.

Memorandum re:
September 16, 1999
Page 2

The City Council gave direction that the duties assigned in draft section .030 to the Urban Forestry Commission will be split and assigned to the Planning Commission (regulatory), MMC 2.16; and the Park and Recreation Board, MMC 2.12 (policy and oversight). The referenced chapters will be amended to reflect the additional responsibilities.

Decisions must be made on the remaining sections of the draft, .040, Duties of the Community Development Director; .050, Master Plan; .060, Education; and .070, License.

If the license requirements are adopted they logically fit within MMC Title 5, Business Taxes, Licenses and Regulations. Title 5 currently contains the city licensing and regulatory requirements for a limited number of targeted business types. This special license requirement for "tree care" is similar to the other licensing requirements of Title 5.

Most of the provisions of the other sections are not of a regulatory nature and do not need to be placed in the City Code. The duties defined for the Director are restatements of administrative responsibilities that currently exist and that are not unique to the urban forestry program. The creation and administration of a Master Plan document can be referenced generally in the Park and Recreation Board scope of responsibilities, along with the desire for an active education program. The regulatory components of the Master Plan will be included in the MMC, as outlined above, with the directory components included in the policy document adopted and administered by the Park and Recreation Board.

These suggestions are one, and not the only way to integrate the proposed tree regulatory program into the MMC. First and most importantly the staff must receive policy direction on the issues you raise in the companion memo. Once those choices are made, a discussion can occur on the most effective placement of the regulatory provision in the code.

Please give me a call if you have questions concerning the recommendations in this memo.

SECTION XX.XX - MILWAUKIE MUNICIPAL CODE**URBAN FORESTRY****Annotated Discussion Draft****October 31, 1996**

(related sections from 3/4/96 draft)

XX.XX.010 Purpose (1501)

The purpose of this Section is to facilitate the implementation of an Urban Forestry Program, based on Tree City USA standards, which will increase the existing stock of trees by insuring that more trees are planted, and to provide for an ongoing public education program which promotes the proper conservation, planting, pruning, and removal of trees. The vision is to distinguish Milwaukie as a "Place of Trees." Each gateway to the City and every public place and parkway will be distinguished by a canopy of colorful and majestic trees.

XX.XX.020 Definitions (1502)

Arboriculture: Refers to that part of horticulture which deals with the study and care of trees and other woody plants.

Canopy: Area of the tree above ground, including the trunk and branches, measured in mass or volume.

City: City of Milwaukie.

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

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

Dead tree: The tree is lifeless.

Developed land: A parcel or parcels of land developed to the full extent permitted by the current development regulations.

Drip line: The perimeter measured at the outermost canopy.

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

Grove: A stand of three or more trees of the same species or mix, which form a visual and biological unit.

ISA: International Society of Arboriculture.

Major pruning: Removal of over 20 percent of the trees canopy, or injury or cutting of over 10 percent of the root system, during any 12-month period.

MUFC: Milwaukie Urban Forestry Commission.

Owner: Includes, for the purposes of this Section, any person with a freehold interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owners consent.

Person: Any individual, firm, association, corporation, agency, or organization of any kind.

Pruning: Trimming or removing any part of the branching structure of a plant in either the crown, trunk, or root areas based on standards of the International Society of Arboriculture (ISA).

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

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

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

Significant tree: A tree which has been designated by the MUFC to be of special importance to the City or a neighborhood, because of its age, type, notability, or historical association. significant trees include all trees within a Natural Resource Overlay Zone or jurisdictional wetland.

Street tree: Any tree located within a street right-of-way.

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

Tree: Any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a definitely formed crown.

Underdeveloped land: A parcel or parcels of land which have not been developed to the full extent permitted under the current development regulations.

Undeveloped land: A parcel or parcels of land which have not been committed to development permitted under the current development regulations. A vacant, platted subdivision lot or partition parcel is considered undeveloped for purposes of this section.

Urban forest: An urban forest is the integrated system of plants, animals, soil, air, water and people that exist in and around human communities. The urban forest includes all of the vegetation in our communities ranging from our residential landscapes to industrial plantings. It includes trees living on undeveloped, rural sites to those planted alongside transportation corridors.

Comment: The definitions still need work. A clear set of definitions will save staff time (probably yours!) making interpretations and resolving misunderstandings.

XX.XX.030 Milwaukie Urban Forestry Commission (introduction)

- A. The city shall create the Milwaukie Urban Forestry Commission (MUFC) consisting of five members. The members shall include citizens and others with established professional expertise in the areas or landscape architecture, arboriculture, or related field. The following factors shall serve as criteria in making appointments to the MUFC
1. Citizens interested in trees as a major component of Milwaukie's physical and aesthetic environment.
 2. A minimum of two members of the MUFC shall have professional background in landscape architecture or design, arboriculture, ornamental horticulture, or related field.
- B. The MUFC shall be appointed by the City Council. The terms of office shall be three years and until their successors are appointed and qualified. Terms for the five members shall be staggered so that one or two commissioner positions are up for appointment each calendar year. Members may serve consecutive terms. The members shall serve without compensation, but all necessary expenses shall be paid by appropriate City Council action.
- C. Vacancies on the MUFC shall be filled by appointment by the mayor, subject to approval of the City Council

