

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, April 14, 2009
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

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

COMMISSIONERS ABSENT

Dick Newman, Vice Chair

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 February 10, 2009

Commissioner Bresaw moved to approve the February 10, 2009 meeting minutes as written. Commissioner Batey seconded the motion, which passed unanimously.

2.2 February 24, 2009

The Commission briefly conferred whether the use of the word “Congress” on Line 829 on 2.2 page 25 of the packet was a correct reflection of the funding being discussed. No changes were made.

Commissioner Wilson asked whether a Commissioner who was absent for the meeting should abstain.

Bill Monahan, City Attorney, advised that a Commissioner could choose to abstain but did not have to. The Oregon Public Records Law did allow someone not present at a meeting to vote on the minutes. He suggested that Commissioner Wilson let those who were present provide their comments and if they appeared satisfied, he could vote or abstain.

Commissioner Churchill moved to approve the February 24, 2009 minutes as written. Commissioner Bresaw seconded the motion, which passed 5 to 0 to 1 with Commissioner Batey 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 Public Hearings –None

6.0 Worksession Items

6.1 Community Service Use Modifications –Director's Interpretation briefing Staff Person: Katie Mangle

Katie Mangle, Planning Director, explained that Staff had developed an internal practice for handling properties being used according to the list in the Community Service Use Code section, like old churches, schools, and the Johnson Creek Blvd (JCB) facility, which was permitted in the County and then annexed into the City.

- Staff had developed and used an internal practice for handling permits for older sites with the Community Service Overlay (CSO) designation, like old churches and schools, and for other community use facilities permitted in the County before being annexed into the City.
- After some recent applications, including the Johnson Creek Blvd (JCB) modular office building application, staff realized the interpretation regarding old CSU-type properties needed to be more thorough and added to the Code fix list because the CSU Code did not provide sufficient direction for such circumstances, which came up often.
- Staff worked with Bill Monahan, City Attorney, to develop the Director's Interpretation Memorandum (6.1 page 2 of the packet) to clearly outline the interpretation for staff and potential applicants.
 - * She wanted the Commission to understand the background because the issue would come up during the North Clackamas Park application where the ball fields would lead to a CSU for one corner of the site.
- She specifically reviewed the seven categories listed and defined in her memorandum (6.1 page 4) which addressed how to handle a property that had not received a CSU permit. She reminded that CSU applications were previously called Community Service Overlay (CSO). The CSU process replaced the older CSO in 2006.
- She responded to comments and questions from the Commission as follows:
 - * The Immoveable Foundation Church was a CSO property under Category 2; although it was treated as a CSU under the current code.
 - * Using a diagram, she indicated how applications for improvements to existing CSU properties within a Water Quality Resource (WQR) area would be subject to CSU review to ensure WQRs were protected.
 - * A complete CSU process would not be required for an improvement such as a bridge in North Clackamas Park, unless it was within a WQR area. Normally a major modification would have been required, but for this site the Commission would review whether [the bridge] alone was a CSU, rather than the whole park. A Code amendment was needed to clarify the approach and avoid confusion.
 - * She explained a 50-ft setback existed from the high bank of the creek, specifically within the mapped area of the WQRs or Willamette Greenway (WG) Zone. If the footprint of a structure touched within one of the setbacks, then the structure would come under the CSU review process.

Commissioner Churchill asked if the potential for abusing the intent of the CSU Code by avoiding a review was possible, such as extending the bridge so as not to touch the setback.

- * **Ms. Mangle** responded that the application would then fall into a different category and requires a major modification to the CSU, and so it would not avoid review.

Commissioner Bresaw added that a bridge would create shade over the creek, and so would not escape the WQR area review.

Commissioner Churchill asked what qualified as "touching the zone"; trees also created shade. He wanted to be sure the definition was exact enough to avoid future problems. He suggested that if the footprint touched the zone, the radius around the structure should be treated the same as the actual footprint, which would encompass such details as a cantilevered structure hanging over the 50-ft setback.

- * **Ms. Mangle** agreed that good questions were raised, clarifying that the intent was the building footprint in the WQR area or WG Zone.
- * **Mr. Monahan** stated that the footprint could be addressed as a disturbance-impacted area in the Code rewrite, which would trigger a review.

Chair Klein added that once the Director's Interpretation triggered a review, the application would then come to the Planning Commission.

Commissioner Bresaw expressed concern about private property owners who fertilized lawns next to the creek, impacting the creek even though the house was 50 ft back.

- * **Ms. Mangle** responded that issue was covered in the WQR Code. Even if site changes outside of the 50-ft buffer affected the water quality, enforcement was possible. For example, if construction occurring on a hill caused erosion into a creek below, erosion control requirements would be enforced. She asserted that the WQR Code addressed many situations.
- * The issue was how much flexibility should be offered to sites in terms of use or expansion if they were not properly permitted originally. Generally, "properly permitted" was being interpreted pretty broadly because the City did not believe it was appropriate, reasonable, or fair to require every CSU in the city to obtain new permits.

Chair Klein confirmed that additional survey requirements were only triggered if a structure was proposed in the WG Zone.

- * **Ms. Mangle** clarified that the 50-ft setback was based on Code maps, which had to be verified by an official survey provided by the applicant.
- Understood the statement "Changes of name and ownership are irrelevant" in Category 5 on 6.1 page 5 was true for all the categories.
 - * **Ms. Mangle** agreed, clarifying that it applied unless specified in the conditions of approval, which had been done in some applications.
 - * Churches could change owners and still operate under the same CSU. She recalled at least one church changing to a different congregation and relying on a previous CSO permit. The new congregation was held to the same conditions and operating assumptions and if not met, then a CSU modification review was needed.
- Was concerned about CSUs converting over without some review of whether the new use was an intensification of use.
 - * **Ms. Mangle** noted staff did not always know that a CSU was converting to a new use, but the Planning Commission had the ability to reconsider CSU permits if it

was believed the use intensified or did not meet the original conditions. A new full hearing was not necessarily required, but an opportunity was provided to bring the owner in and impose additional conditions.

- * **Mr. Monahan** agreed, adding if a church historically only had church services once a week, but then converted to another church that provided an array of other related uses, the impact could be reviewed.

Commissioner Churchill asked if an existing church would trigger a CSU review by increasing the number of services offered, thus increasing the use.

- * **Ms. Mangle** responded that it depended on what the conditions of approval were, which was why staff now tried to be very specific about what was approved. If a concern existed, staff could research the original CSO approvals and conditions to investigate specifics.

Commissioner Batey commented it was ironic that the older CSOs had a greater chance of intensified use over time, but the City had less ability to do anything about it.

Chair Klein agreed, adding that compared to when a church turned over, the intensification of use would probably not be as great.

Susan Shanks, Senior Planner, interjected that sometimes the process did work, although was not always noticeable.

- The Bridge City Community Church had a day care approved through the old CSO process, which was very specific about the number of teachers and students, hours of operation, and number of parking spaces required. A year later, the approved day care went out of business.
- Just recently, the church wanted to utilize the empty space with a new day care. Upon review, staff discovered that a land use decision had approved a day care with a certain level of operation. The church tailored the use to meet the requirements to receive approval for the day care. Any variations would have been an intensification or alteration.

Chair Klein recalled that he liked what the Commission did with Sweet Pea Preschool because they supported the owner, not just the day care.

Commissioner Batey commented that was a little dangerous.

6.2 Planning Commission Bylaws Review Staff Person: Katie Mangle & Bill Monahan

Ms. Mangle explained that over the past 2 years, she and Mr. Monahan had compared notes regarding bylaws that should be reviewed. Their suggestions were being presented for discussion only and for input from the Commission.

Mr. Monahan presented the proposed changes, as noted in his memorandum 6.2 page 1 of the packet dated April 3, 2009. He noted that staff would incorporate the Commission's suggestions and return with another draft for review.

The Commission reviewed the proposed changes to the bylaws, discussing and consenting to key changes with additional comments as follows:

- Article V.A. Meetings: Planning Commission meetings were targeted to end at 10:00 p.m. with the option of voting at 10:00 p.m. to extend to 10:15 p.m., and then voting at 10:15 p.m. to determine whether to continue the meeting.
- Article V.C. Voting: A tie vote would result in denial.
- Article V.E. Parliamentary Authority: References to Robert's Rules would be deleted.
- Article VII.C: Language stating that Commissioners were encouraged to visit the site was preferred. The expectation or obligation to complete site visits should be removed.
 - * Relying only on the packets was a clean process, but through site visits, the community could see that the Commissioners were aware of the full picture.
 - * Actually seeing the site provided a better perspective of topography and other details.

Key additions to the current bylaws, under Article VII.C.II (6.2. page 3) were also addressed as follows:

- Language regarding conflict resolution should be included in Article V.
- Item 2: The expectation of someone voting in a future continuation hearing should be clarified. Commissioner discussion was as follows:
 - * **Commissioner Churchill** expressed concern because the minutes could not completely capture the tenor or language of a hearing, making it difficult to step into a continuance and fully participate. He preferred that a Commissioner absent from the first hearing not be allowed to participate in the continued hearing because they would be less than fully effective in the second session.
 - * **Commissioner Qutub** agreed that capturing the intensity of what really took place at a meeting was not possible for someone not in attendance.
 - * Not having a quorum could lead to a forced denial, so not allowing a Commissioner who missed a meeting to vote in the continued hearing was a risk.
 - * A resignation or long-term illness that kept a Commissioner from attending a second hearing would prompt the need for a method to enable someone to get caught up. Perhaps videotapes or MP3 files could be utilized in some situations.
 - * Meetings could be videotaped and stored on a hard drive or DVD should someone have to miss a meeting. Having a video of the meeting was more realistic.
 - * Though funding was an issue, video recording meetings on the cable access channel was a new project that had never been discussed. If the project was important, staff could tackle it as a project, although it would be at least a year out.
 - * **Commissioner Churchill** stated that if meetings were videotaped, he would revise his position about attendance being required at all hearing sessions.
 - * The difference between excused and unexcused absences might be a consideration.
 - * If a quorum were necessary, or someone who was ill wanted to participate, attendance could be achieved by telephone. It was important that the individual be able to participate in questions and answers and that the public could hear their comments.
 - * **Mr. Monahan** agreed to develop options regarding attendance and suggested:
 - If an earlier meeting was missed, participation at the second meeting would not be allowed.
 - A list of requirements to enable someone to get caught up before participating in a second meeting if the first meeting was missed.

