

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, February 10, 2009  
6:30 PM**

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Ryan Marquardt, Associate Planner  
Bill Monahan, City Attorney

**1.0 Call to Order – Procedural Matters**

Chair Klein called the meeting to order at 6:39 p.m. and read the conduct of meeting format into the record.

**2.0 Planning Commission Minutes**

2.1 December 9, 2008

**Vice Chair Newman moved to approve the December 9, 2008 Planning Commission meeting minutes as presented. Commissioner Bresaw seconded the motion, which passed 5 to 0 to 2 with Commissioners Batey and Wilson abstaining.**

**3.0 Information Items –None**

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Extension Request**

5.1 Extension of Conditional Use Mini-Storage Development Approval  
Applicant/Owner: Frank Walker/Hans Thygeson  
Address: 6011 & 5900 SE Harmony Rd.  
File: CU-07-02; TPR-07-12; WQR-07-01; VR-07-06; TAR-07-01  
Staff Person: Susan Shanks

**Susan Shanks, Senior Planner**, explained that as a conditional use application, CU-07-02 required substantial construction within six months of the approval date, which was approaching. The Milwaukie Municipal Code allowed for a one-year extension for such approvals, but required that the request return before the Planning Commission to decide whether to allow the applicant one year to comply with the conditions of approval.

- She clarified that the extension request was not a public hearing, but purely administrative. The conditions of approval could not be revisited.
- She briefly reviewed the application for the proposed mini-storage facility, noting that the extension was requested due to the scale and complexity of the project. The

engineering was just recently completed for the street improvements, as the consulting firm had experienced difficulties due to the economy.

- The applicant still proposed the same project and anticipated starting the project this spring or summer.
- Not many extension requests came before the Planning Commission, but the last four extension requests had been approved.
  - A recent extension request was for construction of a dock in the Willamette River due to regulatory timeframes and approvals required for building in the river. Another extension request was for completing improvements in the public right-of-way that would take longer than the six months allowed because of seasons.
- Staff recommended approval of this extension request.

There were no questions for staff.

**Commissioner Churchill** recused himself, stating that he knew the applicant and had real estate dealings with him in the past.

**Commissioner Bresaw** moved to approve the one-year extension of the land use approval of CU-07-02 to February 27, 2010. **Commission Qutub** seconded the motion, which passed 6 to 0.

**Katie Mangle, Planning Director**, introduced the new Planning Commissioner, Christopher Wilson.

## **6.0 Worksession Items**

### ~~6.1~~ \*CANCELLED AND RESCHEDULED TO 2/24/09

South Ardenwald Master Plan – project briefing with staff from the Housing Authority of Clackamas County  
Staff Person: Katie Mangle

**Ms. Mangle** explained that the Ardenwald Neighborhood District Association (NDA) had requested that the worksession item be rescheduled.

- Trell Anderson, Executive Director of the Housing Authority Clackamas County, would join her at the next meeting to present the South Ardenwald Master Plan, which considered both the Housing Authority site on 32nd Ave and the vacant site to the south, known as the Murphy site. The Master Plan would be a heavy community involvement process.
- The Ardenwald NDA meetings conflicted with Planning Commission meetings, so she would work to avoid those time conflicts as much as possible. She had erred in scheduling the worksession for tonight's meeting.

### 6.2 Parking Code Update project briefing Staff Person: Ryan Marquardt

The Commission addressed Agenda Item 6.3 Title 4 Metro Code Compliance at this time. Agenda Item 6.2 Parking Code Update followed the Commission's recess (page 8 11).

### 6.3 Title 4 Metro Code Compliance briefing Staff Person: Katie Mangle

**Ms. Mangle** briefly reviewed the material and maps in the meeting packet regarding Title 4 Metro Code, noting the public hearing for the Code amendments would be February 24, 2009. She addressed preliminary questions from the Commission as follows:

- She explained the background regarding how Metro determined the criteria for Title 4. The City's M Manufacturing Zone requirements generally complied with Title 4. Changes were made to focus on precluding big box retail in industrial areas, which was the only change that required action by the City.
- The code change was developed about two-and-a-half years ago. When making changes, Metro had to obtain approval from the State Department of Land Conservation and Development, and then the cities had to come into compliance within two years afterward. The local city deadline for compliance was May 2009.
- The Code amendment would only affect the red area on the map and would actually state that in regionally designated Title 4 lands, the properties would not be allowed to have retail uses greater than 5,000 sq ft.
- She confirmed that Title 4 could be applied to all industrial areas, exceeding what was already approved.
- Bob's Red Mill was larger than 5,000 sq ft but was in the in BI Zone. Title 4 applied to part of M Zone areas like the Johnson Creek Blvd Industrial area and the North Industrial area.
- She believed part of the intent was to preclude WalMart and such stores, but was uncertain how Title 4 would affect areas like the WalMart site, which was partly in Portland, or the Pendleton site within the City. She did not know if that area was Title 4 land, but reminded that Title 4 lands could be extended and such changes could be considered or applied as part of the broader project.
- While the North Industrial area was not pretty, it had a high occupancy rate, and the area along Johnson Creek Blvd included Precision Cast Parts, one of two Oregon Fortune 500 Companies. She believed the North Industrial Land Use Study (NILUS) concluded that it was more vibrant than it looked.

**Commissioner Batey:**

- Understood the NILUS study found that the North Industrial area required protection from retail and that it needed to be maintained as industrial.
  - **Ms. Mangle** responded that she would ask Ms. Alligood to explain current protections on M Zone and the context regarding Title 4.
- Asked if either of the two businesses going into the Thomason sites were retail.
  - **Ryan Marquardt, Associate Planner** explained that the Thomason site on the east side of McLoughlin Blvd, where the building was recently demolished, was to be a maintenance and storage shop for Willamette Jet Boats. Across the way, D & R Masonry would have a sort of storage yard where stone-working would occur and then be installed offsite. The business would also have offices and a showroom in the front building located on the corner. He was not certain if the use would be retail, but some kind of commercial service would support the manufacturing use.

**Chair Klein:**

- Asked if it would hurt to expand the Title 4 areas into the upper Northern Industrial area.
  - **Ms. Mangle** replied no, adding she and Alex Campbell, Resource & Economic Development Specialist, had discussed it. The primary reason to do so was that

regional funding would increasingly focus on implementing the 2040 Vision, which focused growth in town and regional centers, key corridors, and even key industrial areas. Areas that were not Title 4 properties or designated town centers would be less likely to receive funding for improvements in the future. Expanded Title 4 land was not really needed, because the City could be as protective as it wanted in terms of land use authority. Staff knew that area required a lot of transportation improvements to improve access and [designating it as Title 4 land] might make it more competitive for funding.

- Recalled discussions about development including big box stores across the street from Fantasy and other businesses. He preferred being in front of [development], adding Sellwood would probably appreciate the Commission's efforts to control growth.
  - **Ms. Mangle** said staff would include some of that context at the next meeting for the Commission's consideration.

**Chair Klein** invited new Planning Commissioner Chris Wilson to introduce himself.

**Commissioner Wilson** understood the Commission was not discussing the Ardenwald property. He distributed information he pulled from the Department of Environmental Quality (DEQ) website and noted that the property was on the DEQ list. A leaky underground storage tank was on the vacant Murphy site. He had contacted DEQ about the matter; however, the assigned project manager disappeared at Christmas and the new project manager did not know anything about the matter.

- He stated he was an environmental consultant and had moved from Orange County to the area in June 2006 to help the environmental and geotechnical engineering firm he worked for establish an Oregon presence.
- He lived in the Hector Campbell NDA with his wife and five children. He wanted to join the Planning Commission to learn how business was done in Milwaukie and to be involved. He appreciated the opportunity to serve the community.

The Commission next addressed Agenda Item 7.0 Other Business/Updates from Staff to allow Senior Planner Susan Shanks to discuss Ed Parecki's suggestions regarding public area requirements.

## **7.0 Other Business/Updates from Staff**

**Ms. Mangle** suggested continuing discussion about Ed Parecki's suggestions regarding public area requirements downtown, such as the City putting a moratorium on public area requirements.

**Commissioner Churchill** believed Mr. Parecki's ideas had merit. Rear-loading the charges would keep the development costs on the shell to a minimum. His public area impacts had not been incurred yet for his building on Monroe and Main, so a case could be drawn for that.

**Susan Shanks, Senior Planner**, said she had spoken with Mr. Parecki and then discussed with Kenny Asher, Katie Mangle, and Bill Monahan about when a change of use occurred and at what point the City could then require public area improvements. The discussion was beneficial in general in order to make the new Code language clear. The conclusion was that nothing would have necessarily been done any differently with

Mr. Parecki's project, specifically because of the change of use.

- The new Code was set up for downtown and non-downtown projects to avoid capturing projects with no impact to the transportation system.
  - If Mr. Parecki's project had just been a façade improvement without a change of use, it would have been evaluated under new Code language as having no impacts to the transportation system.
  - Mr. Parecki seemed to downplay the change of use, which triggered more transportation impacts and was the City's basis for the improvements.
  - Without a tenant, Mr. Parecki's improvements were speculative in some respects, but change of use was apparent because the area's zoning did not support the previous office use. The new use had to be retail because the project was on Main St in the Downtown Retail Storefront (DS) Zone.
  - The most conservative approach was used in evaluating the impacts of Mr. Parecki's application. Generic office versus generic retail impacts were considered, using the lowest possible trips for retail. Because of the difference between trips generated by the former use versus the new use, the City determined there would be more impacts.
- Public Area Requirements might seem strange or unfair because with no tenants there were no impacts, but the process was similar to that used in land divisions. It was common, typical, and legally defensible to require public improvements at the time that land was divided because that was considered the time of development. There were impacts in creating new lots. Even if the property was not improved for 5 or 10 years, the improvements were needed as soon as possible or the lots would have no improvements due to time passing, staff changes, et cetera. It was typical for cities to get the improvements when possible and when it made sense.
  - If Mr. Parecki's tenant made more impacts than the generic retail use used in evaluating impact, it was legally defensible for the City to say deficiencies still existed in the public improvements for the frontage and ask for more public improvements.
  - Incremental improvements could be obtained for any downtown or non-downtown project, because each project might trigger a portion of the public improvements until the full improvements were actually implemented. At that point, even if a project had more impacts, nothing more could be exacted because the frontage was already complete.
- There was debate about the design standards for the downtown improvements, which was why City Council directed staff to look at ways for the City to balance the scales by doing urban renewal, recognizing the design standards were higher for downtown.
  - **Bill Monahan, City Attorney**, pointed out that downtown businesses also benefit from the degree of public improvements that exist. The City was not asking for improvements from property owners who then received nothing in return. Property owners accrued benefit from the types of improvements already in downtown, including wider sidewalks, benches, trashcans, et cetera.
  - The City recognized that the standards were higher, but also that development benefited more from the higher standard of improvements.
- Changes of use were more subtle than new construction or land division, so staff was always conservative, but always completed an evaluation to determine whether there were more impacts. Staff would not approach an application as though there was a change of use, unless they were certain that a change of use would occur.
  - If the previous use for Mr. Parecki's building was retail and staff did not know who

- the new tenant would be, but the use had to be retail, staff would probably not exact any improvements because the future use was unknown. Staff would review it only when tenant improvements came in for the specific retail use and triggered more impacts.
- Staff knew there was a change of use for Mr. Parecki's property, so they exacted the improvements at that time.
  - If the Chopsticks or Dark Horse buildings wanted only façade improvements and continued to operate the business as is, there would be no impacts to the transportation system, so no public area requirements would apply.

**Chair Klein** requested that Ms. Shanks ask Mr. Parecki which businesses [were delaying improvements because of anticipated public area improvement requirement costs] because that might shed a different light on the possibility of them [making improvements to their buildings].