- D. The MUFC shall hold regular meetings at least once each month, and may hold such additional meetings as it deems necessary. A majority of the MUFC shall constitute a quorum of the purpose of transacting the business of the MUFC. The MUFC shall, as soon as practical after the time of annual appointments of members, elect a chairperson and vice-chairperson.
- E. The MUFC shall keep a public record of all proceedings, resolutions, findings, determinations, and transactions, which shall be filed with the City Clerk.
- F. The duties of the MUFC shall be:
1. To study the problems and determine the needs of the city's urban forestry program.
 2. To develop a recommended Urban Forestry Master Plan for review and adoption by the City Council.
 3. To develop recommended amendments to city regulations that support the adopted Urban Forestry Master Plan for review and adoption by the City Council.
 4. To determine the type of trees to be planted in public places and street rights-of-way.
 5. To assist the city in the distribution of educational and promotional materials regarding the protection, maintenance, removal, and planting of trees on public and private lands.
 6. To work with city departments, other agencies, volunteer organizations, and individuals to educate the public about the benefits of a healthy urban forest and the actions citizens can take to enhance the urban forest.
 7. To prepare an annual program for tree care and tree planting in public places in the city.
 8. To conduct a city-wide survey and inventory of significant trees.
 9. To conduct public hearings.

Comment: The work load will probably be slightly less if this body is a board, but guidance and assistance from the city staff will be needed for development and implementation of educational and other programs as well as clerical assistance for meetings, agendas, etc..

XX.XX.040 Community Development Director

- A. The Community Development Director or designee shall assist the Milwaukie Urban Forestry Commission in the discharge of its duties.
- B. When requested by the MUFC, the Community Development Director may retain the services of appropriate professionals to advise the MUFC.
- C. The Community Development Director shall periodically update specifications for planting, pruning, removing, and maintaining trees. Prior to implementation, all amendments to specifications shall be reviewed by the MUFC and adopted by the City Council.
- D. The Community Development Director shall prepare the annual budget for the urban forestry program.
- E. The Community Development Director shall provide all supervision of tree planting, maintenance, and removal conducted by city employees as well as all city regulations which implement the adopted Urban Forestry Master Plan.
- F. The Community Development Director shall maintain a list of approved varieties of trees that may be planted within any street right-of-way or other public area, consistent with the provisions of the plan.

Comment: There clearly is some start-up work for your department. Also the on-going staff time commitment could vary significantly depending upon the scope and number of tree programs.

XX.XX.050 Urban Forestry Master Plan

- A. The Milwaukie Urban Forestry Commission shall develop and periodically recommend amendments to the Milwaukie Urban Forestry Master Plan and implementing measures which at a minimum, include the following:
 - 1. Educational programs sponsored by the city to increase public awareness and interest in the Milwaukie Urban Forest Master Plan;
 - 2. Urban forestry programs to maintain or enhance the urban forest;
 - 3. Designation and protection of significant trees or groves of trees;
 - 4. Regulations relating to planting, maintenance, or removal of street trees and trees in other public spaces;

5. Regulations relating to tree removal on undeveloped or underdeveloped land; and
 6. Tree protection during development of property.
- B. When all or a portion of this plan is developed, it shall be submitted for public hearings before the MUFC and City Council. The City Council shall determine if the plan should be adopted and implemented.

Comment: The various staff commitments are discussed throughout this report.

XX.XX.060 Education (1504)

- A. The MUFC shall establish public information and education programs to promote the protection, maintenance, and enhancement of the urban forest. These programs shall offer education to all sectors of the public, including private property owners, developers, school children, city employees, neighborhood associations, and other groups interested in tree preservation.
- B. The MUFC shall develop materials that describe quantifiable benefits of trees, tree care, related regulations, and resources.
- C. The MUFC shall develop an educational program on pests, diseases, invasive non-native, and other threats to the urban forest, and will encourage biological controls and organic maintenance practices.

XX.XX.070 Tree Care License (1503)

A. Permit Requirements

Any person engaged in the business of removing, pruning, or trimming trees in the city of Milwaukie shall hold a valid Tree Care License, in addition to a regular Business License, to conduct business in the city.

- B. To obtain a Tree Care License the applicant must comply with the following:
 1. Proof of public liability and property damage insurance in an amount to be set by the city. This proof needs to be filed with the city at the time of each renewal and must remain in force for the term of the permit.
 2. Proof that at least one member of the staff is an arborist certified by the ISA and that this member is responsible for the work performed under the Tree Care License.

3. All work must comply with the rules and objectives of this title. All work is subject to inspection by the city for compliance with city standards.
4. All tree care or tree maintenance companies holding a valid City Business License at the time this Section becomes effective will have one full year to meet the above standards.

C. Revocation of the Tree Care License

The Community Development Director may revoke or suspend the license for any of the following reasons:

1. Failure to provide or continue the insurance required to maintain the license.
2. Failure to uphold the good standards of tree care required by the city.
3. Irresponsible or unethical business practices.
4. Reckless or endangering practices on the job site.
5. Failure to comply with the requirements of the Urban Forestry Master Plan.