- An exception could be made if the Commission needed a quorum.
- * **Chair Klein** stated the difficulty was that if a quorum were not possible at the last minute, it was important to not appear as if another Commissioner was brought in to break a tie vote.
- * The lack of a quorum could result in denial because of the 120-day land use clock if a decision was not made in time. An applicant could waive the clock and have a do-over or appeal to City Council, but only if enough time was available on the 120-day clock for the required public notices. Otherwise, the City lost its decision-making power.
- Item 3: Duties of Chair. The Chair should be allowed to vote but not make motions.
 - * The order and rotation of voting was also discussed. There would be no set order for the motion and second, but the Chair would call for staff to poll the vote based on the order of which Commissioner was next in line to vote first.
- Item 4: Abstentions would be allowed with the reason for abstaining was explained. Items from other cities' bylaws under Article VII.C.III (6.2 pages 3-5) were discussed, including:
 - Item 2: Open Meetings. A reason must be declared to hold executive sessions, such as informing the Commission about likely litigation, etc.
 - * Members of the media were allowed to attend executive sessions, unless the session regarded litigation involving the media or were related to labor negotiations with a union. They could not disclose the discussion of the session.
 - * No tight definition of "members of the media" existed, which was a concern because anyone with a blog on the Internet was considered "media." Having a policy in place before confronting someone who may not be qualified was best. The recommendation was that someone would need to prove they were a member of the media by showing press credentials, etc.
 - Item 5: Vote to Reconsider. A vote to reconsider should not take place later than the meeting at which the original vote occurred. After the original vote, the public typically left the room, so if a vote was reconsidered it could be damaging because of public perception. A motion to reconsider could only be made by someone who was in the majority.
 - * While a majority vote was required for approval, nothing in the bylaws stated that another vote could not be taken if a tied vote occurred; an alternative motion could be made.
- The bylaws did not say that when a tie vote occurred there could not be another vote.

Chair Klein noted Article III.A of the current bylaws and asked if the new Mayor could decide to appoint a new Planning Commission.

- * **Mr. Monahan** replied no, because Article III.B established the term of office as a period of 4 years. The Mayor, with the consent of City Council, appointed Commissioners for a specific term. The appointment was the final action; the text should indicate they were nominated by the Mayor and approved with the consent of Council. The language could not be changed, however, because it was part of the Municipal Code.
 - Nothing addressed the situation where Council did not consent or take final action regarding the Mayor's appointee. The Mayor then had to return with another name.
- * **Ms. Mangle** noted that Commissioners' terms were staggered so all the Commissioners did not change at the same time. She clarified that filling a partial

term did not count toward the 2-term limit. Vice-Chair Newman was about to be reappointed for the third time, but his first term was a partial term that fulfilled another's spot for a year.

- * **Mr. Monahan** confirmed that "pleasure of the Council" meant that if Council felt someone was acting inappropriately, they could ask for that person to resign. He agreed the language was awkward and could be changed.

Commissioner Bresaw believed "pleasure of the Council" should be retained to help address situations where a Commissioner might be difficult to deal with or acted unprofessionally.

- * **Mr. Monahan** added the language might be included rather than forcing Council to find a specific reason why someone was no longer fit for duty.

Mr. Monahan concluded that when the Commission forwarded the proposed bylaws to Council for adoption, he suggested drawing attention to sections the Commission believed could not be changed because of the Municipal Code, such as the language regarding the Mayor nominating potential Commissioners, and suggest that Council review them as well.

6.3 NE Milwaukie Sewer Extension project briefing Staff Person: Susan Shanks

Susan Shanks, Senior Planner, explained that the sewer extension project would extend City sewer into the northeast section of the city, to the north and east of existing City boundaries. She briefly reviewed the project and responded to comments and questions from the Commission as follows:

- She clarified that it was not a Streets project, but a Wastewater project. Although the project would pave the streets, leaving them in better condition, there would be no sidewalks. Curbs would create more challenges because of stormwater, and were not part of the project either.
 - * The Engineering Department's goal was to have 20 ft of 2-in asphalt on every existing street, which would be a big improvement.
 - * Under the County Urban Growth Management Area (UGMA) agreement, the County was supposed to improve the streets when the City took over jurisdiction, but the money was not available.
 - Other options were available, including federal stimulus money and a change in the existing loan structure for the project. A limited amount of cash was available, but it was hoped that as many street improvements as possible could be built into the project.
- A special loan was being used for the \$3.8 million project through the Department of Environmental Quality (DEQ) that was specifically for sewer projects and would be repaid when residents tapped into the new sewer lines. The loan would not pay for a full asphalt overlay, but the loan would cover paving over the trenches.
 - * The longer a homeowner waited to be annexed and connect to the sewer line, the more interest they would pay, which provided an incentive to join sooner rather than later. Other incentives were being considered.
- She noted that as properties were annexed, the City would discuss how to respond to Code compliance issues. Public outreach would be done to help ease the transition between the City and County jurisdictions, and address the different development standards as much as possible.

Chair Klein reviewed several pictures of the subject neighborhood, noting an open septic tank, uninhabitable homes, and unmaintained streets. The City had no jurisdiction and so could not address any problems. The County had certainly not done the area any favors as it did not want to deal with the area because it was in Milwaukie's UGMA.

- He supported the concept of annexation of the subject area, but recognized it was not financially prudent for the City to do. It was, however, socially prudent because some houses in the area were in very poor condition. The main issue was Code compliance.
- In talking with residents in the area, many did not want to be part of the City because of the increased money required. For those residents, paying the City's portion of taxes was a massive increase.
 - * Annexing the area would provide needed services like police and fire. The City would also give residents representation, whereas the County did not care.
- He suggested that the City annex all the properties at one time and ask the County to reduce their tax by the amount that the City would tax the residents, enabling residents to pay the same amount in the first year. Then the amount would increase incrementally each year until the County returned to its normal tax code in 20 years, which would provide Milwaukie the revenue needed at the beginning of the extension project.
 - * Bringing in properties one by one through the years would cause problems with Code enforcement, police, and fire services provided to one neighbor but not another, along with other problems. Annexing the entire area would eliminate many issues.
- He had not discussed his ideas with Council, but understood where its outspoken members stood on the issue about not forcing annexations.
- At present, no promises or benefits were available to the residents who annexed, except that the building moratorium would be lifted from their structures. He wanted the whole area annexed because providing added City services to the residents would incentivize them to become part of the City. Perhaps a small urban renewal district could be created so funds generated from the area could be spent right in that area to build streets, lighting, and other needed services, providing further incentive to residents.
- He believed the County wanted to get the properties off their books. He noted City police would have to respond to all homes on a street, if they responded to one, so many issues needed to be considered.
- Though Council had given staff clear direction about not forcing annexations, he believed if other viable options were presented, people would consider them.

Ms. Shanks responded that staff had been discussing the same issues, adding it would be much easier to bring all the properties in at once. However, the City had to back up what was promised, which cost money and only so much could be built into the project.

- She noted that once the area was in the City, some streets could be eligible for the street resurfacing maintenance program, competing with other City streets for the program's funds. Unfortunately, there were no easy answers or magic pots of money.

Commissioner Churchill supported the project from an environmental perspective, but also looked at the value of the homes when purchased, which probably reflected a lower mortgage rate due to not having City services. He was not as concerned about creating

large incentives, although it was a Council decision.

Commissioner Bresaw agreed with Commission Churchill.

- She noted that residents were likely thinking in terms of dollars they did not have; the \$6/\$1000 assessed value, the \$20,000 fee to connect to the sewer, as well as the increased tax-assessed value.
 - * **Ms. Shanks** clarified that connecting to the sewer system did not necessarily increase the assessed value of a home. The assessed value was the private property and improvements on the private property.

Chair Klein added that the owners would also be able to do home improvements that they could not do at present, which was an important issue.

Ms. Shanks noted that the City was not willing to do improvements to the area at the expense of other City projects. Incentives would only be offered if they were made to work within the confines of the project.

- She noted that approximately 30% of the homes were rented and about 70% were owner-inhabited. Many homes were well-kept and residents were widely diverse in age, background, etc.
- She confirmed that the new sewer charges would be included on water bills. No stormwater fees would be incurred because no stormwater system was proposed.

Chair Klein:

- Noted that the new home built at Lovena Farms on Stanley Ave was classified by the County as 'replacement of a structure.'
 - * **Ms. Mangle** explained that the structure would have been considered new construction if the property was in the city. The City had the owners sign a non-residence agreement so that they knew that annexation into the City was required because of the sewer provision. The construction was allowed because the property was in the County, but they would be required to do a sewer connection, though she was unsure about the timing.
 - * She stated she would research the facts about Lovena Farms and report back to the Commission. She agreed that something slipped through the system with the construction of the house. The City did approve a sewer connection and the engineer who approved it felt that he was taken for a ride and it was not clear.
- Asserted the City did everything it was supposed to, but the County did not adhere to its own code.