**Ms. Shanks** noted that the Chopsticks building might be under the old Code because it was value-based.

- She reported Mr. Parecki was actually pretty happy that the [public area improvements] process would be impact-based. His concern was that he did not yet have a tenant, so how could the City say there were impacts. In studying the issue carefully, she was able to say that it was because of the change of use. Just as during a land division, more development would follow so that was the time to get the improvements.

**Commissioner Churchill** believed there was still merit to the premise of considering when the impact actually happened, although he appreciated the land use division model as an example and that it was legally defensible.

- Staff would have a huge job tracking projects with public area improvements should the improvements not be done at the time development occurred. If the Monroe and Main Building was still not leased after three years, and staff might have changed and no one would remember that public area improvements had been required.
- **Ms. Shanks** agreed the timing issue was important. When a tenant came in years later, it would be difficult for staff to trace back and put all the requirements together to determine what should be improved to round out the project at that point.

**Chair Klein** said it was a strange dilemma because the City wanted improvements and to make improvements financially viable for the business owner. On the other hand, the City wanted businesses, so it did not work to drop the financial burden onto them. If Mr. Parecki was not required to do the improvements, he would have had to pass that on to whatever tenant eventually moved into his building.

**Commissioner Churchill:**

- Explained that landlords usually built improvements into their pro forma created for their lease rate. The owner of a property that sat for three years without a tenant had public area improvements that were aging for three years. Considering the present value of his capital to do it, the case could be made that there was benefit to waiting until later when the improvements would be fresher. However, the stronger case was probably that staff would be burdened with tracking the project.
  - **Ms. Shanks** cited the North Main Project and asked how this was any different from new construction, where improvements were required at the time of

- construction before there were tenants. Generally, it was understood and expected that when new construction occurred, it was expected that the new construction and public improvements would be seen before new tenants. A small, local developer who was redeveloping an existing building with existing improvements made it more complicated, but there was really no difference.
- It was not typical to wait for the tenants to come in and then require the developer to build all the improvements. Tenants did not expect to come in and build major improvements.
  - Noted build-to-suit sites, where the owner did not develop the site at all until there was a tenant.
    - **Ms. Shanks** agreed there were different models. Some projects were developed for a particular tenant, and others were speculative, and waited for a tenant. From the City's standpoint, she did not know if different standards or approaches could be developed for each different development approach.
      - The Panattoni site was speculative with the intersection and other public improvements required up front without knowing what tenants would go in.
    - She reiterated that the change of use had triggered public area requirements in Mr. Parecki's case. Without a known change of use, staff would not have gone there, and instead would have evaluated the project for impacts to the system when a tenant came in.

**Chair Klein:**

- Explored change in use and Code requirements about the types of businesses that could be in [downtown] buildings, by asking the following questions:
  - According to zoning, what could go into the Dark Horse building if they left and what would be the implications for [public improvements]? Which uses were nonconforming that would have to change with a new tenant, thus requiring public improvements?
  - **Ms. Shanks** explained that because of the change of zoning downtown in 2000, more nonconforming uses probably existed downtown than in other noncommercial areas, making downtown more challenging for those property owners.
- Stated that knowing the nonconforming uses would give a better understanding of who would be impacted and allow the City to provide solutions. If 5 of 20 downtown buildings had issues, something could be done, but that would be addressed differently if 15 of 20 were nonconforming uses.
  - **Ms. Shanks** agreed it would be good to identify buildings with nonconforming uses. When downtown was rezoned, it was bold and visionary in terms of separating uses into discrete geographic areas, allowing certain uses on certain streets. In the past, downtown zoning had been more generic.
- Suggested that building owners would then have a heads up and the Downtown Business Association could be notified about which business would be impacted, which may be helpful.

**Ms. Shanks** offered to talk with Alex Campbell about urban renewal and a general approach regarding how the City might help buildings identified with nonconforming uses and what that might mean overall for the City.

- She reported that about 20 to 30 attendees were present at the two Downtown Business Association meetings where she presented proposed changes to the public area requirements.

- She responded to a fair amount of questions at the first meeting as people tried to understand the Chapter 1400 Transportation Code Amendment (TCA) project and value- versus impact-based approach. At the second meeting, attendees were more familiar with the TCA project, but there was appreciation for the change, especially from the value- to impact- based approach and the extension of funds in lieu of construction to downtown property owners. Good, thoughtful comments were coming in from small developers and the realty community, basically focusing on refinements and big policy questions.
- She had also talked with developers outside of downtown, including Mike Wells, Bob Dant, Gene Derringer, and Ed Parecki, among others.
- She invited further questions and comments. Other than the design standards for downtown, downtown projects would be subject to the same level of evaluation as non-downtown projects, such as if there were impacts, what frontage or proportionality improvements would be required for that impact, etc. If there were no impacts or if they were not proportional, staff would not look for them.
- A worksession was scheduled for a more formal discussion on February 24, 2009, where the Commission would receive a list of people with whom staff had discussed the [proposed Code amendments].

The Commission took a brief recess, then reconvened at 7:40 p.m. and continued with Agenda Item 6.2 Parking Code update project briefing.

#### **6.0 Worksession Items (Continued)**

##### **6.2 Parking Code Update project briefing**

Staff Person: Ryan Marquardt

**Ryan Marquardt, Associate Planner**, reviewed the Parking Code Updates via PowerPoint, explaining why the Parking Code update was being addressed at this time. He noted that Ms. Shanks was working on the Transportation Code update while he and Ms. Mangle were working on the Parking Code update with consultants Winterbrook Planning. He responded to questions from the Commission and received feedback regarding the major policy changes being considered as follows:

- (1) Limit off-street (driveway) parking to one per dwelling unit to be in compliance with the Metro Functional Plan.

**Commissioner Batey** believed the change was a terrible idea. People in her neighborhood had four, five, or six cars, two boats, and an RV parked on their lawns. Code enforcement was not addressing the problem as it existed, so she did not see the logic in limiting off-street parking to one space per unit. It made sense with multifamily developments, but not for single-family housing.

- **Mr. Marquardt** clarified that the policy change did not prohibit more parking, but only limited what the City required.

**Vice Chair Newman** stated the same problem existed in his neighborhood because residents did not have enough off-street parking. He did not understand the concept behind reducing the number of off-street parking spaces.

- **Mr. Marquardt** explained that some on-street parking was probably available in most neighborhoods, so not requiring single-family homes to have two off-street parking spaces as currently required, assumes one car would be elsewhere, not on site.



- **Ms. Mangle** added that the idea stemmed from two goals of the project: to not require more pavement than needed, and to encourage alternative transportation choices as part of the Transportation System Plan (TSP). Some homes only had one car, but were still required to have two parking spaces.
    - This led to questions about the City's role in regulating parking spaces and whether the regulation should be set to the worst case scenario, i.e. for the house with five cars, or require a minimum and then allow developers and homeowners to build more if needed or if the market required.
- (2) Eliminate the requirement for a covered parking space.
- **Mr. Marquardt** explained that the Code currently required two off-street parking spaces for every single-family dwelling, and that at least one be a covered off-street parking space. If a house did not have a garage or carport, it was not necessarily a requirement to construct one, but if a dwelling had covered parking and the owner removed the covered parking, it had to be replaced.
  - The parking Code was developed in the 1960s and explained that staff was probing for which requirements were outdated and which still made sense.
  - **Chair Klein** commented that much of Milwaukie's post-war housing was built when no one believed anyone would have more than one car. People parked on the grass because no street parking was available; street boundaries were not really defined as often no curbs existed.

**Commissioner Batey** noted that permanent carports were better than the tent-type carports that were not typically permitted. Some garage conversions looked very bad, so the existing rule was sometimes a good way to prevent a conversion.

- Eliminating covered parking, but requiring less than two off-street spaces was a big problem.

**Chair Klein** asked if residents would be able to utilize off-street parking on the green streets being developed on Logus Rd.

- **Ms. Mangle** replied that some parking spaces were included, but not everywhere.
- **Mr. Marquardt** added that there was no plan for off-street parking along some arterials and collectors. Potential problems with on-street parking would depend on the design of each green street, specifically if they were narrowed.

**Mr. Marquardt** summarized the discussion by saying that the Commission was not interested in reducing the required parking to one space per dwelling unit, but might be willing to let go of the covered parking requirement.

Additional comments from the Commission included:

- One advantage of on-street parking was that it would slow down traffic.
- While not wanting to see a lot of cars parked in front, where places to park were unavailable, most houses had some setback that might allow for a tandem two-car garage. Smaller houses had less chance of having a lot of cars, but a large house might have four or five cars.

**Commissioner Batey** did not see a connection between the size of house and number of vehicles per home in her neighborhood.

- (3) Eliminate the extra parking space required for Accessory Dwelling Units (ADU).
- ADUs could be rented and were not just for elderly family members. The intent behind ADUs was to facilitate low-cost housing. It seemed counterproductive to reduce single-family off-street parking from two spaces to one, if an ADU existed that would no longer be required to have a parking space.

The Commission agreed that a single-family residence, even without an ADU, needed at least two parking spaces and that the required off-street ADU parking space should be retained.

- Flexibility should be available to install permeable paving to avoid paving over a large area and have a minimal impact.
- Many green alternatives were available. Gravel was not a good choice for driveways because it left the site and grass grew in it. Grasscrete, described as latticework concrete that allowed grass to grow while providing a solid surface, was also suggested as well as installing two 1-ft wide strips of concrete.
- Wording such as 'encouraging' left a loophole and should not be used.

**Mr. Marquardt** asked if an existing house had two off-street parking spaces and wanted to add an ADU, should a third off-street space be required.

**Chair Klein** stated that if an existing residence with one off-street parking space wanted to add an ADU, a second parking space should be required. The minimum should be two parking spaces on each property. He did not know of too many residences that had fewer than two off-street parking spaces.

**Commissioner Batey** asked how the City evaluated current parking for each residence. Did the City tell a homeowner with six cars that they had to provide off-street parking for six cars?

- **Mr. Monahan** responded the City could not look at the use of the space or how many vehicles a property owner had. If the Code required two impervious surfaces, the City could determine if two impervious spaces were physically in places that met the dimensional requirements.
- **Mr. Marquardt** clarified that boat and RV parking was a separate issue as regulations existed for such parking in residential zones.

- (4) Limit parking to four uncovered parking spaces in the front yard area of residential uses.
- The draft defined a parking space as any accessible paved area at least 9-ft by 20-ft that was connected to an approved driveway approach, which extended to the right-of-way line. A very long driveway would be problematic.
    - Many lots had circular driveways that could allow four cars and sometimes looked nice. Lot size might be a factor.
  - An alternative was limiting the percentage of front yard that could be paved or the maximum number of parking spaces for residential uses.
  - Basing parking facilities on green space or the width of the frontage should be considered. A six-car driveway might be proportional if a lot of green space existed. Pictures would be helpful.

**Chair Klein** suggested tying the parking lot's size to the massing of a house, such as the square footage could not exceed the size of the largest house in the area by 15% or

20%, and tie that into the parking facilities. New residential construction should conform to surrounding houses, which might prevent big residential care facilities.

- He would consider using green space or frontage as a basis, if some sort of Code would prevent structures like the Balfour House.

**Commissioner Batey** said she liked the four-car limit as a general rule, but wanted an exception for larger lots.

**Mr. Monahan** said front parking could be limited with an allowance for additional parking in the rear on an oversized lot. A facility such as Balfour House would move the building up on the lot and some of the parking to the rear. This could impact properties to the rear, but have less impact on street appearance, looking less institutional.

**Chair Klein** wanted to prevent large parking areas, instead of shifting the emphasis back toward the neighbors' yard.

**Mr. Monahan** stated Code language could be added to limit the amount of impervious surfaces compared to the footprint of a large lot. However, an allowance would be needed to permit some parking in side or rear yards, rather than to force all of the parking to the front.

**Mr. Marquardt** summarized the discussion by saying the Commission was not interested in limiting the total number of parked cars, but having some sort of proportional tie-in to the front yard area and how much of that could be dedicated for parking.