- D. License revocation or suspension may be appealed to the City Manager's Office within 10 days of notification. All decisions by the City Manager's Office will be final and not subject to further appeals.

Comment: As we discussed, this could become a very significant administrative and enforcement task. Notifying contractors, many of which are small operators that come from outside of the city, would be difficult to monitor along with responding to citizen complaints. Are general business licenses required for landscapers, etc.? If so, I recommend that the city develop an education component that is coordinated with the business licenses program. If a tree care license is required, it probably makes the most sense to train your code enforcement officer to deal with this task.

XX.XX.080 Street Trees and Trees in Public Places (1505)

- A. Permit for Major Pruning or Removal of Street Trees or Trees in Public Places

1. Applicability

No person shall conduct major pruning or removal of any tree in a city park, street right-of-way, or other public place, without a permit issued by the city of Milwaukie. Tree pruning, as defined in this title, shall not require a permit. This Section does not apply to significant trees or groves of trees in Section XX.XX.100.

2. Review Process

- a. A permit application for major pruning or tree removal shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The applicant shall post notice of the major pruning or removal permit application on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
- c. The notice shall state that the tree removal permit(s) is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request that a hearing be held on the application by filing a written request for a hearing within 14 days of the date of the posting.
- d. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
- e. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the major pruning or removal request.
- f. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to this Section.
- g. The major pruning or tree removal permit(s) shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a hearing. The applicant shall maintain the posting and marking for the full 14 days.

3. Approval Standards

The Community Development Director shall issue permits to property owners for major pruning or removal of street trees or trees in public places, only if one or more of the following criteria are satisfied:

- a. There is need for the proposed major pruning will be done according to ISA standards, and qualified persons will perform the work.
 - b. It is determined by the arborist that the tree is dead or diseased and cannot be saved, according to current ISA standards.
 - c. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.
 - d. The tree has lost its value as a street tree due to damage from natural or accidental causes, or for some other reason it can be established that it should be removed.
 - e. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, or adjacent property, or the general public. If an imminent hazard exists, the Community Development Director may issue an emergency permit for removal. The removal shall be accomplished in accordance with accepted arboricultural standards.
4. All work performed on street trees pursuant to a permit issued by the Community Development Director under this Section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the Community Development Director.
 5. For the removal of a street tree, the Community Development Director may condition the permit with a requirement to replace the tree, when determined to be appropriate by the Director. In such case, the full cost of removal and replacement shall be borne by the owner.

B. Planting - Street Trees

1. Applicability

No person shall plant a tree within a street right-of-way or public place without a permit issued by the city of Milwaukee.

2. Review Process

- a. An application for a street tree planting permit shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. A planting plan shall be submitted as part of the application.

- c. Planting procedures must follow ISA standards, which are available from the Community Development Department.

3. Approval Standards

The Community Development Director shall issue permits to plant street trees or trees in public places when the proposed trees and their location and spacing are consistent with the Milwaukie Urban Forestry Master Plan.

4. New or Improved Streets

Any new public street, proposed change in a public street right-of-way, or improvement of an existing street shall, where feasible, include allowances for tree and landscape planting. Plans and specifications for planting such areas shall be integrated with review and approval of these plans by the City Engineer in coordination with the Community Development Director.

Comment: Once I get some additional information from other cities about how they handle trees in the right-of-way, we can discuss our options more intelligently.

XX.XX.090 Tree Removal on Undeveloped and Underdeveloped Land (1507)

A. Applicability

1. This Section does not apply to significant trees in Section XX.XX.100.
2. This Section does not apply to tree removal which is reviewed pursuant to any other provisions of the Milwaukie Zoning Ordinance or Subdivision Ordinance.
3. The requirements of this Section apply to the removal of trees on undeveloped or underdeveloped, commonly-owned, contiguous property under the following conditions:
 - a. The trees to be removed have a circumference of 20 inches or greater, measured 4 1/2 feet above the ground;
 - b. More than 3 trees which meet or exceed the size threshold in Section A. 3. a. are removed in a calendar year on properties smaller than 35,000 square feet; and
 - c. More than 6 trees which meet or exceed the size threshold in Section A. 3. a. are removed in a calendar year on properties equal to or larger than 35,000 square feet.

Comment: I assume that the revised code will include a lower threshold that will exclude smaller, developed lots. The staff time here could be significant because of the education that would be needed to make property owners aware of the regulations as well as the time for enforcement and response to complaints. Some prohibition to tree removal on undeveloped property is needed to help prevent clearing property before submitting a development application.

B. Tree Removal Permit

The Community Development Director shall review a tree removal permit application according to the following provisions:

1. Review Process

- a. The property owner shall submit an application for tree removal to the Community Development Department on forms provided by the Community Development Director.
- b. The applicant shall post notice of application for a tree removal permit on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
- c. The notice shall state that the tree removal permit(s) are pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request that a hearing be held on the application by filing a written request for a hearing within 14 days of the date of the posting.
- d. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
- e. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the removal request.
- f. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to this Section.
- g. The tree removal permit or permits shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a hearing. The applicant shall maintain the posting and marking for the full 14 days.