Ms. Shanks noted that most properties were County zones R-7 and R-10, which would readily convert to the City's R-7 and R-10 zones. Some properties were zoned industrial, commercial, or residential but were not utilized as such and might want to change their zoning once in the City. Any annexations wanting to convert to a different zone than what automatically transferred would have to come before the Planning Commission.

- She noted that the neighborhood impacted Milwaukie residents in different ways, although she hoped the sewer project would benefit Milwaukie in general.

Chair Klein noted that all City maps were incorrect because Ball-Michel Park was not included.

Staff confirmed that Dual Area Interest B was to the south and in a different part of the

UGMA.

- The two special interest areas were known as dual special coordination areas for the City and County. The rest of the UGMA was not called out that way.
- UGMA meant that the area was all unincorporated, and essentially the City of Milwaukie could annex it first.
- The County was also doing a parallel sewer project for the area east of the dual interest areas.

Chair Klein commented that many islands existed that the City wrapped around with no foreseen annexation. He noted that annexation could be forced if a failing septic system was within 500 ft of the City's boundaries, as well as for other reasons.

Commissioner Wilson asked if a new Neighborhood District Association (NDA) would be created.

- **Ms. Shanks** responded that it was not yet known if the existing NDAs in Milwaukie wanted to grow to include the neighborhoods or if the neighborhood being annexed wanted to maintain their own identity and have their own NDA.

7.0 Planning Department: Other Business/Updates

Ms. Mangle updated the Commission on the following items:

- Despite what she reported at the Design & Landmark Committee (DLC) joint session on May 24, 2009, the Code assessment project was on track due to federal, not state, funding being provided. The State wanted to schedule the project management team meeting and get started. She would provide a full briefing at the next meeting.
- The North Clackamas School District had proposed expanding the project on Fuller Rd, but the proposal had been pulled due to a lot of controversy. The school district was doing a preapplication conference with staff on Thursday to look at expanding office space at the Lake Rd facility.

The Commission proceeded to Item 8.0 Planning Commission Discussion Items, before hearing Ms. Shanks' request.

8.0 Planning Commission Discussion Items

Chair Klein said that Commissioner Batey, Commissioner Churchill, Ms. Mangle, and he had attended the South Downtown Concept Plan discussion meetings, most recently last weekend. The idea was to look at a design for making open space and mixed use for the South Downtown area. He made comments and addressed questions as follows:

- He had been skeptical of the plan going in. However, after attending the meetings he had completely changed his opinion of the plan, although he was not certain how achieving the plan would be possible.
 - * The consultant, Center for Environmental Structure (CES), assured that they had models to follow, means to implement the project, and people interested in investing in the project.
- He was most intrigued by how absolutely different the project was from any process or project the City had ever done or considered, adding it involved responsible social engineering.
- The next steps involved using refined pattern language to create a design on paper and to construct a 3D model of the South Downtown Concept Plan, which would be reviewed again by the group for changes, if needed. Presentations would then be

made to the NDAs, the farmers market, as well as the Planning Commission and DLC because a master planning process would need to occur.

- The project would add density, not like at North Main, but a manageable density; putting people in an area but not overpopulating the area. Creating flow and use, while minimizing the impacts on the area.

The Commission returned to Item 7.0 for comments regarding the Transportation Code Amendments.

Ms. Shanks stated that City Council had requested another worksession to discuss in detail the single-family remodel expansion aspects of the proposed Transportation Code Amendments that the Commission had forwarded to Council for approval on March 10, 2009. Council was asking the same questions that the Planning Commission had about finding the right threshold and other ways to address single-family remodels.

- The second worksession was planned for April 21, 2009, with the City Council hearing to be held on May 5, 2009.
- She asked if any Planning Commissioners could present the Commission's perspective to City Council and explain why the Commission had recommended the approach currently on the table. The staff report was available online.

Chair Klein agreed to attend.

9.0 Forecast for Future Meetings:

- | | |
|----------------|--|
| April 28, 2009 | 1. Worksession: Urban Renewal project briefing |
| | 2. Worksession: Main Street Initiative project briefing |
| May 12, 2009 | 1. Worksession: Title 13 Habitat Conservation project briefing |
| | 2. Public Hearing: CSU-09-02 Portland Parks & Recreation Maintenance Facility – <i>tentative</i> |

Ms. Mangle briefly reviewed the Future Meetings Forecast.

Commissioner Churchill asked that a balanced approach be presented regarding urban renewal, and not just the rose-colored glasses view of the subject.

- * **Ms. Mangle** agreed. She assured that no urban renewal proposal existed yet. The project was to simply help formulate what urban renewal could look like for Milwaukie.

Chair Klein stated he had concerns about the feasibility report being completed by a consultant who also did urban renewal facilitation.

- * **Ms. Mangle** replied the briefing would be the time to ask all the questions.

Ms. Mangle updated the Commission about the following items:

- When to begin construction on the Jackson St Improvement Project had not yet been decided. Introducing federal stimulus funds for street improvements might have complicated and delayed the project because federal requirements had to be met, such as categorical exclusion from the National Environmental Policy Act (NEPA). Staff was trying to determine the critical path and how quickly the project could get done.
- Staff was reviewing the park and ride plans for a building permit. The primary

concern was how the site would handle stormwater because new standards had been adopted since the land use approval was obtained.

- * A new CSU would be required if the applicant wanted to construct a restroom, but they were not interested at this point in time.
- * She reminded that stimulus funds were for shovel-ready projects. The project was shovel-ready because they already had land use approval. If the applicant returned to the Planning Commission, they would not receive the stimulus money, though that did not mean the plans could not be modified.
- * The project would exceed the City requirements with regard to the video surveillance cameras, more than what was required would now be installed on day one.
- Portland Parks and Recreation was using part of a building in the North Industrial Area as a maintenance facility to store materials, supplies, and equipment, while the rest of the building was used as an industrial use. Portland Parks and Recreation needed to expand to use the whole building, but were only allowed to be there if the rest of the building was used for industrial use. If they wanted to expand, a CSU was required because their use did not meet the standards for the M Zone.

Meeting adjourned at 9:14 p.m.

Respectfully submitted,

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

Jeff Klein, Chair

Dick Newman
Vice Chair



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday April 14, 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 February 10, 2009
 - 2.2 February 24, 2009
- 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 Public Hearings** – Public hearings will follow the procedure listed on reverse
- 6.0 Worksession Items**
 - 6.1 Community Service Use Modifications – Director's Interpretation briefing
Staff Person: Katie Mangle
 - 6.2 Planning Commission Bylaws Review
Staff Person: Katie Mangle & Bill Monahan
 - 6.3 NE Milwaukie Sewer Extension project briefing
Staff Person: Susan Shanks
- 7.0 Planning Department Other Business/Updates**
- 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:**
 - April 28, 2009
 - 1. Worksession: Urban Renewal project briefing
 - 2. Worksession: Main Street Initiative project briefing
 - May 12, 2009
 - 1. Worksession: Title 13 Habitat Conservation project briefing
 - 2. Public Hearing: CSU-09-02 Portland Parks & Recreation Maintenance Facility –
tentative

Milwaukie Planning Commission Statement

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

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. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at 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
Chris Wilson

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Senior 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, 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

76 ~~6.1~~ *CANCELLED AND RESCHEDULED TO 2/24/09

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

80

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

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

91

92 6.2 Parking Code Update project briefing
93 Staff Person: Ryan Marquardt

94

95 The Commission addressed Agenda Item 6.3 Title 4 Metro Code Compliance at this
96 time. Agenda Item 6.2 Parking Code Update followed the Commission's recess (page 8
97 11).

98

99 6.3 Title 4 Metro Code Compliance briefing
100 Staff Person: Katie Mangle

101

102 **Ms. Mangle** briefly reviewed the material and maps in the meeting packet regarding Title
103 4 Metro Code, noting the public hearing for the Code amendments would be February
104 24, 2009. She addressed preliminary questions from the Commission as follows:

- 105 • She explained the background regarding how Metro determined the criteria for Title
106 4. The City's M Manufacturing Zone requirements generally complied with Title 4.
107 Changes were made to focus on precluding big box retail in industrial areas, which
108 was the only change that required action by the City.

- 109 • The code change was developed about two-and-a-half years ago. When making
110 changes, Metro had to obtain approval from the State Department of Land
111 Conservation and Development, and then the cities had to come into compliance
112 within two years afterward. The local city deadline for compliance was May 2009.
- 113 • The Code amendment would only affect the red area on the map and would actually
114 state that in regionally designated Title 4 lands, the properties would not be allowed
115 to have retail uses greater than 5,000 sq ft.
- 116 • She confirmed that Title 4 could be applied to all industrial areas, exceeding what
117 was already approved.
- 118 • Bob's Red Mill was larger than 5,000 sq ft but was in the in BI Zone. Title 4 applied to
119 part of M Zone areas like the Johnson Creek Blvd Industrial area and the North
120 Industrial area.
- 121 • She believed part of the intent was to preclude WalMart and such stores, but was
122 uncertain how Title 4 would affect areas like the WalMart site, which was partly in
123 Portland, or the Pendleton site within the City. She did not know if that area was Title
124 4 land, but reminded that Title 4 lands could be extended and such changes could
125 be considered or applied as part of the broader project.
- 126 • While the North Industrial area was not pretty, it had a high occupancy rate, and the
127 area along Johnson Creek Blvd included Precision Cast Parts, one of two Oregon
128 Fortune 500 Companies. She believed the North Industrial Land Use Study (NILUS)
129 concluded that it was more vibrant than it looked.

130
131 **Commissioner Batey:**

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

143 use would be retail, but some kind of commercial service would support the
144 manufacturing use.

145

146 **Chair Klein:**

147 • Asked if it would hurt to expand the Title 4 areas into the upper Northern Industrial
148 area.