**Commissioners Bresaw and Batey** offered to take pictures of parking areas in their neighborhoods to send to staff.

The Commission briefly discussed parking on lawns. The City had a current ordinance that forbids parking on lawns; however, it was difficult for Code Enforcement to uphold and enforce.

**Commissioner Batey** questioned why the parking requirement should change to fewer than two or even four parking spaces.

- Street parking was available in some areas, but owners preferred to park on their lawn either to have the car closer to the house or because street parking had a time limit that required moving the car periodically.

**Mr. Marquardt** clarified that the proposal under discussion was primarily for new construction, but in some nonconforming parking cases, residential properties undergoing a substantial remodel or addition were required to come closer into conformance.

**Commissioner Batey** compared the nonconforming parking requirements for existing residences to the discussion concerning the Transportation Code. Parking requirements would apply to a large expansion of an existing residence.

(5) Parking quantity and modification determinations.

**Mr. Marquardt** stated that the current parking Code was six pages of ratios and uses utilized when evaluating developments and land use proposals. While it did capture most proposed uses, the ratio table did not cover every circumstance. Parks, for instance, were not listed and staff had to conduct a parking determination.

- The proposed changes would combine modification and determination for unlisted uses into the same process. Clearer application and approval criteria were also proposed to enable applicants and staff to know what to ask for and what parking decisions were based on.
- Regarding site-specific parking determinations, the proposal stated that if a development required more than 50 parking spaces, the Planning Director or applicant could request an individual determination. If more than 100 parking spaces were called for, the applicant was required to do a specific parking determination.
  - For example, under the proposed changes, the King Road Shopping Center with more than 100 parking spaces would have had a traffic engineer or other appropriate professional prepare an estimation of the number of parking spaces based on square footages and types of uses proposed for a more refined parking estimation.
  - The existing Code table calculated the number of parking spaces per lineal bench feet for a church, but did not account for other multiple, concurrent uses. During the application process, the applicant could use the site-specific analysis to support that a specific number of spaces were needed. Currently there was no way to permit such an analysis.
- He clarified that the number of required parking spaces was determined first by the table, not by the applicant. Consistent results were not guaranteed. Some cases might result in more spaces than the parking ratio table, but hopefully the process would occasionally capture circumstances where fewer spaces and less paving were required.
- The Code amendment would enable the site-specific determination to be used for a broader range of proposals.

- (6) Applicability of the Code to existing nonconforming parking areas to provide guidance to staff when evaluating applications.

**Mr. Marquardt** stated that currently when remodeling or changing use, the Code only stated that a nonconforming parking area must come closer to conformance.

- In the draft Code, required improvements could not exceed 10% of the development permit value. The proposed update also provided a priority list of improvements to give staff guidance about what to consider to bring parking areas closer to compliance.
- D & R Masonry estimated that its parking lot would cost about \$15,000 to \$20,000 and the overall permit value was about \$160,000. Staff was sensitive to the overall scale of development. If an applicant was doing a small project, staff tended to require small improvements; however, no real Code guidance was given. The closer-to-conformance standard was also the heart of the Park & Ride LUBA appeal.
- Up to 10% of the permit value could be required, but was not mandatory, so the percentage required for improvements could be negotiable.
- Generally, if an applicant's site plan was in the spirit of the Code and fell under the 10% permit value, staff typically considered it as acceptable. However, if other areas should be added, like a business that addressed pedestrian or bicycle traffic, improvements could be required.

**Chair Klein:**

- Favored the change as long as it fell within the 10%. He noted his concern about a business moving into a facility that did very few improvements, although the parking lot was real bad.
  - **Mr. Marquardt** agreed that staff would not require a high level of upgrades if the building was essentially used as is since the requirement was tied to the amount of improvements being done to the building.
  - He confirmed that the Code would specify that it was tied to the permit value.
  - **Ms. Mangle** clarified that the concept of proportionality with regard to public area improvements applied to onsite improvements, which was a little different.
  - **Mr. Monahan** agreed, noting the courts had not really addressed the onsite situation. It came down to how far a developer could be pushed for improvements. The benefit was that lending institutions might pressure the developer to make improvements to enhance the investment made on the property on which they were loaning, reducing resistance for offsite improvements that could be argued were the public's responsibility. That argument was not available on an individual property.
- Stated that as proposed, people could still weasel under the bar, but that had to be expected because a bar did have to be set.
  - **Ms. Mangle** explained that she had formerly done some parking lot developing for transit agencies. On the designing side, many times she asked cities what the requirements were so she could meet them. Many cities have requirements based on a percentage and people would try to negotiate out of it, although for bigger projects, it was typical for the applicant to just want to know what was required.

**Commissioner Bresaw** reiterated that if a business obtained a loan, the bank would want the property improved. However, there were cases where that pressure did not exist and the least possible improvements were done.

**Chair Klein** agreed, but reiterated that once the bar was set, the applicant could weasel under it, but it would not be worse than what currently existed.

**Mr. Marquardt** concluded by saying the minor policy changes were attached to the staff report. The proposal was under review by City staff. Public outreach and a City Council worksession would occur in early March or April, with the final draft proposed for adoption at the end of May.

- If the Commission was comfortable with the direction provided on the major policy changes and did not have comments on the minor policy changes, a second worksession might not be needed, but it was up to the Commission.

The Commission agreed to hold a second worksession to:

- Provide a clear definition about the distance of shared parking use.
- Consider RV and boat parking, an issue for many neighborhoods.
- Further discuss parking lot design and landscaping.

The Commission continued to Agenda Item 7.0 Other Business/Updates from Staff.

Staff Person: Katie Mangle

The Title 4 Metro Code Compliance briefing was addressed after Agenda Item 6.1.

### **7.0 Other Business/Updates from Staff (Continued)**

Staff's update regarding Ed Parecki's suggestions for public area requirements was provided and discussed prior to Agenda Item 6.2 Parking Code Update project briefing.

Two letters were distributed to the Commission that had been delivered to City Hall.

**Ms. Mangle** prompted discussion about consent agenda items by asking whether the Commission would consider the extension request scheduled for the February 24, 2009 meeting as a consent agenda item.

- Staff would put items as consent agenda items with a brief staff report, assuming a complete presentation was not required at the meeting.
- If a Commissioner wanted a presentation, she asked that staff be notified by the end of the day the Friday before the meeting to allow staff to prepare a presentation on Monday.
- If staff suspected an item might not meet the approval criteria, a full presentation would be prepared.

**Mr. Monahan** explained if the Commission was comfortable that such items were more procedural, they could be on a consent agenda for a vote since the Code states that a Planning Commission decision was required. The Commission could always pull an item from the consent agenda if it was of concern.

- He clarified that a member of the public could also request that an item be removed from the consent agenda, so it was important to be prepared. The applicant also needed to know that their item could possibly be pulled from the consent agenda. The applicant might decide not to attend the meeting and could request that the item be continued if it was pulled from the consent agenda.

**Mr. Monahan** suggested that the Commission condense the procedures into a Planning Commission rule to provide direction about the consent agenda and how to deal with removing an item, and so staff understood how it worked.

**Chair Klein** suggested that staff ask the Commission about an item for the consent agenda when doing the meetings' forecast, not when the meeting packet went out.

### **8.0 Planning Commission Discussion Items**

**Commissioner Batey** noted the Commission's long discussion with Ms. Shanks, when she was acting in charge, about the content of public notices, and recalled reaching an agreement that more details about impacts be included. She believed the public notices for the Pond House did not provide enough information. The notice in the newspaper could stay cursory, but the one delivered to the neighborhood should provide more details.

- She asked Ms. Mangle to discuss the issue with Ms. Shanks, and requested that she begin receiving notices in the meeting packets.

**Vice Chair Newman** praised staff for their meeting organization and presentations, which had greatly improved since the first meeting he had attended.

**Chair Klein** agreed staff was doing a very good job, adding he was surprised at how Ms. Alligood had jumped in and addressed two difficult issues. Mr. Marquardt was also great at Code details.

- He requested a hard 10:00 p.m. cap for future meetings. If the meeting could be wrapped up within a few minutes after 10:00 p.m., that was fine; otherwise he would request a continuation. He had resisted a cap in the past, but now understood its necessity.

## **9.0 Forecast for Future Meetings:**

- February 24, 2009
1. ZA-09-01 Public hearing on Metro Code Compliance Title 4 – Industrial and Other Employment Areas
  2. HIE-08-04 Extension request for Home Improvement Exception Approval of 12115 SE Pennywood Court
  3. \*South Ardenwald Master Plan – project briefing with staff from the Housing Authority of Clackamas County

**Ms. Mangle** stated that HIE-08-04 would not be a consent agenda item and that a worksession would also be held on the TCA Code Amendments.

- March 10, 2009
1. ZA-09-02 Transportation Code Amendments – Public hearing for Recommendation to City Council
  2. CSU-08-06 Community Service Use – Public hearing for Johnson Creek Blvd. facility modular office

**Ms Mangle** quickly reviewed the future meeting items, adding that she would diligently review the forecast more regularly and encouraged Commissioners to voice their questions or concerns early, so staff could build them into the review. Speaking up earlier was better, so staff could ask the applicant questions.

**Commissioner Batey** asked why Johnson Creek Blvd facility was on the agenda again, suggesting that perhaps it should be on the consent agenda because it had no impact on any neighborhood.

- **Ms. Mangle** replied that although the issue did meet the minor modification criteria, it was a City facility with a Community Service Use (CSU), so the more conservative route was to schedule a public hearing for the approval. Once it was decided to take the minor quasijudicial approach, all rules had to be followed, so a full public hearing was required.

**Commissioner Bresaw** understood that poetry readings at the Pond House had been occurring for 12 to 18 months and commented if there were traffic impacts, the neighbors would have complained by now.

**Commissioner Batey** stated the Pond House was being used for poetry readings without approvals, so the neighbors were not told about the poetry meetings. The public notice posted on site blew down so neighbors were not informed that the meetings would be permanent and possibly more frequent.

**Chair Klein** requested that individual sections of the packet be stapled together. If an item was continued, it was easier to recycle the rest of the packet if the agenda items were separated. Bigger packets were also difficult to search through when stapled all

together.

**Ms. Mangle** requested that the Commissioners retain their packets for the South Ardenwald Master Plan.

Meeting adjourned at 9:06 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription for  
Alicia Stoutenburg, Administrative Specialist II



Jeff Klein, Chair





**AGENDA**  
**\*REVISED**

**MILWAUKIE PLANNING COMMISSION**  
**Tuesday, February 10, 2009, 6:30 PM**

**MILWAUKIE CITY HALL**  
**10722 SE MAIN STREET**

**1.0 Call to Order - Procedural Matters**

**2.0 Planning Commission Minutes – Motion Needed**

2.1 December 9, 2008

**3.0 Information Items**

**4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda**

**5.0 Extension Request**

5.1 Extension of Conditional Use Mini Storage Development Approval  
Applicant/Owner: Frank Walker/Hans Thygeson  
Address: 6011 & 5900 SE Harmony Rd.  
File: CU-07-02; TPR-07-12; WQR-07-01; VR-07-06; TAR-07-01  
Staff Person: Susan Shanks

**6.0 Worksession Items**

~~6.1~~ **\*CANCELLED AND RESCHEDULED TO 2/24/09**

South Ardenwald Master Plan - project briefing with staff from the Housing Authority of Clackamas County  
Staff Person: Katie Mangle

6.2 Parking Code Update project briefing  
Staff Person: Ryan Marquardt

6.3 Title 4 Metro Code Compliance briefing  
Staff Person: Katie Mangle

**7.0 Other Business/Updates from Staff**

**8.0 Planning Commission Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.**

**9.0 Forecast for Future Meetings:**

- |                   |   |
|-------------------|---|
| February 24, 2009 | <ol style="list-style-type: none"><li>1. ZA-09-01 Public Hearing on Metro Code Compliance Title 4 – Industrial and Other Employment Areas</li><li>2. HIE-08-04 Extension request for Home Improvement Exception Approval for 13115 SE Pennywood Court</li><li>3. <b>*South Ardenwald Master Plan - project briefing with staff from the Housing Authority of Clackamas County</b></li></ol> |
| March 10, 2009    | <ol style="list-style-type: none"><li>1. ZA-09-02 Transportation Code Amendments – Public Hearing for Recommendation to City Council</li><li>2. CSU-08-06 Community Service Use – Public hearing for Johnson Creek Blvd. facility modular office</li></ol>  |

### 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

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us). Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

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.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

### Milwaukie Planning Commission:

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

### Planning Department Staff:

Katie Mangle, Planning Director  
Susan Shanks, Associate Planner  
Brett Kelter, Associate Planner  
Ryan Marquardt, Associate Planner  
Li Alligood, Assistant Planner  
Alicia Stoutenburg, Administrative Specialist II  
Paula Pinyerd, Hearings Reporter

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, December 9, 2008  
6:30 PM**

**COMMISSIONERS PRESENT**

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

**STAFF PRESENT**

Katie Mangle, Planning Director  
Gary Parkin, Engineering Director  
Susan Shanks, Senior Planner

**COMMISSIONERS ABSENT**

Lisa Batey

**1.0 CALL TO ORDER**

Chair Klein called the meeting to order at 6:35 p.m. and read the conduct of meeting format into the record.