2. Approval Standards

The Community Development Director shall issue permits to property owners to remove trees only if one or more the following conditions are met:

- a. Trees will be retained along natural drainageways and water areas to preserve riparian habitats and to minimize erosion.
- b. Trees will be retained along property lines to serve as buffers to adjacent property.
- c. Trees will be retained in sufficiently large areas and in dense stands to ensure against wind throw.
- d. The trees to be removed pose a safety hazard to pedestrian or vehicular traffic, threaten to cause disruption of public services, or pose a safety hazard to persons or buildings.
- e. The trees to be removed are diseased or weakened by age, storm, fire, or other injury.

XX.XX.100 Significant Trees and Groves of Trees (1509)

A. Significant Tree Designation

1. Inventory of Significant Trees and Groves of Trees

- a. An inventory shall be prepared which includes those trees that potentially meet the significant tree designation criteria in Section XX.XX.100 A. 3.
- b. The MUFC shall conduct an inventory of significant trees and groves of trees within the city. Members of the MUFC or other volunteers may collect the inventory information. To complete a tree inventory, information about the tree population shall be gathered systematically. Inventory information shall include size, location, general tree condition, and maintenance needs of the trees listed. The public shall be encouraged to provide recommendations for designations. The MUFC shall review and update the significant tree inventory annually.

- c. Property annexed to the City shall have an inventory made of significant trees, and those trees shall be added to the inventory list within 6 months of annexation.

2. Designation of Significant Trees

- a. The MUFC, City Council, Planning Commission, Historic Review Commission, a property owner, or any other person, organization, or legal entity may recommend to the city that a tree be designated as a significant tree.
- b. The MUFC shall hold at least one public hearing on the proposed significant tree designations pursuant to the Major Quasi-Judicial review procedures in Section 1011.4. The MUFC shall substitute for the Planning Commission.
- c. If the City Council approves a significant tree designation or designations, the MUFC shall establish or amend the list of designated significant trees and groves of trees accordingly.
- d. The significant tree designations may be amended at any time, following the procedures established for the original list (Section 1011.4). Any party, as described in Section XX.XX.100 A. 2. a., may initiate proceedings to remove the designation of a tree or grove as significant.
- e. At a minimum, the city shall review its list of designated significant trees/tree groves and notify property owners at 3-year intervals of the existence of designation on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.

3. Designation Criteria

a. Individual Significant Trees

An individual tree or grove of trees shall be considered significant based on one or more of the following findings:

- (1) The tree has a distinctive size, shape, age, or location which warrants a significant status.
- (2) The tree has special botanical significance as a specimen in the Milwaukie area.
- (3) The tree is significant due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or other wildlife habitat.

- (4) The tree is significant based upon its association with historic figures, properties, or general growth and development of the city.

b. Significant Groves of Trees

A grove shall be considered significant based on one or more of the following findings:

- (1) The grove is relatively mature and is in a state of health which would warrant preservation.
- (2) The grove has a purity of species composition, is of rare or unusual nature, and/or is an exceptional example of a type of forest such as riparian or woodland.
- (3) Unique species, including but not limited to, Oregon White Oak, Giant Sequoia, Dogwood, and other native and nonnative species.
- (4) The grove has a crucial functional and/or aesthetic relationship to a natural resource or wildlife habitat.
- (5) The grove has historic significance, based on its association with historic figures, properties, or general growth and development of the city, as determined by the Historic Review Commission.
- (6) Over 60 years old determined by such indicators as:
 - (a) The age of the buildings in the area.
 - (b) The bark character of the tree.
 - (c) Information obtained from residents of the area.
 - (d) The ring counts of nearby stumps for comparison of age.
- (7) Visibility from the right-of-way of public streets.
- (8) Relative value

B. Removal of Significant Trees or Groves of Trees

1. Applicability

This Section does not apply to tree removal which is reviewed and approved pursuant to any other provisions of the Milwaukie Zoning Ordinance and Subdivision Ordinance.

2. Review Process

- a. An application for removing a significant tree or grove of trees shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The property owner or authorized agent must submit information on the location and size of the parcel; the location, type, and size of the tree(s) in question; and the reason for the desired action. The information and reasons shall address any appropriate criteria based on the type of area and tree designation. The City shall require the verification of any stated tree illness, safety problem, etc. by an arborist certified by the ISA, paid at the expense of the applicant.
- c. If justification for removal is based upon the health of the tree, and a visual inspection by the Community Development Director cannot establish that the tree is dead or dying, the applicant shall submit a report from an ISA-certified arborist attesting to the condition of the tree.
- d. If the tree is dead or it is determined by an ISA-certified arborist that it cannot be saved, the Community Development Director shall approve the removal application in accordance with a Type I administrative review process.
- e. If justification for removal is due to reasons other than health of the tree, the Community Development Department shall prepare a report evaluating the need or desire to remove the tree and make a recommendation. The report shall be forwarded to the MUFC which shall hold a public hearing on the matter, pursuant to Section 1011.3, Minor Quasi-Judicial review, with the MUFC taking the place of the Planning Commission.
- f. If an imminent hazard exists, the Community Development Director may issue an emergency permit for removal without a hearing before the MUFC. The removal shall be accomplished according to ISA standards.