149 • **Ms. Mangle** replied no, adding she and Alex Campbell, Resource & Economic
150 Development Specialist, had discussed it. The primary reason to do so was that
151 regional funding would increasingly focus on implementing the 2040 Vision,
152 which focused growth in town and regional centers, key corridors, and even key
153 industrial areas. Areas that were not Title 4 properties or designated town
154 centers would be less likely to receive funding for improvements in the future.
155 Expanded Title 4 land was not really needed, because the City could be as
156 protective as it wanted in terms of land use authority. Staff knew that area
157 required a lot of transportation improvements to improve access and [designating
158 it as Title 4 land] might make it more competitive for funding.

159 • Recalled discussions about development including big box stores across the street
160 from Fantasy and other businesses. He preferred being in front of [development],
161 adding Sellwood would probably appreciate the Commission's efforts to control
162 growth.

163 • **Ms. Mangle** said staff would include some of that context at the next meeting for
164 the Commission's consideration.

165

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

167

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

174 • He stated he was an environmental consultant and had moved from Orange County
175 to the area in June 2006 to help the environmental and geotechnical engineering firm
176 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

- 211 previous office use. The new use had to be retail because the project was on
212 Main St in the Downtown Retail Storefront (DS) Zone.
- 213 • The most conservative approach was used in evaluating the impacts of Mr.
214 Parecki's application. Generic office versus generic retail impacts were
215 considered, using the lowest possible trips for retail. Because of the difference
216 between trips generated by the former use versus the new use, the City
217 determined there would be more impacts.
- 218 • Public Area Requirements might seem strange or unfair because with no tenants
219 there were no impacts, but the process was similar to that used in land divisions. It
220 was common, typical, and legally defensible to require public improvements at the
221 time that land was divided because that was considered the time of development.
222 There were impacts in creating new lots. Even if the property was not improved for 5
223 or 10 years, the improvements were needed as soon as possible or the lots would
224 have no improvements due to time passing, staff changes, et cetera. It was typical
225 for cities to get the improvements when possible and when it made sense.
- 226 • If Mr. Parecki's tenant made more impacts than the generic retail use used in
227 evaluating impact, it was legally defensible for the City to say deficiencies still
228 existed in the public improvements for the frontage and ask for more public
229 improvements.
- 230 • Incremental improvements could be obtained for any downtown or non-
231 downtown project, because each project might trigger a portion of the public
232 improvements until the full improvements were actually implemented. At that
233 point, even if a project had more impacts, nothing more could be exacted
234 because the frontage was already complete.
- 235 • There was debate about the design standards for the downtown improvements,
236 which was why City Council directed staff to look at ways for the City to balance the
237 scales by doing urban renewal, recognizing the design standards were higher for
238 downtown.
- 239 • **Bill Monahan, City Attorney**, pointed out that downtown businesses also benefit
240 from the degree of public improvements that exist. The City was not asking for
241 improvements from property owners who then received nothing in return.
242 Property owners accrued benefit from the types of improvements already in
243 downtown, including wider sidewalks, benches, trashcans, et cetera.
- 244 • The City recognized that the standards were higher, but also that development

- 245 benefited more from the higher standard of improvements.
- 246 • Changes of use were more subtle than new construction or land division, so staff
- 247 was always conservative, but always completed an evaluation to determine whether
- 248 there were more impacts. Staff would not approach an application as though there
- 249 was a change of use, unless they were certain that a change of use would occur.
- 250 • If the previous use for Mr. Parecki's building was retail and staff did not know who
- 251 the new tenant would be, but the use had to be retail, staff would probably not
- 252 exact any improvements because the future use was unknown. Staff would
- 253 review it only when tenant improvements came in for the specific retail use and
- 254 triggered more impacts.
- 255 • Staff knew there was a change of use for Mr. Parecki's property, so they exacted
- 256 the improvements at that time.
- 257 • If the Chopsticks or Dark Horse buildings wanted only façade improvements and
- 258 continued to operate the business as is, there would be no impacts to the
- 259 transportation system, so no public area requirements would apply.

260

261 **Chair Klein** requested that Ms. Shanks ask Mr. Parecki which businesses [were

262 delaying improvements because of anticipated public area improvement requirement

263 costs] because that might shed a different light on the possibility of them [making

264 improvements to their buildings].

265

266 **Ms. Shanks** noted that the Chopsticks building might be under the old Code because it

267 was value-based.

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

274

275 **Commissioner Churchill** believed there was still merit to the premise of considering

276 when the impact actually happened, although he appreciated the land use division

277 model as an example and that it was legally defensible.

- 278 • 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.

313 From the City's standpoint, she did not know if different standards or approaches
314 could be developed for each different development approach.

- 315 • The Panattoni site was speculative with the intersection and other public
316 improvements required up front without knowing what tenants would go in.
- 317 • She reiterated that the change of use had triggered public area requirements in
318 Mr. Parecki's case. Without a known change of use, staff would not have gone
319 there, and instead would have evaluated the project for impacts to the system
320 when a tenant came in.

321

322 **Chair Klein:**

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

344

345 **Ms. Shanks** offered to talk with Alex Campbell about urban renewal and a general
346 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 lead 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

415 covered parking and the owner removed the covered parking, it had to be
416 replaced.

- 417 • The parking Code was developed in the 1960s and explained that staff was
418 probing for which requirements were outdated and which still made sense.
- 419 • **Chair Klein** commented that much of Milwaukie's post-war housing was built
420 when no one believed anyone would have more than one car. People parked
421 on the grass because no street parking was available; street boundaries were
422 not really defined as often no curbs existed.

423

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

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

429

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

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

436

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

440

441 Additional comments from the Commission included:

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

447

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

- 615 developer to make improvements to enhance the investment made on the
616 property on which they were loaning, reducing resistance for offsite
617 improvements that could be argued were the public's responsibility. That
618 argument was not available on an individual property.
- 619 • Stated that as proposed, people could still weasel under the bar, but that had to be
620 expected because a bar did have to be set.
 - 621 • **Ms. Mangle** explained that she had formerly done some parking lot developing
622 for transit agencies. On the designing side, many times she asked cities what the
623 requirements were so she could meet them. Many cities have requirements
624 based on a percentage and people would try to negotiate out of it, although for
625 bigger projects, it was typical for the applicant to just want to know what was
626 required.
- 627
- 628 **Commissioner Bresaw** reiterated that if a business obtained a loan, the bank would
629 want the property improved. However, there were cases where that pressure did not
630 exist and the least possible improvements were done.
- 631
- 632 **Chair Klein** agreed, but reiterated that once the bar was set, the applicant could weasel
633 under it, but it would not be worse than what currently existed.
- 634
- 635 **Mr. Marquardt** concluded by saying the minor policy changes were attached to the staff
636 report. The proposal was under review by City staff. Public outreach and a City Council
637 worksession would occur in early March or April, with the final draft proposed for
638 adoption at the end of May.
- 639 • If the Commission was comfortable with the direction provided on the major policy
640 changes and did not have comments on the minor policy changes, a second
641 worksession might not be needed, but it was up to the Commission.
- 642
- 643 The Commission agreed to hold a second worksession to:
- 644 • Provide a clear definition about the distance of shared parking use.
 - 645 • Consider RV and boat parking, an issue for many neighborhoods.
 - 646 • Further discuss parking lot design and landscaping.
- 647
- 648 The Commission continued to Agenda Item 7.0 Other Business/Updates from Staff.

649

650 6.3 Title 4 Metro Code Compliance briefing

651 Staff Person: Katie Mangle

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

653

654 **7.0 Other Business/Updates from Staff** (Continued)

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

657

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

659

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

- 663
 - Staff would put items as consent agenda items with a brief staff report, assuming a
664 complete presentation was not required at the meeting.
 - 665 • If a Commissioner wanted a presentation, she asked that staff be notified by the end
666 of the day the Friday before the meeting to allow staff to prepare a presentation on
667 Monday.
 - 668 • If staff suspected an item might not meet the approval criteria, a full presentation
669 would be prepared.

670

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

- 675
 - He clarified that a member of the public could also request that an item be removed
676 from the consent agenda, so it was important to be prepared. The applicant also
677 needed to know that their item could possibility be pulled from the consent agenda.
678 The applicant might decide not to attend the meeting and could request that the item
679 be continued if it was pulled from the consent agenda.

680

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 |

- 714 3. *South Ardenwald Master Plan – project briefing with
715 staff from the Housing Authority of Clackamas County
716

717 **Ms. Mangle** stated that HIE-08-04 would not be a consent agenda item and that a
718 worksession would also be held on the TCA Code Amendments.
719

- 720 March 10, 2009 1. ZA-09-02 Transportation Code Amendments – Public
721 hearing for Recommendation to City Council
722 2. CSU-08-06 Community Service Use – Public hearing
723 for Johnson Creek Blvd. facility modular office
724

725 **Ms Mangle** quickly reviewed the future meeting items, adding that she would diligently
726 review the forecast more regularly and encouraged Commissioners to voice their
727 questions or concerns early, so staff could build them into the review. Speaking up
728 earlier was better, so staff could ask the applicant questions.
729

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

- 733 • **Ms. Mangle** replied that although the issue did meet the minor modification criteria, it
734 was a City facility with a Community Service Use (CSU), so the more conservative
735 route was to schedule a public hearing for the approval. Once it was decided to take
736 the minor quasijudicial approach, all rules had to be followed, so a full public hearing
737 was required.
738

739 **Commissioner Bresaw** understood that poetry readings at the Pond House had been
740 occurring for 12 to 18 months and commented if there were traffic impacts, the
741 neighbors would have complained by now.
742

743 **Commissioner Batey** stated the Pond House was being used for poetry readings
744 without approvals, so the neighbors were not told about the poetry meetings. The public
745 notice posted on site blew down so neighbors were not informed that the meetings
746 would be permanent and possibly more frequent.
747

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

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 24, 2009
6:30 PM**

COMMISSIONERS PRESENT

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

STAFF PRESENT

Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Zach Weigel, Civil Engineer

COMMISSIONERS ABSENT

Chris Wilson
Paulette Qutub

1.0 Call to Order – Procedural Matters

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

2.0 Planning Commission Minutes–None.**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.

Betty Fulmore, 3356 SE Rockwood St, Milwaukie, OR distributed a letter from Matt Rinker, Ardenwald Neighborhood District Association (NDA) Chairman and a handout to the Commission regarding concerns about the secure residential treatment facility on Balfour St (Balfour House) and the proposed HUD project. She presented her concerns as follows:

- The Code did not currently define the terms “residential treatment,” “secure residential treatment,” “forensic secure” or “extended care” facility, so it was not possible to know what classification fit those homes. Clarification was needed for the Columbia Care building and similar facilities coming into Milwaukie.
- The only mention of extended care facilities was under off-street parking standards for nursing, convalescent, and extended care facilities, which addressed how many parking spaces per bed were allowed.