**2.0 PROCEDURAL MATTERS****3.0 PLANNING COMMISSION MINUTES—None**

Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org).

**4.0 INFORMATION ITEMS –City Council Minutes**

City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org).

**5.0 PUBLIC COMMENT—None****6.0 PUBLIC HEARINGS—None****7.0 WORKSESSION ITEMS**

7.1 Transportation Code Amendments (MMC Chapter 19.1400) project briefing  
Staff Person: Susan Shanks.

**Susan Shanks, Senior Planner** reviewed a proposed flow chart illustrating the process for determining Transportation Facility Improvements that would be included in the Code amendments. Several prior applications were recounted to demonstrate how the flow chart would work.

Staff responded to questions and concerns from the Commission as follows:

- 44 • The current process was difficult to follow for both staff and applicants. The new flow  
45 chart was part of a new streamlined system that also provided a good explanation of  
46 the process.
- 47 • Nonhabitable space that was modified to be habitable would presumably come in as  
48 a tenant improvement (TI) and could be captured by the intensification of use trigger  
49 under the new Code.
- 50 • Nonhabitable accessory structures smaller than 200 sq ft would not trigger  
51 transportation improvements. Closets were considered habitable space.
- 52 • Once permit fees are collected, no additional fees existed for frontage improvements  
53 triggered by impacts, though fees were associated with Planning review.
- 54 • Currently a separate transportation review land use application, Transportation  
55 Plan Review (TPR), existed. Staff proposed calling the chapter Public Facility  
56 Improvements (PFI). TPR applications would still be processed as land use  
57 applications, but when a Transportation Impact Study (TIS) was proposed, a  
58 separate fee would be required with a separate land use application.
- 59 • Staff still wanted to review TIS, but also receive a deposit from the applicant  
60 to pay the City's engineering consultant to review the study.
- 61 • Staff's proposal would not require a separate land use application, but would  
62 change the fee schedule for land use applications to cover engineering costs.  
63 Some fees would shift into minor land partitions and subdivisions, for instance,  
64 causing those fees to increase, but only for the applications that always required  
65 a review for a PFI.
- 66 • No changes to development permits were proposed. A State process existed that  
67 regulated what fees could be charged for System Development Charges (SDCs)  
68 and building permits.
- 69 • Currently, the building department used a standard formula that was based on use to  
70 determine costs; permit fees were then based on those costs. Code triggers for  
71 impacts were based on the building department fees; however, the cost-based  
72 triggers in the Code would disappear.
- 73 • Under the old Code, finishing an existing habitable space was evaluated based  
74 on the cost of the improvements. Under the new Code, since no additional  
75 square footage was added, there would be no transportation impacts.
- 76 • The Planning department was not involved in triggering the assessor's office  
77 decision to increase taxes when an owner increased living area. It was standard

practice for the tax assessor to pull building department square footage as a flag to reassess a property.

- Item B.2.a on page 11 of the packet should read, "For expansions of less than ~~400~~ **200** square feet, no improvements are required."
- Under the new Code, the cost to beautify one's house, no matter the cost, triggered no transportation requirements. However, if 200 sq ft were added at a rough cost of \$20,000 to \$30,000, some transportation improvements would be required.
- Wording about adding 'square footage' was used instead of adding 'a room' to avoid confusion about improvements such as converting a large closet into a nursery. The addition of a room was linked to transportation impacts.
- Item B.2 was based on the incremental approach to adding onto a house and the need for considering some impacts related to each phase. The City wanted to encourage improvement, but wanted some improvements applied to beautifying the community and sought to do that in as rational a way as possible.
- Encouragement to install semipermeable pavers for driveways fell under public work standards.
- Some Nature in Neighborhoods projects under Title 13 would be modeling semipermeable pavers in the spring as it applied in the Code.
- Semipermeable pavers were more expensive to install, but might be cheaper overall if they counteracted having to do some detention.

Key points discussed by the Planning Commission and staff included the following:

- Concern about homeowners getting hit, and the City benefitting twice from a house remodel because of the upfront fees charged for the remodel and the increased tax revenue due to the value of the house increasing over time.
- Increasing a 1,500 sq ft house with four residents to 3,000 sq ft would not directly impact to the transportation system, but the remodel would potentially allow more people to live in the house. It was difficult to require transportation improvements knowing that the impact would not happen immediately, but the potential was there in the future. The Institute for Transportation Engineers (ITE) had a metric about larger houses having greater transportation impacts than small houses.
- Continuing to add fees for remodeling houses was a concern. Ultimately, the City wanted remodeling to occur and to capture the tax revenue at the end. The City should not place too much of a burden on an owner wanting to remodel their home.

- 113           •   Paying \$10,000 or more in fees could price a Milwaukie homeowner out of a  
114               neighborhood and out of making an improvement. They could take the extra  
115               money and go buy the size of house they needed elsewhere.
- 116           •   Homeowners might also balk at paying for improvements they felt should  
117               have been done by the City.
- 118   •   Building a new house would require whatever the street needed for full frontage  
119       improvements, whereas remodeling an existing home would be proportionately  
120       based on the new square footage.
- 121       •   Remodeling an existing home would add some trip capacity, but not as much as  
122           a new house. Generally, a larger house generates more trips, and though it might  
123           not immediately, the criteria were applied in a broad manner. The homeowner  
124           was charged for the potential, though it might never be used.
- 125   •   The proposed 200 sq ft parameter was not arbitrary, but based on the 32 residential  
126       additions completed in the past two years.
- 127   •   Improvements would be done according to the order listed in Chapter 19.1402  
128       (B)(3)(a-e), which followed the steps for constructing a street. Applicants would  
129       generally only be required to do one item. If the entire list was completed, then no  
130       requirements would be imposed.
- 131   •   A suggestion was made to require something for public facility improvements.
- 132       •   Fees for improvements were split into roughly \$3,000 to \$5,000 amounts,  
133           although potential variables existed. While the right of way (ROW) dedication  
134           might seem like the homeowner did not pay anything, a cost was actually  
135           associated with donating that property.
- 136   •   Access improvements that bring access into conformance with City standards might  
137       include moving a corner lot's access from a higher to a lower classification street,  
138       though that might not always be possible. Shifting a driveway away from the  
139       property line or narrowing a wide driveway were other examples of access  
140       improvements.
- 141       •   Any one of the required improvements could vary greatly, depending on the  
142           application and subject location.
- 143   •   Staff wanted to ensure the Code made mention of existing improvements being  
144       brought up to current standards. Though not explicitly stated, the City currently  
145       required sidewalks to be brought up to current standards.
- 146       •   Improvements to stormwater drainage systems and pipes would fall under public  
147       facilities, not transportation, and would not be triggered in this case.

- 148 • Public facilities was added to Chapter 1400 because it was not in a good place in  
149 the Code.
- 150 • Storm drainage facilities, like stormwater catch basins integrated at the curb,  
151 were included in 7.1, page 12, Chapter 19.1400 (B)(d).
- 152 • Once all standards were met, applicants are charged a fee in lieu of construction  
153 (FILOC), which is returned to the property owner after a ten-year period. By law the  
154 money could not be held indefinitely to meet requirements when more money was  
155 available later.
- 156 • A FILOC was tricky because the City stated that improvements were required  
157 because of impacts, but money was accepted without the improvements being  
158 completed. The City preferred that the applicant offer a FILOC contribution.
- 159 • Apprehension existed about FILOCs because money was accepted, but projects  
160 were not completed. Milwaukie had sections of streets without sidewalks or curbs  
161 because FILOC funds were not attributed to projects that needed to be done.
- 162 • A FILOC served its purpose if the potential to build a project existed, in which  
163 case the project should be completed instead of FILOCs being accepted.
- 164 • The new guidelines on page 14, Chapter 19.1406 Fee in Lieu of Construction,  
165 clearly stated that transportation improvements were required at the time of  
166 development. Though the Engineering Director may or may not approve their  
167 construction based on the guidelines, the City's practice and policy was to build  
168 the project.
- 169 • Cumulatively, FILOCs worked. Money had been collecting for about five years,  
170 so each neighborhood district had a small amount of money available. According  
171 to the City's Economic Development Specialist, the City would never have a  
172 problem spending FILOC money in 10 years. It is often used to match grant  
173 money.
- 174 • FILOCs were tracked and credited unless returned to the homeowner after 10  
175 years.
- 176 • Language in Item 3 about scheduling construction within 3 years provided a  
177 guideline for when funds would actually be accepted in lieu of a funded project that  
178 was an identified Capital Improvement Plan (CIP) project versus a project that might  
179 happen.
- 180 • FILOC funds had to be spent within the neighborhood boundaries so the money  
181 benefited the person providing the money. Funds were often spent on higher

classification streets that often delineated neighborhood boundaries. Money might be pooled from two different neighborhoods to complete improvements.

- Funds were not necessarily used to build a specific sidewalk in front of a specific house.

- FILOCs would not be accepted for just any reason; the improvements would be required.

- With the street cross sections now designed in the new Code, staff would know the required improvements would fit and were logical for the whole block or blocks. When another project triggered an improvement, the next step toward that design would be required.

- Design flexibility enabled the City to require that the improvements be built, while design uncertainty and rigidity had led to accepting FILOC.

- Resources were not available to design a master street plan, so streets would be built over time based on TSP work.

- The best way to ensure all the improvements were made in a neighborhood with unimproved infrastructure was through a local improvement district. Additional funds might also be available through grants, for instance, to contribute toward the local improvement district.

- Concern was expressed about having a consistent measurement to determine transportation impacts. The Commission should refer to the ITE manual to avoid backing down from the potential use. For instance, a restaurant, whether good or bad, was attributed a certain number of trips in the ITE manual.

- Impacts would change over time but only a snapshot in time existed to determine the potential for more impacts and require transportation improvements.

- As far as being consistent regarding how intensification of use results in impacts, Chapter 19.1402 (A)(5)(b) and (c) on page 11 provided the opportunity to evaluate on a case-by-case basis because intensification of use related to gross living area or vehicle trips per day was difficult to determine.

- An engineering evaluation of impacts was an important part of the flow chart. However, capturing some intensifications, such as the improved high school field, were difficult to know how to capture or quantify.

- Ultimately the tools were imperfect, but best practices, good judgment, and knowledge about what the Milwaukie community wanted were considered for consistency in evaluating transportation impacts.