3. Approval Standards

The application for removal of a significant tree, for reasons other than the health of the tree, shall be approved by the MUFC if the request satisfies one or more of the following criteria:

- a. That the tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.

- b. That the tree has lost its significance, in terms of its original designation on the list, due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of significance.
- c. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, or adjacent property, or the general public.

C. Major Pruning of Significant Trees or Grove of Trees (1511)

1. Applicability

This Section applies only to major pruning of significant trees or groves of trees.

2. Review Process

- a. An application for major pruning of significant trees or grove of trees shall be submitted to the Community Development Department on forms provided by the Community Development Director.
- b. The property owner or authorized agent must submit information on the location and size of the parcel; the location, type, and size of the tree(s) in question; and the reason for the desired action. The information and reasons shall address any appropriate criteria based on the type of area and tree designation. The City shall require the verification of any stated tree illness, safety problem, etc. by an arborist certified by the ISA, paid at the expense of the applicant.
- c. The Community Development Director shall prepare a report evaluating the need perform major pruning and make a recommendation. The report shall be forwarded to the MUFC which shall hold a public hearing on the matter, pursuant to Section 1011.3, Minor Quasi-Judicial review, with the MUFC taking the place of the Planning Commission.
- d. If an imminent hazard exists, the Community Development Director may issue an emergency permit for major pruning without a hearing before the MUFC. The major pruning shall be accomplished according to ISA standards.

3. Approval Standards

An application for major pruning shall be approved if the person or company performing the work has a valid Tree Care License as provided in Section XX.XX.070; the major pruning shall be accomplished according to ISA standards; and the request satisfies one or more of the following criteria:

- a. It is determined by the arborist that the tree is diseased and major pruning, according to current ISA standards, is necessary to save the tree.
 - b. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and major pruning is required to prevent damage to such improvements or property.
 - c. That the tree has been determined by a certified arborist to be unsafe to the occupants of the property, adjacent property, or the general public, and major pruning is necessary to resolve the problem.
4. Conditions of Approval

All permits for major pruning shall be issued subject to the following conditions:

- a. Trees subject to this Section shall be removed or pruned following pruning standards of the ISA; those standards shall be provided to all applicants by the city at the time the permit is issued.
 - b. It is the responsibility of the applicant to assure that all significant trees are removed or pruned in a manner which insures safety to individuals and to public and private property.
 - c. For the removal of a tree, the MUFC may condition the permit with a requirement to replace the tree. In such case, the full cost of removal and replacement shall be borne by the owner.
 - d. Other conditions, as the MUFC shall attach, in keeping with the purpose and intent of this Section.
5. Permit Exemptions

- a. Imminent danger. If an imminent danger exists to the public, or any property owner or occupant, the Community Development Director may issue an emergency removal permit. The removal shall be in accordance with ISA standards and be the minimum necessary to eliminate the imminent danger.

Penalty for incorrect danger assessment. If it is determined that imminent danger did not exist, or that the hazardous condition had existed for over 60 days and the owner delayed in applying for a permit, mitigation by the property owner shall be required as established in Section XX.XX.110 C.

- b. Maintenance. Regular maintenance or pruning (as defined in this title) which do not require removal of over 20 percent of the trees canopy, tree topping, or disturbance of over 10 percent of the root system during any 12-month period.

6. All work performed pursuant to a permit issued under this Section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the approval authority.

Comment: I am assuming that this will be deleted and no staffing considerations are necessary.

XX.XX.110 PENALTIES AND MITIGATION (1512)

A. Voluntary Compliance and Penalties

Any violation of the terms of this title, its plans, or conditions of approval of any permit issued is a Class A infraction. Each calendar day of violation of the terms of this title, its plans, or conditions of approval of any permit issued is a new offense. In addition, the City Attorney shall institute any necessary legal proceedings to enforce the provisions of this Section. These rights shall be in addition to any other remedies allowed by law. Upon discovery of a violation, the City shall notify the violator of the process available for voluntary compliance and the penalty provisions of this Section. The City shall offer the violator an opportunity to enter into a voluntary compliance agreement. If the violator fails to enter into a voluntary compliance agreement, the violator shall be subject to the penalties and procedures of this Section.

B. Tree Removal

1. Voluntary compliance process. A voluntary compliance agreement shall contain the following:
 - a. A commitment by the violator to submit and carry out a tree replacement program which is approved by the City.
 - b. Payment of a fee in accordance with the city's fee schedule established for this purpose. The fee will be calculated based upon staff time devoted to the investigation of the violation and review and approval of the voluntary compliance agreement and related compliance inspections.
 - c. Appropriate mitigation measures as described in Section 1512.2.
2. Penalties. Any person, firm, or corporation causing the removal of a tree protected by this title who does not enter into a voluntary compliance agreement may upon conviction be fined a sum of not less than \$500 or not to exceed the equivalent of 3 times the appraised value of the tree, based on the latest revision of the Council of Tree and Landscape Appraisers' evaluation method, plus the cost of prosecution, including attorneys fees for each tree removed. In addition, conviction shall carry

with it the revocation of all current development permits issued for the site and cause a prohibition on all development of the property to be recorded against the property for a period of 5 years.