- 43 • She was concerned about fencing and parking spaces. The Code did not specify
44 placement of parking spaces or how many were required for a residential facility.
45 Five parking spaces were originally proposed in front of the Columbia Care building,
46 but now it would have nine parking places in front. Employee parking planned for the
47 back of the building, giving it more of a business than residential appearance. The
48 idea behind this was to make the facility fit in a residential neighborhood.
- 49 • The length and width of the parking spaces as indicated in the plans did not
50 appear consistent with the Code and might not be legal. She described the layout
51 of the parking facilities as she understood them.
- 52 • The Code allowed one parking space for every four beds, so two parking spaces
53 were allowed for the eight planned beds. When combined with the allowed
54 parking for employees, the nine proposed spaces were too many.
- 55 • Nursing and convalescent homes were listed under conditional use. If they were also
56 listed under the Federal Housing Act or Americans with Disabilities Act (ADA), then
57 they should not be under conditional use because under ADA, the facility could go in
58 a residential area.

59
60 **Chair Klein** asked staff to provide Ms. Fulmore a copy of the recently updated
61 Transportation Code Amendment (TCA) because it presented new ideas being put forth
62 and addressed a number of her concerns.

63
64 **Katie Mangle, Planning Director**, stated that the Parking Code was also under review
65 and could restrict parking lots in front yards.

- 66 • Staff was currently reviewing the plans for residential facilities. She would research
67 Code questions and provide a response at the next meeting along with a written
68 response.

69
70 **Ms. Fulmore** stated that fencing issues were also a concern. The facility was to be a
71 secure residential treatment facility for forensic patients and if so, the outside perimeter
72 should be secured. The residential Code required 6-ft high fences, but one could climb
73 over such fences. She was not able to find a clear definition of fencing and wondered if it
74 was in a different category because it regarded security. According to the State, the
75 issue was the safety of the surrounding neighborhood, but she did not see a 6-ft fence
76 sufficient for a secured facility.

77

78 **Commissioner Churchill:**

- 79 • Inquired about the neighborhood's perspective. The building was to have a
80 residential appearance, so a 6-ft fence blended better into the neighborhood than an
81 8- or 10- ft fence.
- 82 • **Ms. Fulmore** agreed, but said that the fencing could be toward the back of the
83 property, so it would not really be seen from the front. Supposedly, the patients
84 were not to be in front of the building and had to be secured, but since a permit
85 was not required to build a fence, no answers were available about the fence to
86 be installed.
- 87 • Summarized that Ms. Fulmore and her neighborhood were interested in a facility that
88 blended into the neighborhood but had sufficient security.
- 89 • Asked about the neighborhood's perspective regarding onsite versus on-street
90 parking.
- 91 • **Ms. Fulmore** replied that they did not need to park on the street. The design
92 proposed a parking lot next to the long driveway of the three adjoining flag lots
93 and for employee parking behind the facility.

94

95 **Chair Klein** clarified that the [application] had not and was not expected to come before
96 the Planning Commission. The plans were submitted so that [the application] properly fit
97 within the Code. It was important that people understood that the Commission had
98 sympathy for what was happening at that particular location and he wished the Code
99 changes had been updated sooner.

100

101 **Commissioner Bresaw** stated that the Commission could recommend or suggest
102 possibilities that would better conform to the neighborhood.

103

104 **Ms. Fulmore** understood, but felt that changes were needed in the future.

105

106 **Chair Klein** affirmed that the Commission was working on making Code changes.

107

108 **5.0 Decision Items**

109 **Extension Request**

110 5.1 HIE-08-04 Extension request for Home Improvement Exception Approval
111 for 13115 SE Pennywood Court
112 Staff Person: Ryan Marquardt
113

114 **Ryan Marquardt, Associate Planner**, explained that the Home Improvement Exception
115 (HIE) was a minor variance, allowing an existing resident to construct an addition that
116 did not quite meet all of the standards of the base zone where located. The applicant's
117 proposed addition covered 31.5% of the lot in a zone that allowed 30% maximum
118 coverage. It was a Type II process, which was typically approved at the Planning
119 Director level with public notice sent to properties within 300 ft.

- 120 • As a minor variance, it was subject to the 6-month substantial construction timeline,
121 similar to the Willamette Greenway dock and Harmony Mini-Storage. The applicant
122 recently turned in permits, but was unable to meet the timeline for completing
123 substantial construction.
124 • Staff recommended that the Planning Commission approve the extension. If
125 approved, the applicant had until February 28, 2010 to reach the substantial
126 construction threshold for the addition. If not approved, then the HIE would expire on
127 February 28, 2009. The applicant could then either construct something to meet the
128 Code standards or reapply for an HIE.
129

130 **Commissioner Bresaw moved to grant the one-year extension for the Home**
131 **Improvement Exception, HIE-08-04. Commissioner Churchill seconded the motion,**
132 **which passed 5 to 0.**
133

134 **Public Hearing**

135 5.2 ZA-09-01 Public Hearing on Metro Code Compliance Title 4 – Industrial
136 and Other Employment Areas
137 Staff Person: Li Alligood
138

139 **Vice Chair Newman moved that the Planning Commission initiate Code**
140 **amendments for Title 4. Commissioner Batey seconded the motion, which passed**
141 **unanimously.**
142

Li Alligood, Assistant Planner, presented the staff report regarding amendments to Title 19 Zoning Ordinance via PowerPoint, including the following comments:

- Amendments in 2004 to the Metro Functional Plan, in which Title 4 is contained, further restricted retail development in designated industrial areas, so Milwaukie's Municipal Code was currently out of compliance with Title 4. The proposed amendments would bring Milwaukie's Municipal Code into compliance regarding the additional restrictions.
- The proposed amendments affected only two portions of two lots. It would prohibit certain uses in Title 4 industrial lands, including retail uses larger than 5,000 sq ft and multiple retail uses larger than 20,000 sq ft per site combined.
- The proposed amendments met all the approval criteria with regard to process, consistency with the ordinances, and conformance with the City's Comprehensive Plan and regional and State regulations, including Title 4 of the Metro Functional Plan and Statewide Planning Goal 9.
- Staff recommended that the Commission vote to recommend that City Council adopt the zoning text amendment to Title 19 and the attached findings.

Commissioner Churchill:

- Wanted to clarify that a 60,000 sq ft restriction existed on retail.
 - **Ms. Alligood** confirmed that within Title 4 lands there was a restriction on retail of 60,000 sq ft, and the amendment would restrict that size limit of the affected properties even further. The bulk of the manufacturing zone did not have size restriction.
- Understood that Title 4 lands could grow in the future, so it was best not to look specifically at the existing sites, but instead determine what the implications were to the broader picture.
 - **Ms. Alligood** clarified that Title 4 lands within the City were designated by Metro according to a set of criteria. The City could request inclusion of additional lands through a public hearing process. Metro could then determine that they were viable Title 4 lands. However, she was not aware of any current plans to do so.
 - Metro used three primary criteria to designate Title 4 lands: proximity to arterial roads and freeways; proximity to other similar, industrial uses; and whether the site is developable given its topography, whether it is in a flood plain, etc.

- 176 • The Johnson Creek Blvd area was located on an arterial and near Hwy 205
177 with other industrial uses nearby.
- 178 • Noted industrial lands were on much larger arterials than Johnson Creek Blvd, so it
179 would be helpful to understand how Metro determined Title 4 land.
- 180 • **Ms. Alligood** replied that she could not address why or how, but a thorough,
181 rigorous process in early 2000s was used to determine regional industrial lands.
- 182 • Commented that the method for determining Title 4 land appeared very vague,
183 making it difficult to plan for expansion or restrictions of Title 4 lands.
- 184 • **Ms. Alligood** surmised that the only way Title 4 lands would expand was if it was
185 requested.
- 186 • Expressed concern, noting that many things were done by Metro without invitation.
187
- 188 **Chair Klein** stated that realistically, the placement of the two sites around Precision
189 Cast Parts (PCP) made it obvious that other types of development would not occur
190 there. He also did not understand the subjective nature utilized to choose Title 4 for the
191 area, but it appeared to be more of a formality. He did not want PCP to leave.
192
- 193 **Commissioner Batey:**
- 194 • Asked if the City had a way to stop Metro should it determine, for instance, that the
195 North Industrial area be considered as Title 4 land.
- 196 • **Bill Monahan, City Attorney**, replied that Metro would follow a process similar
197 to what they did in 2000 when they enlisted the assistance of local governments
198 to identify industrial and residential areas in a regional analysis. Unless Metro
199 changed their process, they would probably go through another large regional
200 process similar to that of the Urban Growth Boundary (UGB) expansion to update
201 whether sufficient land was preserved for the industrial needs of the region.
202 There would be a public process where Milwaukie could offer input, but ultimately
203 the Metro Council would make the decision and dictate to local governments
204 under the authority of their charter.
- 205 • **Ms. Mangle** added that 5.2 page 37 of the packet included the actual text of
206 Metro Title 4. Section 3.07.450 discussed rules for amending Title 4 maps,
207 including rules for when a city wanted to initiate the change as well as for when
208 Metro initiated the change. Generally, Metro would initiate the change if it was

209 land coming into the UGB. It was a long process with a lot of hearings and would
210 not happen casually or by accident.