- Aspects of the single-family home improvements were unsettling. It seemed property tax increases should be used for improvements, but that was not working. The community wanted to look better and for people to make improvements, so roadblocks that kept people from improving their property should be eliminated. Urban renewal seemed like the only option.
- Most property taxes went to other services. Gas tax monies typically used for street improvements was a totally separate fund that barely kept up with the street maintenance program. Improving a property did provide some benefits over time. Property taxes were a slow way to get the overall system improved. Urban renewal would likely achieve improvement goals more rapidly.
- Because the downtown area requirements were so great, City Council agreed that staff could pursue studying urban renewal as an option so downtown developers would not have to pay for all the public area requirements. Council preferred urban renewal to reducing the downtown standards.
- The proposed amendments were much clearer and should not be shocking for most people planning a remodeling project. It was especially important to clearly state the requirements for single-family improvements so the expectations were very clear from the beginning. The 200 sq ft parameter set a clear standard. Someone wanting to expand could add 199 sq ft, which would be fine.

The Commission responded to staff's request for feedback regarding applicability, flexibility, and consistency as outlined on page 4 of the packet as follows:

- The Commission consented that 200 sq ft was a reasonable threshold.
- Support was expressed for deferring unusual situations about whether impacts would result from projected increases in square footage to the Engineering Director. New studies could be utilized to aid in making future determinations and court cases could also be considered.
- Specific to proportionality determination analysis and street design cross section determinations, a variance could be applied for per Chapter 19.700, or an appeal of the Engineering Director's determination could be made to the Planning Commission for those who disagreed with the Engineering Director.
- The clearer the standards the better. If the Commission felt that staff allowed too much discretion, they could request an annual report from the Engineering Director showing how the standards were applied. One or two examples could be reviewed and discussed, and the Commission could offer guidance. This would

- 251 also prevent anyone from taking advantage of their authority.
- 252 • Determining threshold numbers for transportation impacts were based on case
- 253 histories for different situations in other areas as well as what made sense for
- 254 Milwaukie. Specifics were factored into the analysis, but it was hard to state that one
- 255 trip resulted in something exact, so flexibility was included in the numbers.
- 256 • Triggers in the applicability section were impact-based. Most applications were
- 257 straightforward and would not be heard by the Commission, such as dividing
- 258 property, adding a new dwelling unit, building a multifamily apartment building or
- 259 new single-family house, etc. For more complicated applications, some tools were
- 260 available along with Engineering's judgments and public discussion because no
- 261 one right answer existed.
- 262 • Checks and balances were in place in the department to assure decisions were
- 263 not made in a vacuum. Staff was aware of the potential for biased decisions and
- 264 was trying to build guidelines into the new Code. Other things could be added to
- 265 an annual report to ensure it was kept in check, but still allowed for common
- 266 sense decisions.
- 267 • The Commission consented to equal treatment of downtown and nondowntown
- 268 development with regard to Chapter 19.1400.
- 269
- 270 **Ms. Shanks** concluded that staff was still working to finalize the Code language. She
- 271 would present the proposed amendments to downtown business owners and key
- 272 stakeholders, and attend the Neighborhood District Association's (NDA) Leadership
- 273 meeting in January to receive input about outreach to individual neighborhoods.
- 274 • The Code amendments were expected to be before the Commission in January. Any
- 275 further comments were welcomed from the Commission after the entire draft was
- 276 received.

277

## 278 **8.0 DISCUSSION ITEMS**

279

280 **Ms. Mangle** reminded about the Commission's desire for a debriefing about the

281 Immovable Foundation Church hearings. Staff wanted to share some of their concerns

282 on a wide range of issues, and also desired feedback about how staff might better help

283 the Commission prepare for hearings.

284

285 **Ms. Shanks** reviewed staff's concerns about the hearing as follows:

- 286 • The public benefits impact of a Community Service Use (CSU) is quite subjective  
287 and broad. With regard to consistency, had Commissioners considered other church  
288 CSUs when reviewing this CSU, applying the criteria the same as for any other  
289 church in any other location? Consistency was a concerning issue across many  
290 planning decisions.
- 291 • Could more structure be used to apply the more subjective criteria? Did the  
292 Commission want to discuss whether CSU impacts were evaluated as narrowly  
293 or broadly as possible.
- 294 • For example, the park deficiency of the Lake Road neighborhood was raised.
- 295 • The community's concerns with the first Education Service District (ESD)  
296 application about not losing valuable open space were carried over to the IFC  
297 application. Would the Commission have applied the same analysis  
298 regarding a general park deficiency, whether or not a deficiency existed for  
299 other sites in other locations? Was this item appropriate to consider in  
300 reviewing a CSU?
- 301 • Another concern was the cut-through traffic aspect of the use, which was never on  
302 the table. If the modification was approved and went to City Council, staff was  
303 uncertain that they could defend the Commission's position. She did not know  
304 whether staff could have been clearer that cut-through traffic was never on the table  
305 before, so to put it on the table after the fact made staff uncomfortable.

306  
307 Key discussion items among the Commission and staff included:

- 308 • The idea of preserving the park was obvious, but the difficulty was trying to  
309 understand what people were doing. The definition of how the community used the  
310 property and what the school had allowed got lost. There really was no rule, which  
311 was the difficult part.
- 312 • While staff was not clear in the beginning about how the community used the  
313 property, residents who testified that they did not want it to become a housing  
314 development were clearly negligent in not stating what their use of the property  
315 was at that time.
- 316 • The applicant did not know what they had agreed to when accepting the school's  
317 park rules.
- 318 • Though North Clackamas Park was not part of the Lake Road NDA, a pathway  
319 connected the park to the neighborhood. Neighbors also used the Christmas tree

- 320 farm in the neighborhood as open space. When including North Clackamas  
321 Park, the area probably had the most open space of any other neighborhood.
- 322 • While churches and schools allowed the public on their property, they also had the  
323 right to say no.
  - 324 • Unfortunately, it was never clear from the beginning that the neighborhood used and  
325 wanted to continue to use the site. Residents only discussed the park and the views.
  - 326 • It was never the applicant's understanding, but it was good of them to allow  
327 people to use the property as a pedestrian cut-through.
  - 328 • Some things were thrown wide open in a land use application, which was why  
329 staff tried to note the key issues to focus the discussion for the Commission.
- 330 While staff might question whether they got the key issues right, hopefully the  
331 Commission would recognize when certain topics were not appropriate.
- 332 • Holding a CSU refresher course was suggested. Church front lawns were used to  
333 play football and their parking lots for park and ride locations. A sort of an 'unwritten'  
334 perception of allowing community use of church grounds existed.
  - 335 • CSUs had to be considered differently for churches that were already established in  
336 a neighborhood versus those seeking a new location.
  - 337 • **Chair Klein** observed that the IFC drew people from other areas, not Milwaukie.  
338 Milwaukie needed a lot of infrastructure to make the church viable to the  
339 community, but the church was not doing anything for Milwaukie.
  - 340 • On the other hand, residents testified they did not want a housing development in  
341 place of the park and told the developer to find someone else who would use the  
342 structure in a manner that fit the area. It was frustrating.
  - 343 • **Commissioner Qutub** said that the Commission viewed the CSU differently than the  
344 applicant. Strong cultural differences existed which created conflict. Having a  
345 briefing about how to address culture and religious differences would have been  
346 helpful.
  - 347 • **Ms. Mangle** observed that the Willamette National Cemetery does not allow dogs or  
348 recreational public use. While culture might play a part, it was not a stretch to say  
349 that the owners considered the property somewhat sacred as a religious institutional  
350 property. Correctional facilities were also CSUs and often had rules that precluded  
351 overlying public access.
  - 352 • Staff tried to focus on the narrow issue of whether the CSU property owner  
353 should be able to define the use of their property in a way that for them was

- 354 religiously motivated. Though different than what the community expected, staff  
355 recommended that it was reasonable, given the type of use.
- 356 • Staff was uncomfortable that the scope of the issue kept getting broader, and  
357 then regarded views from the property, cut-through traffic, ADA issues, etc.
- 358 • **Commissioner Qutub** did not believe staff had erred in explaining what was  
359 expected to the Commission. Everyone took it so personally that they deviated from  
360 what was to be reviewed. Staff did a good job keeping the Commission on target,  
361 but the Commissioners kept expanding the scope.
- 362 • **Mr. Monahan** added that the applicant made a specific application request  
363 regarding what terms of the CSU they wanted to modify. Anything other than that  
364 took away the applicant's investment in their opportunity. A modification  
365 requested to a condition of approval on other land use applications did not open  
366 up the opportunity to modify other items. The Commission should focus on CSUs  
367 in the same manner.
- 368 • **Commissioner Churchill** stated that the property owners took the existing large  
369 easement in a drastically different direction than where it was during the first  
370 application process.
- 371 • **Chair Klein and Mr. Monahan** noted that ADA issues and ticketing people who  
372 walked their dogs on the property were not the Commission's responsibility and  
373 would pit the neighborhood against the church.
- 374 • The CSU overlay was viewed as that originally approved for ESD. Making it a  
375 housing development made no difference, because neighbors walked dogs on the  
376 property anyway. The park was not actually a park, so that was not an issue.
- 377 • **Commissioner Newman** felt that the decision was regrettable because the CSU  
378 that resulted did not seem even close to what was intended with ESD. The same  
379 thing could happen again where a CSU was written to allow something and then the  
380 property was sold, effectively and completely changing the original intent.
- 381 • Once a CSU was allowed, it could not be reversed. Staff was smarter about the  
382 need to specify in the conditions of approval that a particular use with particular  
383 schedules and ancillary uses could not be changed without returning to Planning  
384 for review.
- 385 • Discussion regarding Commissioner Qutub's participation included:
- 386 • Though a quorum was needed for the second meeting, a lot is missed if  
387 meetings were not attended. It was difficult to get the details and the whole flavor  
388 of the meeting from the minutes.

- 389           • Arguments addressed at the second meeting were pretty much the same as  
390           the first meeting. The applicant's needs did not change from the first to the  
391           second meeting.
- 392           • Another element was that Mr. Monahan had not asked Commissioner Qutub to  
393           step down before she was involved in some of the conversations at the second  
394           meeting. At first her questions were obtaining good information for the audience,  
395           but then she seemed to indicate a direction in which she was going.
- 396           • If Commissioner Qutub had not participated, but sat in the audience. She  
397           could have participated in the third meeting, although rebuilding would have  
398           required a lot of work in listening to the first meeting of the hearing.
- 399           • When she participated at the third meeting, Mr. Monahan was concerned  
400           someone would think there was a bias. Someone could appeal to City  
401           Council and discredit the Commission.
- 402           • Mr. Monahan might have covered his procedural irregularity by introducing a  
403           worksession prior to the meeting to review the agenda and confirm who  
404           would be participating to avoid embarrassing anyone.
- 405           • No one had prepared Commissioner Qutub about whether she could  
406           participate or not. She would not have addressed anything if she had  
407           been told. She did understand the issue after reading the minutes and  
408           attending the second and third meetings, and felt prepared to make a  
409           decision. She asked if her participation caused problems for the decision.
- 410           • The appeal deadline was December 11, 2008 and no appeal had yet been  
411           received. It was okay that Commissioner Qutub participated.
- 412           • Mr. Monahan would have felt better if she had not participated at all in the  
413           second hearing, but he did not think anyone would challenge the  
414           decision. If someone did, City Council was the final decision maker. The  
415           concern was that it put a bad light on the Planning Commission.
- 416           • Not having Commissioner Qutub's vote could have changed the outcome of  
417           the application, sending it on to City Council for the decision.
- 418           • The Commission had to police themselves and the audience was asked  
419           about challenging any Commissioner's participation, not other  
420           Commissioners. Participation was a personal choice because everyone  
421           learned differently in rebuilding from the written or audio record.
- 422           • Chair Klein did the right things at the third hearing by giving the audience  
423           the opportunity to challenge Commissioner Qutub's participation. Several

424 people in the audience were at the prior meeting, so they did not have the  
425 concern.