C. Removal Mitigation

1. If tree removal (or major pruning resulting in permanent harm to the tree) is completed without receiving a permit; or if tree removal is performed under the imminent danger provision and, after an investigation, it is determined that the danger did not exist, or that the hazardous condition had existed for over 60 days and the owner knowingly delayed applying for a permit; or in any other situation where tree removal was performed in violation of this Title; then replacement is based on the replacement value of the tree, as based on the latest revision of the "Manual of Tree and Landscape Appraisers." Mitigation shall be based on the following alternatives, singularly or in combination:
 - a. Replacement with one or more trees, of a type and size approved by the City, resulting in the same or higher value of the removed tree, except that the value can be no less than the cost of the tree replacement as specified by the ISA's "Guide for Plant Appraisal."
 - b. The replacement value of the removed tree to be paid to the City. Such funds shall be used by the City to plant new trees on public property.
 - c. One or more trees of a species acceptable to the City, in which the caliper size cumulative square inches of the replacement trees equal the caliper size cumulative square inches of the removed tree(s).
 - d. Mitigation shall be completed within one year. The owner shall be responsible for the continued health of the new tree(s) including regular watering.

2. Mitigation completion. Where it is determined that tree removal was performed in violation of this Title, all permit processing on work for that parcel shall be suspended until mitigation is complete.

C. Other Penalties

Violations of this Title are subject to the mitigation requirements described above plus any penalties set forth in the City of Milwaukie Municipal Code.

Comment: I am assuming that this will be changed substantially based on City Council comments.

OR WE COULD HAVE ALL SPECIFICATIONS HERE AS FOLLOWS:

- a. Types of trees
 - (1) Tree selection must be from the foregoing approved "City of Milwaukee Street Tree" list and shall conform to the type, size, and grade.
 - (2) Where street blocks have been assigned one species, cultivar, or variety, only this species, cultivar, or variety may be planted.
 - (3) The size of the tree(s) shall be not less than 1 1/2 inches in diameter at 6 inches above ground level, and at least 10 feet in height in neighborhoods; and 3 inches in diameter and 15 feet in height around public buildings and commercial development.
 - (4) All trees shall have single straight trunks, well developed leaders, and tops and roots characteristic of the species, cultivar, or variety. All plants must be free of insects, diseases, mechanical injuries, and other objectionable features when planted.
- b. Spacing and height requirements and restrictions
 - (1) Trees will be spaced as follows:
 - (a) Small or narrow trees spaced 25 feet to 30 feet apart.
 - (b) Medium trees spaced 30 feet to 40 feet apart.
 - (c) Large trees spaced no less than 40 feet apart.
 - (2) Minimum planting distance may be amended at the discretion of the Community Development Director if warranted by existing or proposed driveways, hydrants, power poles, and other similar improvements located on or near the street row.
- c. No tree(s) shall be planted in planting strips (areas between the sidewalk and curb) which is less than 4 feet wide; unless partial cuts are made in the sidewalk, or specific conditions warrant; and then only by approval of the Community Development Director. In commercial areas where there is a large volume of pedestrian traffic, approved 4-foot-by-4-foot tree grates will be placed around the base of the tree(s).
- d. Where the planting strip is less than 18 inches wide, planting is recommended to be on private property, whenever there is room for appropriate planting, with the written consent of the property owner.

- e. All trees planted within the planting strip shall be midway between the curb and sidewalk. They shall be planted at least 30 feet from the projected property line at a street intersection, and a minimum of 1_ feet from the curb or where the curb would be on any street. Trees shall be located at least 10 feet from any driveway or alley. Trees must be planted at least 25 feet from existing street lights, 2 feet from property lines, and for traffic sign clearance.
- f. In sections where there are no sidewalks, tree planting shall consider the probable location of any future sidewalk.
- g. Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than 7_ feet above the sidewalk level, and over the street at an elevation not less than 11 feet above the street level. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height not less than 14 feet above the street.
- h. When planting any tree(s), all above and below ground utilities shall be considered, with utility location being determined prior to any excavation. Tree species selection shall take into account all utility constraints.

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MUF.P.MMC

**SECTION XX00 - MILWAUKIE ZONING ORDINANCE
URBAN FORESTRY
Annotated Discussion Draft
October 31, 1996**

XX01 PURPOSE

The purpose of this Section is to provide standards and procedures to implement the Milwaukie Urban Forestry Master Plan.

XX02 APPLICABILITY

The standards and procedures of Section XX00 shall apply to all new commercial, industrial, institutional, and residential development and redevelopment.

XX03 DEFINITIONS

SELECTED DEFINITIONS FROM THE MUNICIPAL CODE SHOULD BE INCLUDED HERE

XX04 STREET TREES

XX04.1 Street Trees Required

Street trees are required, as provided in Section XX04.2, for any construction, renovation, expansion, or alteration of an existing use or portion of a use that is nonconforming, and has a development permit value that exceeds 50 percent of the value of the land, as determined by the County Assessor. Permit value shall be determined by the Building Official.