- 211 • During the Transportation System Plan (TSP) discussions, a group of industrial
212 property leaders in the community casually discussed expanding the Title 4 lands
213 to include the North Industrial area, which the City did consider an industrial
214 sanctuary.
- 215 • By expanding the Title 4 lands, the City might benefit from potential access to
216 more grant money at the regional level for freight and transportation investments
217 oriented toward Title 4 lands.
- 218 • Understood there was no need to worry about Metro unilaterally amending Title 4
219 maps.

220

221 **Commissioner Churchill** believed it was difficult to set restrictions on something that
222 was applied to a very small portion of the City's land that could have implications at a
223 later date.

224

225 **Chair Klein** noted that it was site-specific.

226

227 **Commissioner Churchill** expressed concern that it was a Code amendment, not just a
228 site-specific amendment.

229

230 **Chair Klein** noted that it addressed the two sites that were currently Title 4, and did not
231 expand those areas.

232

233 **Ms. Alligood** said that if additional lands became Title 4 lands in the future, Metro's
234 restrictions would then apply to them as well.

- 235 • The proposed amendment was worded to apply to mapped industrial lands. If
236 industrial lands were added to the map, then it would apply to those lands as well.

237

238 **Commissioner Churchill:**

- 239 • Stated that if the City found them to be inappropriate, then the Code would require
240 adjustment to match the condition at that point.

- **Ms. Alligood** confirmed that the reason for the proposed amendments was to comply with the Metro Functional Plan as required. Staff only added the minimum necessary language.

- Added that he would feel better if staff better understood the true intent and detail of Title 4, because it was not clear.

- **Ms. Alligood** reiterated that the intent was to preserve industrial lands.

- Agreed, but stated there were other implications. Tools were being put in place without a full understanding of how Metro's criteria was developed for selecting Title 4 land and it could backfire.

- **Mr. Monahan** commented that the Metro Functional Plan took place over a long period of time when local governments had the opportunity to provide input. However, the City had no control over Metro. Everyone would like to understand Metro better, but it was a difficult process.

Commissioner Batey commented that if Metro determined that the North Industrial area was Title 4 land, it might not be a negative as it would keep out big box retail. The 5,000 sq ft and 20,000 sq ft limits might be too small [of a restriction], but the potential for Metro to act unilaterally seemed fairly low and did not worry her.

Ms. Alligood said that the proposed language was directly from Title 4. The size requirements were the maximum allowed. Other cities, such as Portland, restricted their maximum to 3,000 sq ft.

Chair Klein called for public testimony in favor of, opposed, and neutral to the application. Seeing none, he asked for additional comments from staff.

Ms. Alligood stated a letter was received from Metro stating that the proposed amendments brought the City into compliance with Title 4.

- A Measure 56 notification was sent to PCP that included the text of the notice, and Alex Campbell, Resource and Economic Development Specialist, had contacted them. Staff was told a representative might attend the hearing, but no further comments were received.

Tyson Terhaar, Facilities Manager, Precision Cast Parts, 4600 SE Harney Dr Portland, OR 97206, stated that as an existing industrial land, as long as the Title 4 designation did not affect the company's production or potential to build additional factories, they did not have a problem with it.

- He believed the reason their site was chosen as a Title 4 land was because the factory's property was actually split between Portland and Milwaukie.
- As an organization, they did want a clear understanding of what the City was agreeing to with the request. They had received notification of the public hearing, but did not receive a clear definition or much more information.
- He stated for the record that PCP did not intend to build any big box retail.

Chair Klein stated that as he read Title 4, it basically prevented big box stores and retained the property as an industrial area; it would not affect PCP.

Commissioner Churchill said he still had problems with how criteria used for selecting Title 4 land was developed. The documents and packet did not provide a clear explanation. Even though Title 4 was created many years ago, it did not mean that Title 4 or its intent should not be understood. The Commission was being asked to vote on something that was not really clear.

Mr. Terhaar added that if additional restrictions were imposed to Title 4 lands that restricted his company's ability to produce, then PCP would look to expand in other locations.

Chair Klein reiterated that the premise of Title 4 was to protect [that](#). He added that he certainly did want to know how Metro selected the lands.

Ms. Mangle responded that staff would be happy to provide additional information at the next meeting, if that would help the Commission reach a decision.

Chair Klein asked if the Commission wanted to [postpone the vote].

Mr. Terhaar said his company had no stance since it did not affect how they ran the business.

308

309 **Commissioner Bresaw** said she did not mind voting on the amendment tonight.

310

311 **Chair Klein** said the premise was a good idea and logical for the site subjected to Title 4
312 now. He understood Commissioner Churchill's concerns, but did not see a problem
313 voting on the amendment tonight.

314

315 **Vice Chair Newman** stated the only difference was if they were asking staff to do a lot
316 of work for something that might not be any clearer in two weeks.

317

318 **Commissioner Batey** stated she was ready to vote, but understood Commissioner
319 Churchill's concerns and agreed to postpone the vote in the interest of full disclosure.

320

321 **Chair Klein** agreed.

322

323 **Commissioner Churchill** stated that if the Commission voted, he would probably
324 abstain, which would not affect the hearing. In principle, he agreed with staff's intent to
325 comply with Metro's ordinances, but preferred to understand the intent because the
326 Code was being changed to increase restrictions. What affect might the amendments
327 have should the North Industrial area or another area of the City become subject to Title
328 4? While public hearings would be held if it changed, it was good to understand the
329 intent. He preferred not to vote on items without complete background information.

330

331 **Vice Chair Newman** said it seemed that Metro was trying to maintain the City's
332 industrial area and prevent big box retail from taking up that space.

333

334 **Chair Klein** agreed, but believed the question was how Metro designated Title 4 lands
335 and whether the City had any input on that process.

336

337 **Vice Chair Newman** said he was willing to wait two weeks for more information.

338

339 **Commissioner Batey moved to approve ZA-09-01 Zoning Code amendments**
340 **limiting retail uses in Manufacturing Zone M as written in the staff report. Vice**

Chair Newman seconded the motion, which passed 4 to 0 to 1 with Commissioner Churchill abstaining.

Ms. Mangle confirmed staff would update the Commission with more details regarding Title 4.

6.0 Worksession Items

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

Katie Mangle, Planning Director, reviewed the South Ardenwald Master Plan (Master Plan) and Study Area Map via PowerPoint, emphasizing that the project was only in the initial stages of development.

- She noted that it was assumed that the Housing Authority of Clackamas County (HACC) would maintain ownership of most of the site and hoped to obtain grants for redevelopment, which in turn defined some goals of the project.
- The community planning project would allow neighbors to interact with designers to establish a vision for the area and how it might better contribute to the neighborhood. Street plans, connectivity, varied land uses, including uses complementary to the hospital, open spaces, etc., would all be considerations of the Master Plan, which might prompt zoning changes or perhaps an overlay zone. Such changes would involve the Planning Commission and City Council.
- A compressed, integrated, public involvement process using charrettes was envisioned to enable in-depth participation by many people within a short time period.
- Hired consultants would provide three types of expertise for the Master Plan: innovative neighborhood design, land use/master planning, and public involvement, especially in providing experience running the charrettes. The consultants would help facilitate the design by helping community participants visualize different types of development, houses, and streets.
- She agreed the project was speculative, given that the owner, John Murphy, kept the land vacant, but noted that the Zoning Code established and codified the community's vision for private land use. If, for example, a mix of single-family houses

and duplexes that transition to senior housing and retail was best, and the Code did not allow the use, the Code could be revised to ensure it allowed, encouraged, and empowered the private property owner to build what was envisioned.

- The Commission typically saw the implementation of a project, but the Master Plan regarded the long-range planning of the 30-acre site with a fresh look.
- Given all the assumptions involved, such as property owners, HACC, a hospital, Hwy 224 limitations, the railroad, and perhaps even the quiet zone, along with the consultants' market analysis of what could be supported in the future, what did the community want from this site? Code changes were anticipated because the community's vision might not be supported by what the Code currently allows.

Chair Klein did not believe that a charrette meeting over a short time period would do justice to the site's development. He did not know why the site had not been developed, but questioned why a quick meeting was the best way to proceed.

- **Ms. Mangle** clarified that the charrette was not one quick meeting, but a series of meetings compressed over a week or a month. The process required a lot of work up front to prepare traffic and market analyses, housing typologies, etc., for use at the meetings when site planning would be done in groups. After the meeting, the designers would evaluate and integrate the best ideas and return the next day with a concept plan. This was more of a real-time planning model, allowing the whole team to do multidisciplinary planning and for people to interact directly with the designers. That direct interaction was most important for the South Ardenwald project.
- Asking for community input after staff worked for three months to prepare their best version of a plan was not the right approach. Allowing people to interact directly into the process was more effective, but it would only work if staff came prepared with extensive background information that people could use [during the charrettes].
- The process would result in the best concept plan or community vision. No Code writing, revisions, or land use changes would be done. The next phase would be to return to the Planning Commission to discuss codifying the plan.