- 426 • It was important that the public did not perceive that the Planning  
427 Commission talked to each other about issues. In this case, an audience  
428 member could have decided that someone was brought in because of the  
429 tied vote to ensure the vote went a particular way.
- 430 • **Ms. Mangle** stated that staff did not know if a quorum would be present for the  
431 second meeting, so it was important that Commissioners let staff know if they  
432 would attend. Legally, Commissioners were allowed to participate in situations  
433 where the need was evident.
- 434 • If it served the public interest to participate for quorum reasons or otherwise,  
435 staff could provide the tapes, supporting materials, and minutes to help  
436 Commissioners prepare for continued hearings.
- 437 • Information was requested about what the tax implications would have been if the  
438 original CSU application had been developed into homes.
- 439 • Because churches were mobile, information about where the church's congregation  
440 came from was also requested. Was the church building community or just finding a  
441 central location?
- 442 • Such information helped to determine community service use, though some  
443 Commissioners believed the request was biased.
- 444 • Regarding traffic impacts, the analysis did not care if the cars came from  
445 Sherwood or Ardenwald; they were all cars.
- 446 • It would make a difference if the attendees all came from Milwaukie because  
447 some would be pedestrians.
- 448 • Having local congregational members helped centralize revenues within the  
449 city since local residents paid property taxes and did business in the area.  
450 The same issue came up with the Sweet Pea Daycare.
- 451 • The impacts could go either way because local people would benefit from out  
452 of town people coming on Sundays and shopping locally without worrying  
453 about educating their school children.
- 454 • Holding a worksession 15 to 20 minutes prior to scheduled Commission meetings  
455 would help prepare for and save time in hearings. Worksessions would be public  
456 meetings and would provide a chance to clarify the staff report material, how the  
457 process would work, who would participate, any problems with exhibits, etc.

- 458 • Participants might monitor the worksession to be sure no discussions were
- 459 [inaudible].
- 460 • Premeeting worksessions were pretty open, but also allowed the opportunity for
- 461 executive session, which would be closed to the public. Regular land use
- 462 applications would not generally qualify for an executive session. A premeeting
- 463 could also clarify any expectations of Commissioners.
- 464 • RLUIPA could have been discussed in an executive session, which would have
- 465 been beneficial at meetings two and three.
- 466 • The Commission consented to discuss premeeting worksessions further when
- 467 Commissioner Batey was present and the Commission's vacant position was
- 468 filled.

469

470 **9.0 OLD BUSINESS -- None.**

471

472 **10.0 OTHER BUSINESS/UPDATES**

## 473 10.1 Code and Comprehensive Plan update pages

474

475 **Ms. Mangle** noted the Code updates were included in the meeting packet and then  
476 updated the Commission about the following:

- 477 • The Thomason sites were being developed, and included Willamette Jet Boat and
- 478 the administration offices of a tile manufacturing company from Portland.
- 479 • The sites would be industrial uses and met the minimum jobs requirement.
- 480 • No potential impacts existed for light rail because the site was on the Tillamook
- 481 branch not Main St.
- 482 • The project was under the cost threshold for doing all the public improvements
- 483 under the current Code, so some street trees would be planted, but not full public
- 484 improvements.
- 485 • She thanked the Commission for agreeing that the JCB trailer met the minor
- 486 modification standards, but the City decided that the project was close enough to the
- 487 upper limit that it was wise to return to the Planning Commission in a public hearing
- 488 for a major modification to a CSU. Staff wanted to ensure they were in no way doing
- 489 anything different than would be asked of other applicants.

490

491 **Mr. Monahan** agreed that the initial analysis was good, but it was an opportunity to  
492 define the City's commitment to the process.



493

494 **Chair Klein** opened a discussion regarding the Commission's part in permitting and  
495 Code amendments related to the sewer treatment facility. The Commission had wanted  
496 to put some teeth in Kellogg Treatment Facility and when sent to Council, the discussion  
497 was repeatedly tabled. Mr. Knapp of the Clackamas County Service District (CSD)  
498 stated in a *Clackamas Review* article that it was worthless and the Commission had  
499 nothing to stand on.

- 500 • **Mr. Monahan** explained that the reason it was held off was because it created some  
501 strategic leverage. A special committee was created by the County when the Council  
502 put it on hold. He believed Mr. Knapp's comment saying it was nothing, meant it did  
503 mean something. Much was occurring behind the scenes and hopefully some  
504 resolution was close.  
505 • Concern was expressed about the Code language presently before the Council,  
506 which needed refreshing after having been continued.

507

508 **Ms. Mangle** confirmed that no one had come to City Council with any complaints about  
509 the Planning Commission, though complaints about staff were heard from Ed Parecki.

510

511 **Chair Klein** noted that he had written an endorsement for the mayor in *The Clackamas*  
512 *Review* as a citizen, but the newspaper website had referred to him as Planning  
513 Commissioner. He wanted to assure the endorsement was intended as Jeff Klein,  
514 resident of Milwaukie; he was not speaking on behalf of the Planning Commission.

515

516 **Mr. Monahan** explained such references were common practice. He advised making it  
517 very clear when submitting letters and then following up with a call when the mistake is  
518 made to provide documentation in case a complaint is lodged.

519

520 **11.0 NEXT MEETING:** January 13, 2009 (no meeting December 23, 2008)

521 11.1 CSU-08-04 Bridge City Community Church Sign Review

522 11.2 CSU-08-05 Pond House Application–Booktique bookstore/other Lending Library  
523 Uses

524 11.3 Officer Elections

525

526 **Ms. Mangle** noted that staff hoped to have a briefing on the South Downtown Concept  
527 Plan Project, which would include the consultants from the Center for Environmental

528 Structure and possibly Christopher Alexander, himself. She would be in contact if the  
529 meeting was scheduled to begin earlier.

530

531 **Forecast for Future Meetings:**

532 January 27, 2009 –Parking Code Update briefing – *tentative*

533

534 Meeting adjourned at 9:53 p.m.

535

536

537 Respectfully submitted,

538

539

540

541

542 Paula Pinyerd, ABC Transcription for

543 Alicia Stoutenburg, Administrative Specialist II

544

545

546

547

548 \_\_\_\_\_  
Jeff Klein, Chair



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Katie Mangle, Planning Director *KM*

**From:** Susan P. Shanks, Senior Planner

**Date:** February 3, 2009 for February 10, 2009 Meeting

**Subject:** **Files:** CU-07-02 Conditional Use, WQR-07-01 Water Quality Resource, TPR-07-12 Transportation Plan Review, VR-07-06 Variance, and TAR-07-01 Transition Area Review

**Applicant:** HT Investment Properties

**Owner(s):** Hans Thygeson

**Address:** 5900 and 6011 SE Harmony Road

**Legal ID:** Map 1S2E 31D, TLID 1800, 1900, and 1990

**NDA:** Adjacent to Lake Rd NDA, Linwood NDA, and N. Clackamas Citizen Association

## ACTION REQUESTED

Approve a one year extension to the land use approval for CU-07-02, which would allow the applicant until February 27, 2010 to complete substantial construction of the approved mini-storage facility.

## BACKGROUND INFORMATION

The Planning Commission issued a Notice of Decision approving CU-07-02 on August 27, 2008. The decision approved the proposed mini-storage facility, which is a conditional use in the BI Zone, after the Planning Commission found that it met all the approval criteria for a conditional use contained in Milwaukie Municipal Code (MMC) Chapter 19.600. The decision required the applicant to "complete substantial construction of the proposed development within six months of this approval" (Condition of Approval 9A) because MMC Section 19.1013 states that "authorization of actions covered by Chapters 19.600, 19.700, and 19.800 shall be void after six (6) months unless substantial construction pursuant thereto has taken place." The six-month deadline for completing substantial construction in this case is February 27, 2009.

The Planning Commission, however, may extend the authorization for an additional one (1) year upon request. A one-year extension would give the applicant until February 27, 2009 to complete substantial construction.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission grant the one year extension. The approved development is a complex development project, and six months is an unrealistic time frame within which to complete substantial construction as required by the code.

Staff does not believe that the intent of MMC Section 19.1013 would be violated by granting the approval. The uses listed in MMC 19.1013 all require some analysis of the project site and the existing surrounding land uses and structures in the approval criteria. It is likely the intent of MMC 19.1013 is to ensure that such uses are constructed while the circumstances under which they were approved still exist. The existing land uses and development patterns of that area are not likely to change to any great degree, and it is unlikely that they would change to a degree that would affect the approvability of the mini-storage facility.

### **ATTACHMENT**

Applicant's Extension Request Letter (dated January 29, 2009)

**HT Investment Properties, LLC & Affiliate Companies**  
**Property Development & Construction**  
825 Harritt Dr NW  
Salem, OR 97304  
Phone: 503-485-1836 Fax: 503-364-9496

City of Milwaukie  
Planning Commission  
6101 SE Johnson Creek Blvd  
Milwaukie, OR 97206

January 29, 2009

To whom it may concern;

Please regard this letter as a formal request of extension on our Harmony Road Mini-Storage project.

We are requesting a one (1) year extension per MMC Section 19.1013.(2) due to the amount of time it has taken to get the engineering for this project site completed. We have just received a complete set of plans.

We do not want to start any site grading during these winter months due to the sensitive nature of the project site.

We plan to start work on the project in the spring of this year once we have obtained all the permits for the project and plan to complete the project by winter of 2009.

Thank you for your cooperation and understanding.

Sincerely,

Aaron D. Young  
Project Manager



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Katie Mangle, Planning Director *KMM*

**From:** Ryan Marquardt, Associate Planner

**Date:** February 3, 2009, for February 10, 2009, Worksession

**Subject:** Off-Street Parking Chapter Amendments

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## **ACTION REQUESTED**

None. This is a briefing for discussion only on the status of the City's Parking Code Amendment project. It is the first of a two-part briefing to the Commission on proposed policy changes related to parking. Staff seeks the Planning Commission's feedback on policy recommendations. The amendments discussed at the worksession will eventually be heard by the Planning Commission in late spring of 2009. At this time the Commission will make an adoption recommendation to the City Council.

## **BACKGROUND INFORMATION**

The off-street parking chapter amendments are part of the Planning Department's ongoing effort to improve the Zoning Ordinance.

### **A. History of Prior Actions and Discussions**

- **February, 2008:** Staff discussed the off-street parking chapter amendments scope of work with the Planning Commission.

### **B. Project Purpose**

There are three basic reasons the City is revising the off-street parking chapter:

- Frequency of Use: the off-street parking chapter regulations impact a large majority of the development permits and land use cases that the Planning Department receives. The regulations are, by reference, a part of nearly every base zone in the city.
- Impact of Parking Regulations: the parking regulations require nearly all properties to devote a portion of their area to parking. Over 31% of the total area of property outside the right-of-way within Milwaukie is paved. While not all of this paved area is used for

parking, it is reasonable to assume that most of this area is used for maneuvering and parking automobiles. The parking regulations are important because they dictate the size and appearance of a significant portion of the land area in Milwaukie.

- Deficiencies in the Current Regulations: There are problems with the existing code, including vague regulations, poor organization, superfluous parking use categories, and unclear modification and determination procedures.

Given these circumstances, staff has adopted the following goals for the amendments to the parking chapter:

- Make the regulations more environmentally friendly: By reducing the overall amount of land required for parking, and allowing the incorporation of more natural storm water management features in parking areas, the regulations can help reduce stormwater runoff and the heat island effect.
- Make the code easier to implement: By reorganizing the chapter, clarifying certain regulations and procedures, and simplifying the ratio table, the regulations will be easier to use for citizens, developers, and staff.
- Implement the 2007 TSP Policies: The revisions will allow the City to codify the policies related to off-street parking that were adopted in the 2007 TSP update.
- Correct problems in the code: The revisions will include regulations to cover gaps and loopholes in the City's ability to regulate some aspects of off-street parking.

Staff believes that the result of this comprehensive revision of the off-street parking chapter will be regulations that reflect the best practices of off-street parking regulation, are clear and easy to implement, and that further Milwaukie's livability.