If the development permit value is less than 50 percent of the land value, then an amount equal to at least 2 percent of the development permit value shall be utilized to meet the street tree requirements and standards of Section XX04.2.

XX04.2 Street Tree Standards

The Community Development Director shall issue permits to plant street trees or trees in public places when the proposed trees and their location and spacing are consistent with the Milwaukie Urban Forestry Master Plan. *A SEPARATE STANDARDS MANUAL WILL BE PROVIDED WHICH DESCRIBES THE TYPES OF TREES TO BE PLANTED AS WELL AS THE CARE AND MAINTENANCE METHODS TO BE USED.*

Comment: Staff time needed here. However, if the manual is done thoroughly and clearly, implementation could be relatively easy for city staff and developers. This standards manual could also be used to help

administer any subdivision street requirements.

XX05 TREE PROTECTION

XX05.1 Application Review Process

A. Applicability

This Section applies to all trees on private property which have a circumference of 20 inches or greater measures 4 1/2 feet above grade. Significant trees or groves of trees are not regulated by this Section and shall be subject to Section XX.XX.100 of the Milwaukie Municipal Code.

B. Application Information

If tree removal is proposed as part of an application to develop or redevelop property, the applicant shall submit the following supplemental information:

1. The location, size, and species of all trees subject to this Section. Groves of trees which are to be protected do not need to have each tree individually delineated; however, the number of trees in each grove shall be included.
2. Information showing the need for tree removal including, but not limited to building or access locations, parking areas, existing development on the property, relevant easements, utility locations, and grading.
3. A protection plan all trees proposed to be preserved, which indicates how those trees or groves will be protected from soil compaction, construction activities, grade changes, and soil erosion. This protection plan shall be part of the landscape plan incorporating other landscape requirements.
4. Where the trees proposed for removal cannot be maintained because of their health, the Community Development Director may request the verification of a qualified arborist, at the property owners expense, to confirm the health of the trees.

C. Review Process

The decision making authority for the related development application shall also be authorized to implement this Section.

D. Approval Criteria

Trees of 20-inch circumference or larger at 4 1/2 feet above grade shall be preserved unless the applicant proves to the satisfaction of the approval authority that removal is necessary because of one or more of the following:

1. Trees must be removed because they pose a safety hazard to pedestrian or vehicular traffic, threaten to cause disruption of public services, or pose a safety hazard to persons or buildings.
2. Trees are diseased or irreversibly weakened by age, storm, fire, or other injury.
3. Removal is necessary to provide adequate access immediately around the proposed structure for construction equipment.
4. Tree removal is necessary to accomplish a public purpose, such as the installation of public facilities and utilities, or construction of a public street.
5. Removal is necessary to provide adequate access as required by city standards.
6. Trees must be removed to accommodate essential grade changes needed to develop the property.
7. Trees must be removed to accommodate on-site surface water drainage and utility installation.
8. Trees must be removed to accommodate driveways, buildings, or other permanent improvements so as to avoid unreasonable economic hardship.
9. Compliance with other ordinances or codes.
10. Trees must be removed to allow efficient use of solar energy equipment.
11. For criteria 3 through 10 above, the applicant shall show evidence of exploring alternative designs which would increase tree protection.

E. Conditions of Approval

The approval authority may attach conditions of approval which include, but are not limited to:

1. Retaining trees along natural drainageways and water areas to preserve riparian habitats and to minimize erosion.
2. Retaining trees along property lines to serve as buffers to adjacent property.
3. Retaining trees in sufficiently large areas and in dense stands to ensure against wind throw.

4. Relocating the proposed structure(s) to retain trees, if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than two percent of the total improvement value, excluding land cost.
5. Planting of new trees with a minimum diameter of 1 1/2 inches measured 6 inches above grade, unless a different size requirement is specified by the approval authority.

Comment: Because this would be administered along with reviews of development applications, it should not require much additional staff time. However, some expertise should be available to make tougher calls about construction methods to be used near trees that are to be saved.

XX05.2 Significant Trees and Groves of Trees

If any significant trees or groves of trees are proposed to be removed or have major pruning performed as part of the proposed development plan, approval for such removal or major pruning shall be obtained as provided in Section XX.XX.100 of the Milwaukie Municipal Code.

XX05.3 Yard Setback Variance

A. Variance for Significant Trees or Groves of Trees

The approval authority may authorize a variance from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, a proposed development would result in the removal of trees or groves of trees that have been designated as significant according to Section XX.XX.100 of the Milwaukie Municipal Code.

B. Circumstances for Granting a Variance

A variance to the side, front, and/or rear yard setback requirement by up to 50 percent may be approved by the approval authority if necessary to retain designated significant trees or groves of trees. Variances may be made for subdivision and partition lots, provided the average lot size for the request meets density requirements of the applicable zoning district.

C. Review Process

The yard setback variance shall be subject to the variance procedure in Section 704 of this title.

D. Conditions of Approval

The approval authority may attach conditions necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this title.

Comment: I assume this section will be deleted.

XX05.4 Protection of Trees During Development

A. Applicability

Protection measures shall apply for all trees which are to be retained in areas immediately adjacent to construction. The applicant shall submit a plan outlining these protection measures prior to issuance of building or other land development permits.