Commissioner Churchill:

- 409 • Expressed similar concerns about a compressed schedule. He appreciated the
410 charrette format, which was effective, but compressing it within a month seemed tight
411 and would not provide an appropriate response from the local community. A 2-month
412 period seemed more appropriate, with spot-compressed sections, perhaps.
- 413 • **Ms. Mangle** added that the project included an ongoing steering committee with
414 representatives from the neighborhood, hospital, and Hillside site to work on the
415 project over a longer period of time. NDA meetings were another opportunity to
416 involve the community.
- 417 • Many people were not able to sustain the level of effort required over a long
418 period of time, but she understood the concerns of the Commissioners. The
419 intent was to allow many people to interact with the project in a meaningful way
420 and to know that the Master Plan ultimately reflected the community's desires for
421 the site. The charrette was a very good way to proceed, but other methods were
422 also available.
- 423 • Suggested a steering committee could help develop criteria to provide the charrette
424 process a direction and a venue to respond to the criteria.

425
426 **Chair Klein:**

- 427 • Questioned how the subject site became a priority when other sites could use the
428 process and in-depth push.
- 429 • **Ms. Mangle** replied it was partly because the HACC was moving forward on a
430 project to potentially redevelop the Hillside site, completely independent of the
431 City. Without the HACC's effort, the City would not have initiated the project on
432 its own. HACC would hire most of the consultants, but the project was shared
433 between the City and Clackamas County. City staff saw an opportunity for the
434 community to leverage the project, making it the best for the community, but also
435 looking more broadly at the entire area rather than just the Hillside site.
- 436 • Understood that HACC was hiring a consultant to study redevelopment of their
437 aspect of the project as well as the feasibility of the Murphy site.

438
439 **Trell Anderson, Executive Director, HACC**, explained that HACC initiated a feasibility
440 study 1½ years ago to look at its entire portfolio, specifically targeting public housing.

- 441 • HACC owns 920 units of housing across the County and 566 were specifically
442 defined as public housing units. He clarified that 200 of the units were at the Hillside

site: 100 single-story individual units in Hillside Park, and 100 in the 9-story Hillside Manor tower.

- The public housing portfolio consisted of outdated housing; Hillside Park was first occupied in 1941. Americans with Disabilities Act (ADA) compliance was a problem and the units were not energy efficient, costing both residents and HACC money.

- The land was underutilized at Hillside and throughout the portfolio. Oregon City sites were poorly located for allowing residents access to services, employment, or education opportunities.

- Different consultants with different skill sets were hired to analyze the options and opportunities available in order to reposition and redevelop the entire housing portfolio to make it easier and less expensive to manage, and to be beneficial to clients, neighborhoods, and communities overall where HACC had property.

- An advisory committee was also assembled 1½ years ago that included Lisa Gunion-Rinker, Mary King, and Kenny Asher, Community Development & Public Works Director. As the feasibility analysis was completed, discussions took place with hospital officials. Mr. Asher suggested that the opportunity existed for the City and HACC to work as partners toward a broader vision, redeveloping Hillside Park along with the south end of the neighborhood.

- The consultant was yet unknown, but it was definitely a joint request for proposal (RFP) process and that neighborhood residents would be included in the selection of the consultant.

- He distributed a handout describing the guiding principles and values created by the advisory committee and County Board of Commissioners to aid consultants in understanding the many facets of the HACC project, such as the types of land use patterns needed; how specific language about replacing public housing one for one (1:1) is significant in financing the units; certain assumptions about grant sources, leverage funds, etc.

- The guidelines were broad enough to clearly provide a direction while also leaving opportunity through design process, neighborhood conversations, and working with architects and engineers to do specific work onsite and on individual buildings.

- The top three values identified for any redevelopment opportunity were categorized as program principles, which were to:

- 477 • Replace public housing units on a 1:1 basis in its entirety;
- 478 • Increase the number of affordable housing units;
- 479 • Locate any new development in better proximity to community amenities,
- 480 services, job and educational opportunities, and public transportation.
- 481 • Items 4 through 11 were categorized as values to achieve either through process
- 482 or end product. These values included open space, green building, designs
- 483 compatible and enhancing to neighborhoods, public/private partnerships, and
- 484 working with neighbors and community stakeholders.
- 485 • The back page provided a broad plan for the next five years, which he reviewed,
- 486 explaining that the process included a partnership with the City and applying for a
- 487 competitive HUD Hope VI Grant, which had a 5% local matching requirement.
- 488 • He amended Item B to say they would apply for the grant in July 2010 instead
- 489 of 2009.
- 490 • While HACC wanted to pursue offsite development opportunities for properties
- 491 not already owned by HACC, they were not interested in developing the Murphy
- 492 site, although he understood new zoning might be created for the Murphy site.
- 493 • The HACC portfolio included 166 units known as scattered units, single-family
- 494 homes and duplexes scattered across the County, which were difficult to
- 495 manage. HACC was looking to sell those units over the next 10 years and
- 496 replace them with more efficient and cost-effective units in larger projects.
- 497 • Item E noted that the feasibility analysis included a strong interest in selling two
- 498 20-acre sites similar to Hillside because they were poorly located. However, due
- 499 to current market conditions, he recommended that the Board focus on Hillside
- 500 until the market picked up, which was addressed in Item D.
- 501 • He reviewed the project's estimated timeline through 2011 with construction
- 502 projected for around the second quarter of 2012.
- 503 • The relocation of existing tenants was a big issue. Part of the Hope VI
- 504 application required a detailed relocation plan, which would be developed with
- 505 the help of current residents.
- 506 • The master planning process enabled both the Hillside and Murphy sites to be
- 507 developed, if not simultaneously, at least compatibly over time.

508

509 **Commissioner Batey:**

- 510 • Noted that Ardenwald residents were mentioned as being involved in the process,
511 but she assumed residents from Hillside Manor and Hillside Park would also be
512 included.
- 513 • **Mr. Anderson** agreed, noting that residents from Hillside Manor and Hillside
514 Park would be invited to participate in the master planning process. HACC was
515 engaging residents in discussions about redevelopment through focus groups,
516 where one key issue was to understand residents' fears about relocation.
- 517 • Stated that many residents did not speak English and were used to living in a
518 communal setting. Splitting them up when relocating would be a concern. Also, for
519 people from the Ukraine and Russia, gardens were very important, so moving them
520 to an apartment with no access to a garden would be a problem.
- 521 • **Mr. Anderson** responded that two focus groups were completed in Russian and
522 those issues were discussed.

523

524 **Commissioner Bresaw** requested clarification regarding Mr. Anderson's comments that
525 the land was underutilized and if that meant smaller lots would result in some cases.

- 526 • **Mr. Anderson** replied that HACC had no idea about the future, but was excited
527 about the design and vision process dictating lot size, density, and design standards.
528 The feasibility study assumed current R-3.5 zoning with 3,500 sq ft lots.

529

530 **Commissioner Churchill:**

- 531 • Confirmed that Hillside Manor was built in 1941 and the tower was built in 1970.
- 532 • Noting that life in a high-rise tower was much different than in a single-story, he
533 asked Mr. Anderson to address the concerns he heard from the high-rise residents.
- 534 • **Mr. Anderson** clarified there were no plans to remove the concrete tower as it
535 was not financially possible to demolish the tower and build 100 units. The plan
536 was to make upgrades to the tower for better facilitation in the new community.
- 537 • Encouraged Mr. Anderson to read Christopher Alexander's book about how to
538 integrate into neighborhoods, adding the tower was a difficult challenge.
- 539 • Assumed HACC was tracking other HUD projects in the region and wondered if they
540 saw successful HUD projects for both low- and high-rise [residential units].
- 541 • **Mr. Anderson** stated the assumption was that no additional highrises would be
542 built. The neighborhood and HACC had not envisioned another high-rise.

- Regarding successful, creative public housing redevelopment projects in the area, he hoped to organize bus tours to two redeveloped Portland public housing projects: New Columbia and Humboldt Gardens. He had worked with the City of Portland in the Bureau of Housing and Community Development and helped facilitate the redevelopment of both projects.
- He confirmed a community center would be integrated in the site.
- Added that the new Jeffrey multistory public housing in downtown Portland on 12th was very successful.

Commissioner Batey was told that the field with the walking trail behind Hillside Manor was not developable and so would remain an open field.

- **Mr. Anderson** stated he had also heard the rumor, but did not have an answer yet. As the process proceeded, money would be spent to test whether the field was developable.

Chair Klein:

- Asked what the Murphy site would be used for if HACC was not interested in developing it. It seemed logical for HACC to convert some of the units into the Murphy site.
- **Mr. Anderson** clarified that HACC did not intend to develop the Murphy site. Assuming appropriate zoning and the market conditions, he envisioned senior housing or assisted living on the Murphy site with ground floor retail space to complement the hospital and neighborhood.
- Inquired why a joint analysis was being done with the County, when the County did not tend to do the City any favors.
- **Mr. Anderson** replied that after the feasibility analysis, he and Kenny Asher agreed it was a great opportunity for the HACC site, the Murphy site, and the neighborhood.
- **Ms. Mangle** added that one significant feature of the County site was how isolated it was from the rest of the neighborhood. As part of the larger area, it benefited both the neighborhood and the future Hillside Manor to do a plan connecting the entire area to the surrounding parts of town. Planning for the Murphy site did not have to occur now as part of this process, but future development was always something staff considered. Working through master

577 planning at a broader scale allowed everyone to think about the future
578 development of both parcels.