## SUMMARY OF PROPOSED POLICY CHANGES

The parking chapter amendments are extensive, and will revise nearly every section in the chapter. Some highlights of the amendments include:

- An updated and streamlined parking ratio requirements table
- An improved process for evaluating parking needs and requirements for large and multi-use sites
- Reorganization of the chapter to make it easier to use and implement

Some of the changes proposed by staff have substantive policy implications that require direction from the Commission. The feedback staff receives from the Commission on these potential policy changes will help staff decide if they are acceptable as proposed, would be acceptable with revisions, or are not acceptable and should be removed from consideration. The major policy changes are described below.

## MAJOR POLICY CHANGES

The following amendments are significant additions and/or changes from the current regulations of the parking chapter.

## **A. Required Parking for Single Family Attached and Detached Dwellings**

- Existing: Require two off-street parking spaces, one of which must be covered.
- Proposed: Require one off-street parking space that does not need to be covered. Homeowners and developers may provide more if they so choose.
- Questions for the Commission: Should the City reduce the minimum parking requirement for single family dwellings or continue to require more than the regional standard? Should the City continue to require a covered parking space?

### Problem/Issue

Milwaukie appears to be the only jurisdiction in Metro region that requires more than one space per dwelling unit. The Metro Urban Growth Management Functional Plan also stipulates that jurisdictions may not require more than one off street parking space per dwelling unit<sup>1</sup>. Given the requirements within the Metro region and the goal to reduce carbon emissions by reducing reliance on automobile transportation, staff believes that requiring two off-street parking spaces for each single family dwelling is excessive.

The covered parking requirement poses problems when a homeowner wants to convert a garage into habitable space. Often in these situations, a covered parking space must be constructed elsewhere on the property to replace the space(s) lost, resulting in the construction of a car port in the front or side yard.

### Solution

Staff believes that Milwaukie should match other jurisdictions and the Metro Functional Plan by requiring only one parking space per dwelling unit. Staff also believes that removing the requirement for covered parking would be beneficial for Milwaukie homeowners and for the appearance of Milwaukie neighborhoods. Staff encounters a handful of property owners each year who seek to convert their garage into living space.

It could be argued that the City's covered parking requirement has the benefit of making automobiles less conspicuous by putting them in a structure. However, staff believes that this requirement is ineffective for this purpose because the City cannot require that an automobile actually be parked in the covered space, nor would it have the resources to enforce such a provision.

## **B. Parking for Accessory Dwelling Units**

- Existing: Require one off-street parking space for an accessory dwelling unit.
- Proposed: No off-street parking space required for an accessory dwelling unit.
- Question for the Commission: Is it necessary that a parking space be required for the creation of an accessory dwelling unit? Does the Commission believe that reducing the additional parking space requirement is appropriate for encouraging the creation of accessory dwelling units?

### Problem/Issue

An accessory dwelling unit (ADU) is an addition to or conversion of an existing dwelling to add a second dwelling unit. Creation of ADUs are generally allowed through a Type II

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<sup>1</sup> Metro Code, Title III, Planning, Chapter 3.07, Urban Growth Management Functional Plan, Title 2, Regional Parking Policy



review in all residential zones. Requiring an off-street parking space for an ADU may be a disincentive to creating ADUs in Milwaukie by adding costs for the property owner or making the creation of an ADU infeasible if there is not space for additional parking.

#### Solution

The City can encourage the creation of ADUs by removing the requirement for adding a parking space when an ADU is created. This code change would not prevent a property owner from providing an extra parking space(s) if they do create an ADU.

### **C. Parking Spaces in the Front Yards for Residential Uses**

- Existing: No maximum number of spaces for single family dwellings, and minimal limitations on location
- Proposed: No maximum number of spaces for single family dwellings, but a limitation on the number of uncovered spaces in the front yard.
- Question for the Commission: Should the City limit the number of parking spaces on residential lots or limit their placement?

#### Problem/Issue

Residential facilities and congregate housing facilities to house up to 15 people are considered to be single family residences. Because there is no maximum number of spaces allowed, these and other facilities that are allowed outright in residential zones would be allowed to construct a 16 space parking lot in the front of the house. Such a large parking lot in a front yard is incompatible with a residential neighborhood.

#### Solution

The proposed solution is not to limit the number of spaces for residential uses, but to limit their placement. The limitation would apply to all single family dwellings. Staff is giving consideration to what would constitute an uncovered parking space, and would add appropriate code language or definitions. Staff is also open to considering alternate approaches to address this problem.

### **D. Parking Quantity Determinations and Modifications**

- Existing: Modifications to the parking ratio table are governed by a process that is difficult to understand. Determinations for uses not listed in the table are handled in a separate section, and the process is vague.
- Proposed: Modifications and determinations will be handled similarly by a single section of the code. The new section will have clearer application requirements and decision criteria. Developments that require relatively large amounts of parking may opt or may be required to have a parking quantity determination.
- Question for the Commission: Is the application and review process for modifications and determinations understandable? Does it contain the correct criteria? Is it appropriate to require larger developments to conduct a parking determination?

#### Problem/Issue

The existing code allows for modifications to the parking ratio table on a case-by-case basis. It also allows for a required parking determination where a use is not listed in the

table. Both of these processes are beneficial, but the requirements for these requests and their approval criteria are vague.

#### Solution

The proposed amendment will combine these processes into one section of code with similar application requirements and approval criteria. In addition, the approval process for modifications and determinations is proposed to change from a Type I administrative review to a Type II administrative review because the approval criteria for these requests are discretionary. It is appropriate for the review of such criteria to receive some public notice.

Another important aspect of this regulation change is that large developments can opt or may be required to conduct a site-specific parking demand analysis. Analyzing the specific parking needs of a development will better serve the citizens and the developer, and may help reduce the over-supply of parking where it is not needed. See Attachment 1 for the draft code language (19.505.2).

### **E. Redevelopment Projects with Non-Conforming Parking Areas**

- Existing: The existing code requires that non-conforming parking areas come closer to conformance when a remodeling or change in use takes place. No additional guidance is given regarding implementing this section.
- Proposed: The new code will require non-conforming parking areas to come closer to conformance when a remodel or change of use occurs. It will prioritize which non-conformities should be addressed, and limit expenditures on parking lot non-conformities to 10% of the development permit value.
- Question for the Commission: Is it fair to require that up to 10% of a development permit value be spent on upgrading off-street parking areas? Does the Commission have any feedback on the order and content of the areas that should be brought into conformance?

#### Problem/Issue

The applicability section of the parking chapter is vague as applied to existing parking lots. The specific language is, "The standards and procedures of this section shall also apply to uses with nonconforming parking and loading facilities, in an attempt to bring them into conformance with current standards when remodeling or change in use occurs." This language does not give staff or an applicant any guidance about the scope or type of the requirements that will satisfy this requirement.

#### Solution

The proposed amendment would cap the amount that the City can require a developer to spend on parking area upgrades at 10% of the development permit value. This would help ensure that required upgrades are in line with the scale of the improvements being built on the site. The proposed amendment also gives staff guidance about which should receive priority for being brought into conformance. See Attachment 1 for a draft of the proposed text in this section (19.502).

## **NEXT STEPS**

The draft proposal includes policy changes that staff characterizes as “moderate.” A list of these changes can be found in Attachment 2. Staff will return at the February 24 Planning Commission meeting to continue discussion of policy changes.

Staff will refer the proposed amendments for review by staff, residents, stakeholders, and decision makers. Staff expects the final draft proposal to be complete in April 2009. At that time, staff will continue its outreach efforts to stakeholders, including, but not limited to, local developers, neighborhood district associations, and downtown business owners. By May 2009, staff expects to begin the formal code amendment adoption process.

## **ATTACHMENTS**

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Draft Code Amendments – selected sections
2. Moderate Policy Changes

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## **Attachment 1**

### **Excerpts from Draft Parking Chapter Code Amendments**

#### **Chapter 19.500      Parking and Loading**

##### **19.502 Applicability**

- A. The regulations of this chapter apply to all parking areas, whether required or put in for the convenience of users. Parking requirements apply to all development, redevelopment, and changes of use.
- B. New Parking Areas. New development and redevelopment of a site that involves construction of a new primary structure will fully conform to all the standards of this chapter.
- C. Expansion of Existing Parking Areas. Where an existing off-street parking or loading area is expanded, the newly expanded area shall fully conform to the standards of this chapter. Existing parking and loading areas on the site are subject to the standards of Section 19.502.D below.
- D. Existing, Non-conforming Parking Areas. Parking areas on a site that do not meet current parking standards will be brought closer into conformance when development, redevelopment, or change of use on the site occurs. Required improvements shall not exceed 10% of the development permit value of the associated development, redevelopment, or change of use.

The Planning Director shall determine what improvements to the existing parking and loading areas shall be made to bring the area(s) closer to conformance. The following improvements should be considered priorities, in the order that they are listed, for coming closer into conformance.

- 1. Paving and striping, per section 19.50X.
- 2. Provision of the minimum required automobile parking spaces, per section 19.50X. If the parking area is expanded, the new area will conform to all standards and procedures of the chapter.
- 3. Provision of bicycle parking spaces, per section 19.50X.
- 4. Landscaping of existing buffers, islands and medians, per section 19.50X.
- 5. New perimeter landscape buffers, per section 19.50X.
- 6. Other standards within this chapter, as determined by the Planning Director.

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##### **19.505.2      Parking Quantity Modifications and Determinations**

This subsection allows for the individualized determination of minimum and maximum parking requirements where: the proposed use is not listed in the parking ratio tables, uses are unusual or unique, the applicant requests a modification to the ratios listed, or for large developments.

- A. Applicability. The procedures of this section shall apply for any of the following:
  - 1. If the proposed use is not listed in Table 19.505.2;
  - 2. If the quantity requirements listed in the ratio table states "Per 19.505.2";

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3. If requested by the applicant;
  4. If more than 50 spaces are required, and the Planning Director decides that a determination should be made; or
  5. If more than 100 spaces are required.

In the situation of Subsection 1 above, the Planning Director has the discretion to apply the ratios of a similar use listed in Table 19.505.2 if it is determined that the listed use and unlisted use have similar parking demands.

B. Application. Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1011.2. The application for a determination of required parking must:

1. Be prepared by a qualified professional using methods generally accepted in the field,
2. Consider any unique or unusual characteristics of the development that affect parking demand;
3. Consider the proximity of transit, demand management programs, and/or special characteristics of the customer, client, employee or resident population that affect parking demand;
4. Consider parking shared parking options and evaluate the supply of on-street parking available;
4. Propose a range of minimum required parking and a range of maximum allowed parking for the proposed development, and
5. Show that the reduction will not unreasonably impact adjacent uses or public facilities.

C. Approval Criteria. The Planning Director shall consider the following criteria in deciding whether to approve the determination or modification. If approved, the Planning Director, based on a parking analysis prepared by the applicant, will set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the criteria.

1. All modifications and determinations must meet the following criteria. Modifications for decrease in the amount of required parking must also meet the criteria of subsection 2 and increases in the amount of allowed parking must also meet the criteria of subsections 3.
  - a. The applicant must demonstrate that the best available data to justify the modification or determination has been used;
  - b. The parking quantities of the modification or determination are reasonable based on existing parking demand for similar use in other locations; and,
  - c. The parking quantities of the modification or determination are reasonable based on parking quantity requirements for the use in other jurisdictions.
2. Modifications to Decrease Required Parking. For modifications to reduce the number of parking spaces below what is required in Table 19.505.1 or Table 19.505.2, the applicant must show that the use of transit, demand management programs, and/or special characteristics of the customer, client, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared with minimum City parking requirements. The applicant must also show that the reduction of off-street parking will not adversely affect available on street parking or off street parking

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areas of nearby land uses. The applicant must also show that the reduction is the minimum deviation necessary from the minimum required parking ratio.

3. **Modifications to Increase Allowed Parking.** For modifications to increase number of parking spaces above what is allowed in Table 19.505.1 or Table 19.505.2, the applicant must show that the proposed development has unique or unusual characteristics that create a higher-than-typical parking demand. The applicant must also demonstrate that the increased parking demand cannot be accommodated by shared or joint parking or by increasing the supply of spaces that are exempt from the maximum ratio. The applicant must also show that the reduction is the minimum deviation necessary from the maximum allowed parking ratio.