B. Protection Measures

Protection of trees to be retained may be accomplished by, but not limited to the following:

1. Restricting the filling, excavation, stacking or storing of any materials or equipment, or compacting of the earth in any way within the area defined by the drip line of any tree to be retained.
2. Erecting and maintaining rope barriers, or the placing of hay bales on the drip line, to protect roots. In addition, the applicant may provide supervision whenever equipment or trucks are moving near trees.
3. Where the grade level adjoining a tree to be retained is to be raised, the applicant may construct a dry rock wall or rock well around the tree. The diameter of this wall or well shall be greater than or equal to the trees drip line.
4. Restricting the installation of impervious surface material within the area defined by the drip line of any tree to be retained.
5. Restricting the lowering of the grade level around any tree to be retained within the greater of the following areas:
 - a. The area defined by the drip line of the tree.
 - b. An area around the tree equal to 1 foot in diameter for each 1 inch of tree caliper.

6. Pruning of branches and roots, fertilizing, and watering as appropriate for any trees which are to be retained.
7. Excavations and driveways shall not be located within 6 feet of any tree, or within 80 percent of the distance between the drip line and the tree trunk, whichever is the greater distance. During such excavation or construction, this distance shall be protected and no temporary building, building material, vehicle, or debris kept within this area. Exceptions to this distance may be approved upon a favorable report by a certified arborist.
8. Before starting and during the erection, repair, alteration, or removal of any building or structure within the drip line or designated distance from a tree that is to be retained, there shall be a sufficient fence to prevent injury to the tree from construction activity (directly or as a result of soil compaction in the root area).
9. When development is proposed within a significant grove, or when significant trees are located within a site proposed for development, a tree preservation or tree removal plan demonstrating preservation methods shall be prepared by an ISA-certified arborist and submitted for approval.

Comment: A little additional time will be needed to determine conditions of approval. Some time will be needed in the field as the project is being built to ensure that the tree-related conditions are being met along with the others.

TITLE 17 - MILWAUKIE SUBDIVISION ORDINANCE

CHAPTER 17.28 DESIGN STANDARDS

17.28.020 Streets

- Q. Street Trees. Street trees shall be planted by the developer within the planting strips of any new subdivision in conformity with the Street Tree Plan for the area. All such planting shall be done in accordance with the planting specifications governing the placement of street trees as provided by the Community Development Director. All trees shall be planted within 18 months of completion of public improvements, or the recordation of the subdivision map or partition plat, whichever shall occur first.

Comment: A little additional time will be needed to determine conditions of approval. Some time will be needed to obtain financial assurances for the street trees and for field work as the project is being built to ensure that the tree-related conditions are being met along with the others.

OR WE COULD HAVE ALL SPECIFICATIONS HERE AS FOLLOWS:

A. Types of Trees

1. Tree selection must be from the foregoing approved "City of Milwaukie Street Tree" list and shall conform to the type, size, and grade.
2. Where street blocks have been assigned one species, cultivar, or variety, only this species, cultivar, or variety may be planted.
3. The size of the tree(s) shall be not less than 1 1/2 inches in diameter at 6 inches above ground level, and at least 10 feet in height in neighborhoods; and 3 inches in diameter and 15 feet in height around public buildings and commercial development.
4. All trees shall have single straight trunks, well developed leaders, and tops and roots characteristic of the species, cultivar, or variety. All plants must be free of insects, diseases, mechanical injuries, and other objectionable features when planted.

B. Spacing and height requirements and restrictions

1. Trees will be spaced as follows:
 - a. Small or narrow trees spaced 25 feet to 30 feet apart.
 - b. Medium trees spaced 30 feet to 40 feet apart.
 - c. Large trees spaced no less than 40 feet apart.
2. Minimum planting distance may be amended at the discretion of the Community Development Director if warranted by existing or proposed driveways, hydrants, power poles, and other similar improvement located in or near the street row.

C. No tree(s) shall be planted in planting strips (areas between the sidewalk and curb) which is less than 4 feet wide; unless partial cuts are made in the sidewalk, or specific conditions warrant; and then only by approval of the Community Development Director. In commercial areas where there is a large volume of pedestrian traffic, approved 4-foot-by-4-foot tree grates will be placed around the base of the tree(s).

D. Where the planting strip is less than 18 inches wide, planting is recommended to be on private property, whenever there is room for appropriate planting, with the written consent of the property owner.

E. All trees planted within the planting strip shall be midway between the curb and sidewalk. They shall be planted at least 30 feet from the projected property line at a street intersection, and a minimum of 1 1/2 feet from the curb or where the curb would be on any

street. Trees shall be located at least 10 feet from any driveway or alley. Trees must be planted at least 25 feet from existing street lights, 2 feet from property lines, and for traffic sign clearance.

- F. In sections where there are no sidewalks, tree planting shall consider the probable location of any future sidewalk.
- G. Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than 7 feet above the sidewalk level, and over the street at an elevation not less than 11 feet above the street level. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height not less than 14 feet above the street.
- H. When planting any tree(s), all above and below ground utilities shall be considered, with utility location being determined prior to any excavation. Tree species selection shall take into account all utility constraints.

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