## **Attachment 2**

### **Moderate Policy Changes**

The draft proposal includes policy changes that staff characterizes as “moderate.” The following amendments are changes that deviate from the existing code or policy in some way, but are not anticipated to have as much of an impact as the major policy changes. Staff plans to address these amendments at the February 24, 2009 worksession.

#### **A. Parking Ratio Table**

- Existing: Parking ratio table contains 54 separate uses with one minimum required parking ratio and two maximum allowed parking ratios.
- Proposed: Parking ratio table contains approximately 35 separate uses with one minimum required parking ratio and one maximum allowed parking ratio. Parking ratios are re-evaluated to lower the minimum required ratios where possible and to be in line with Metro regional policy and other jurisdictions.

#### **B. Multiple Uses on the Same Site**

- Existing: Multiple uses on the same site are calculated as a sum of the parking ratio required for each individual use.
- Proposed: Where multiple uses exist on the same site, the parking ratio is calculated as the sum of 100% of the required parking for the primary use and 80% of the required parking for all other uses.

#### **C. Shared Parking Distance**

- Existing: Shared parking facilities on another site must be within 300 feet of the principal structure on the subject site.
- Proposed: Shared parking facilities on another site must be within 1,320 feet (1/4 mile) of the principal structure on the subject site.

#### **D. Parking Space Dimensions**

- Existing: Parking space and drive aisle dimensions have standard and compact space designations, requirements for drive aisles are significantly larger than standards for other jurisdictions.
- Proposed: Parking space and drive aisle dimensions have one standard size, parking dimensions are somewhat reduced from existing full-size space requirements, drive aisle dimensions are more significantly reduced.

#### **E. Parking Lot Design**

- Existing: Several parking lot design standards are not worded well enough to be applied consistently. Other aspects of parking lot design are not regulated.

- Proposed: The proposed amendments would regulate the specifics of on-site circulation, gates across driveways, drive aisle width and location for site egress and ingress, and lighting.

#### **F. Off-Street Parking Areas**

- Existing: Off-street loading areas are required based on building size, however, the language of the section says spaces are required “as appropriate.”
- Proposed: The Planning Director would determine if loading spaces are required after reviewing the proposed development. The City would no longer dictate the number of spaces based on building size. Standards related to loading space size and loading activities not interfering with parking areas or the right of way would remain.

#### **G. Boat, RV, Commercial Vehicle, and Dismantled Vehicle Parking in Residential Zones**

- Existing: Regulations regarding the above vehicles exist in the current code. The definition and rules regarding commercial vehicles are difficult to interpret. One regulation about where RVs and boats may be stored is phrased as an “encouraged” location. A regulation regarding dismantled vehicles is in Chapter 19.400, apart from the parking regulations.
- Proposed: The amendments would do the following: clarify the definition of commercial vehicle to regulate based on size; make the location requirements for RV and boat storage more enforceable; place a limit on the number of RVs and boats that can be stored on sites over 1 acre; consolidate such regulations in one portion of the MMC, and possibly move these regulations out of the Zoning Ordinance and into the Vehicles and Traffic title.

#### **H. Downtown Parking**

- Existing: The Downtown Storefront and sections of the Downtown Office Zones are exempt from Chapter 19.500. Other downtown zones are subject to the parking minimum and maximum ratio table in Section 19.503.
- Proposed: All commercial, office, and residential uses in the downtown zones are subject to the ratio table below: All downtown zones would be subject to the provisions of Chapter 19.500

<b>Use Category</b>		<b>Minimum Required</b>	<b>Maximum Allowed</b>
A.	Residential	1 space per dwelling unit.	2 spaces per dwelling unit.
B.	Commercial/ Office	None.	2.5 spaces per 1,000 gross square feet.

#### Commentary

From 1968 to the present, the Zoning Ordinance has exempted some or all of the downtown area from off-street parking chapter requirements. This exemption recognizes the uniqueness of downtown, an urban environment that has a higher supply of on-street parking spaces and more intense development than other areas of



Milwaukie. From an economic and urban design perspective, it is advantageous to encourage land in this area to have relatively more structures and fewer surface parking lots.

The proposed downtown parking ratio is a direct implementation of policies adopted in the 2007 Transportation System Plan (TSP) update. The TSP update included a chapter that focuses on downtown parking (Chapter 12). The policy recommendations in this chapter were the result of parking demand studies and meetings with the TSP Downtown Parking Work Group.

The resulting ratio table is also easy to implement for developers and staff. Not requiring a minimum number of parking spaces for commercial and office uses simplifies the permit process for tenant improvements in existing buildings. Staff is considering the non-conforming rights of existing dwelling units downtown that do not have an off-street parking space. The code change also fixes a loophole that exempted the Downtown Storefront and portions of the Downtown Office zones from any requirements in Chapter 19.500, including parking design, landscaping, and bicycle parking.

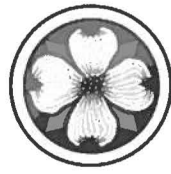
## **I. Parking Structures**

- Existing: Section 19.507 governs parking structures. No review process is specified.
- Proposed: Parking structures would receive minor quasi-judicial review by the Planning Commission. Clarifies that other design standards also apply to parking structures.

### Commentary

Outside of downtown, parking structures only require staff-level review. This means that a developer could show up at the counter with and apply for a building permit to build a parking structure. There would not necessarily be any public notification or consideration of the proposal. Additionally, the seven review criteria for parking structures are subjective (Section 19.507). Decisions that require consideration of subjective criteria should be heard by the Planning Commission at a public meeting.

The proposed amendment would require that a parking structure receives a proper review and public notice. Staff also proposes to add a phrase to clarify that parking structures are also required to comply with design requirements for the base zone where they are located. The downtown zones are the only zones with such design requirements at this time.



# MILWAUKIE

*Dogwood City of the West*

**To:** Planning Commission

**Through:** Katie Mangle, Planning Director *KM*

**From:** Li Alligood, Assistant Planner

**Date:** February 2, 2009, for February 10, 2009, Worksession

**Subject:** MMC Title 19 Amendments

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## **ACTION REQUESTED**

None. This is a briefing for discussion only. The Planning Commission hearing for these amendments has been scheduled for February 24, 2009.

## **BACKGROUND INFORMATION**

### **Why is the City amending the Zoning Code?**

The City is adopting amendments to the Zoning Code to ensure that the City's industrial regulations and zoning code comply with Title 4 of Metro's Urban Growth Management Functional Plan.

Title 4 limits development within Regionally Significant Industrial Areas, Industrial Areas, and Employment Areas. Some designated Industrial Areas and Employment Areas are located in Milwaukie. Milwaukie's zoning for your property does not currently comply with Metro's restrictions on Industrial Areas. The proposed amendment will bring Milwaukie's zoning ordinance into compliance with Metro's requirements.

### **What does this mean for properties in Industrial Areas?**

Currently, retail uses greater than 60,000 sq ft gross floor area are prohibited within mapped "Industrial" areas in Milwaukie. The proposed revised policy would limit individual retail trade uses within mapped "Industrial" areas to no more than 5,000 sq ft gross floor area, and multiple retail trade uses on the same site to no more than 20,000 sq ft gross floor area.

What this means for your property is that if you would like to build a retail store, such as a gift shop, or a branch of an office, such as a bank, it would need to be smaller than 5,000 sq ft gross floor area. If you wanted to build a project with several retail uses, such as a mini-mall, all

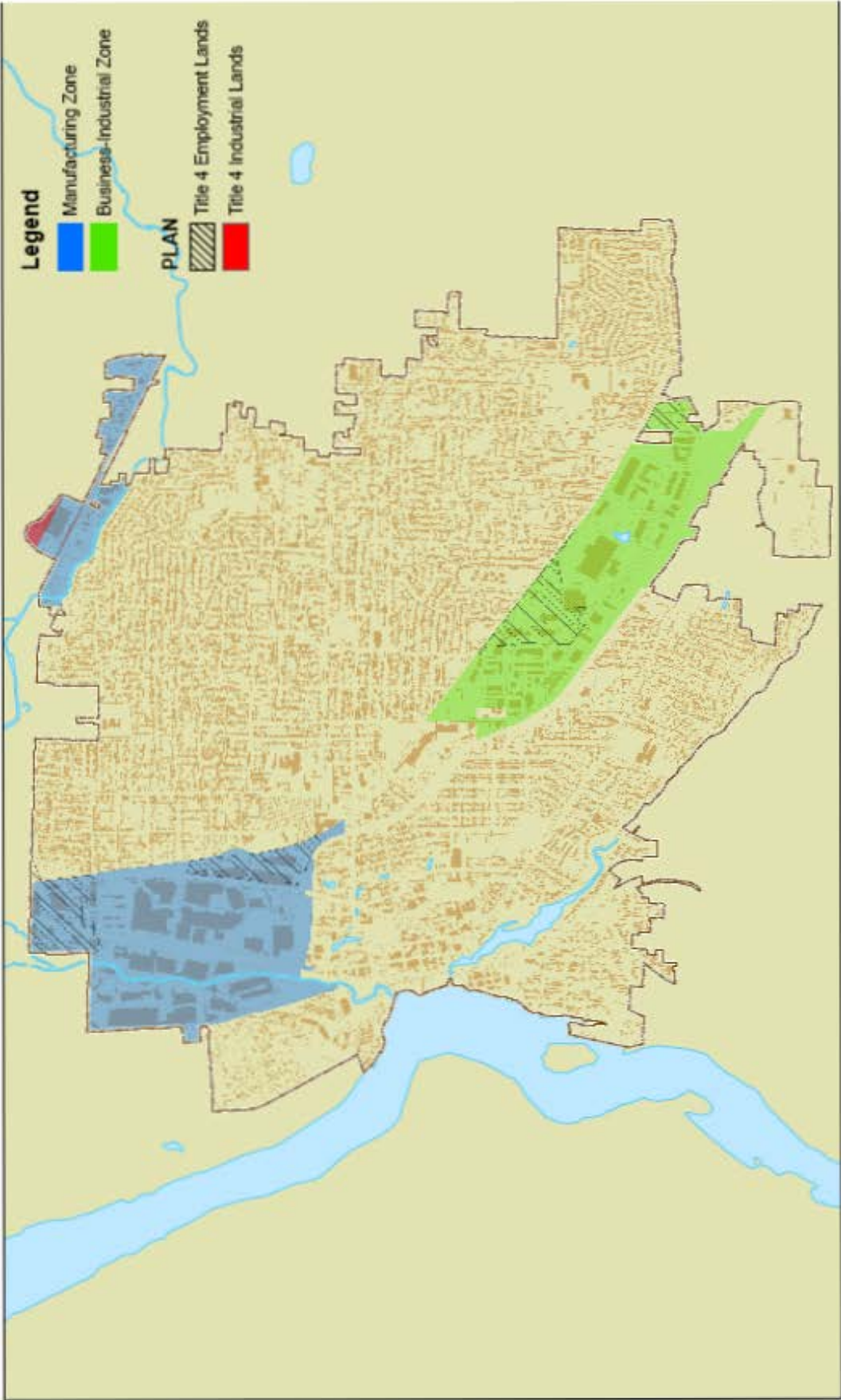
of the retail stores or branches together would need to be equal less than 20,000 sq ft gross floor area.

The purpose of the proposed change is to protect the value and integrity of regionally significant industrial land.

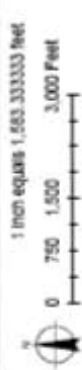
## **ATTACHMENTS**

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Map of affected Title 4 Industrial Areas



**Milwaukee Title 4 Areas**



Auditor: City of Milwaukee Planning Department, December 2008  
Source: City of Milwaukee GIS, Milwaukee County GIS,  
Metrolink Transit Authority  
All data depicted is approximate.  
Not suitable for building or engineering purposes.