- 579 • Stated that the site could borderline as being residential or as part of the industrial
580 area, but at present the approximately 10-acre Murphy site was underutilized. It was
581 not in the City's best interest to sell the land to the County or make agreement with
582 the County and take the property off the tax roll. This was the last thing he believed
583 the City should do.
- 584 • Noted a large percentage of affordable housing was located in Milwaukie and he
585 wanted to see other portions of the County take on such a project.
- 586 • Believed development of the 10-acre site that would benefit jobs and the tax base
587 should be encouraged. He was skeptical about what the consultant would be hired to
588 do and would ultimately be skeptical of the consultant's report and recommendation.
- 589 • **Mr. Anderson** appreciated the skepticism, adding he was just beginning to
590 understand the relationship between City and County departments, programs,
591 etc. However, he appreciated the opportunity to work with City staff to
592 demonstrate the opportunity to be proactive about the future of the
593 neighborhood. He asked that judgment be held until the process could be seen in
594 action.

595

596 **Commissioner Bresaw** asked if there was much competition for the Hope VI Grant.

- 597 • **Mr. Anderson** replied competition was stiff. It was possible that the application
598 would not be funded, in which case HACC would wait for the next set of funds, which
599 became available every year. He commented that Oregon Senator Jeff Merkley was
600 on the Banking Committee, which oversees HUD, and his former HAP boss was
601 taking a job with Senator Merkley.

602

603 **Chair Klein** noted it was important to understand the reactions of the neighborhood and
604 Milwaukie because the relationship with the County was not great.

- 605 • The Balfour House could have easily been avoided by denying a community
606 development block grant. The County had not done the City too many favors.
- 607 • While Mr. Anderson assured the County was not interested in the Murphy site, which
608 he hoped would be developed with some commercial aspect, he urged Mr. Anderson
609 to consider what had happened from the County level down to understand the
610 County's missteps.

611

612 **Chair Klein** invited comments from the public.

613

614 **Betty Fulmore, 3356 SE Rockwood St, Milwaukie, OR**, stated her biggest concern
615 was that of the 920 total units, 200 were already in Ardenwald, with another 200
616 potentially proposed, which meant 400 units just in the Ardenwald area. Ardenwald
617 appeared to be dumped on.

- 618 • She was also concerned about property values. How much more would the City
619 receive in taxes if the individual property was developed versus the nonprofit HUD
620 facilities? The residents would utilize buses, utilities, etc., but was the City
621 compensated or were area residents paying higher taxes because of the units?

622

623 **Matt Rinker, Chairman, Ardenwald-Johnson Creek NDA**, stated that the project had
624 the potential to be a great asset to the neighborhood, but only if the well-being of
625 Milwaukie was central to its planning.

- 626 • He was concerned about the distribution of public housing throughout the County
627 and any additional consolidation in the Milwaukie area. The stated goal was to
628 “locate new housing projects in or around the North Clackamas Urban Renewal
629 District.”
- 630 • While he understood the plan was not completely laid out, he did not see that
631 goal aligning with the 10-year plan for HACC, and was concerned about where
632 that [distribution] could potentially go.
- 633 • He asked if the purchase of the Murphy site would be covered under the Hope VI
634 Grant, so Clackamas County would actually purchase it and then turn it over for
635 other types of development; or was a local entity expected to step up and purchase it
636 for development in conjunction with HACC's efforts.
- 637 • He inquired how selling the 200 Oregon City units played into the 10-year plan and if
638 an attempt would be made to consolidate those units into the Milwaukie area.
- 639 • He did not see a benefit to the residents of the facilities, the City, or County if
640 more facilities were located in one spot. It did not provide a diversity of locale that
641 would favorably benefit the citizens.

642

643 **Jill Younce, 9945 SE 29th Ave, Milwaukie, OR**, expressed concern about losing her
644 dead-end street status if the project tied into the existing street grid. Living on a dead-

end street was very important to her. An increase in population density created more traffic. She agreed with Matt Rinker's comments and felt the project could be good, but was leery of the County, especially after learning everything about the Balfour House.

Lisa Gunion-Rinker, Ardenwald resident, stated that when she was part of the advisory committee, they had essentially looked at the Hillside site, but now the Murphy site was added. At a recent meeting, she asked Kenny Asher if the County would purchase the Murphy site and was told yes. She noted that working with the County had been difficult lately.

- She sought clarification of the phrase "at least a 1:1 replacement," emphasizing the term, "at least." Even a ballpark average of what to expect would be helpful. More transparency was needed.
- She concluded that she wanted to make sure her Russian-speaking neighbors in Hillside were treated fairly, as well as the neighborhood.

Chair Klein asked if the neighborhood's needs had been addressed at the meetings.

- **Ms. Gunion-Rinker** said she was part of the initial meetings to create the guiding principles and the 10-year plan, but was not part of any voting process. Initially, the Hillside and two Oregon City sites were discussed to determine which was most feasible for redevelopment. She did not know Hillside was chosen. Although it had not been clear, they had been following the process and it was not a bad process.

Mr. Rinker expressed apprehension about the charrette process because it was difficult for people to free up that needed time. If compressed into a small block, residents could not free up several weekends or evenings in a row. Trying to abbreviate the time was a mistake that would cut the neighborhood and community out of the process.

Vice Chair Newman asked where the Park Place units from Oregon City might be replaced if those sites were sold.

Mr. Anderson stated that the sale of the Oregon City sites was not connected to what happened at the Hillside Park site. There was no intention to relocate those people or public housing units to Hillside Park. The Oregon City neighborhood had just completed a new Comprehensive Plan and had big visions about increasing densities, more

neighborhood commercial, and more frequent transit service, which might change the dynamic for those Oregon City properties.

- He reminded that 1:1 replacement was a portfolio discussion; 566 units currently existed and HACC wanted to finish the 10-year process with 566 units.
- On the Hillside site, 100 public housing units existed. Under current zoning, the feasibility analysis indicated the site could handle 200 units. He did not want people to assume this was planned or predetermined; it was just what the feasibility analysis said. According to the analysis, the opportunity and correct zoning existed to build 100 new public housing units on the Hillside Park site along with an additional 100 units of other affordable housing and home ownership opportunities. The feasibility analysis was available at the HACC website.
- He reiterated that he did not want the feasibility information to be misconstrued. The scenario was run through the feasibility analysis to understand what opportunities were available.

Commissioner Batey asked if the current zoning only allowed 200 units on the site.

- **Ms. Mangle** replied that she could not address exact numbers, but with the exception of the tower, the site was currently developed at a lower density than the surrounding neighborhood and as allowed by the zoning. It was reasonable to assume that without any rezoning, the site could be developed at a higher density to hold more single-family lots on the site.
- **Mr. Anderson** added that two of the guiding principles, which were developed through the feasibility analysis with input from neighbors, were to create diverse communities and also to provide a mix of housing types and affordability.
- He emphasized that with respect to design, charrette, and community process, one could envision, as an example under the current zoning, 100 public housing units, 50 to 75 affordable and/or senior housing units, and 25 to 50 units of home ownership opportunities.

Chair Klein:

- Noted that the current zoning allowed for the construction of the Balfour House, so sometimes the zoning was not necessarily best for the City.

- 712 • Stated having the feasibility analysis would have been nice to have in the meeting
713 packet.
- 714 • **Mr. Anderson** offered to provide copies of the analysis to the Commission,
715 adding that HACC was ready to work directly with the City to do a good process
716 because HACC was also a property owner in the community.
- 717 • Emphasized that the citizens of Milwaukie owned the property.
- 718 • **Mr. Anderson** stated that was all the more reason to do a good process.
719
- 720 **Mr. Anderson** continued addressing issues raised during testimony by saying he would
721 be glad to discuss and debate research about how public housing redevelopment
722 affected property values with neighborhood residents, NDAs, the Planning Commission,
723 and City Council.
- 724 • He noted that in some conditions, [public housing] did bring down property values,
725 but in most national research samples, property values stayed the same or
726 increased.
- 727 • New public housing at New Columbia was the best housing in the neighborhood
728 and would remain so for the next 20 years. That project had an ancillary effect of
729 new individual infill and upgrades around the project. New Columbia provided an
730 example of rising property values and neighborhood revitalization.
- 731 • Housing units owned by HACC did not pay property taxes, but through the
732 master planning process, many scenarios could be analyzed and discussed
733 regarding different ownership models for affordable housing.
- 734 • Distribution of public housing throughout the area and concerns about a
735 concentration in the Ardenwald neighborhood involved a larger policy discussion. He
736 suggested the Board of County Commissioners might be interested in considering
737 the subject.
- 738 • HACC was not the only entity that owned affordable housing in the County.
739 Nonprofit and private organizations built affordable housing throughout the
740 County, which were not under HACC's control. He did not know how to address
741 such a broad policy discussion and the site-specific work at the same time.
- 742 • He reiterated that as an employee of the public sector, he was committed to running
743 a viable community project to make it the best project possible.
744

745 **Commissioner Batey** understood that even though HACC might increase the density
746 on the Ardenwald property, the long-term plan was to diminish the number of other
747 scattered houses, which could mean returning properties to the tax rolls.

748
749 **Mr. Anderson** agreed. He continued by stating for the record that HACC did not want to
750 acquire the Murphy site for any purpose because they did not have the resources to do
751 so and were just not interested. They were interested in how the Murphy site was
752 considered in terms of the neighborhood's larger vision.

753
754 **Ms. Mangle** addressed public testimony concerns about changes to local streets. She
755 recalled that 29th Ave was identified in the Transportation Systems Plan (TSP) as an
756 important one to connect through to the south. Generally, the City's policy was to create
757 connectivity, whether through 29th Ave or toward Llewellyn St, by applying the City's
758 existing transportation standards for any large lot development.

- 759 • She understood the concerns, but noted that generally traffic impacts would be
760 evaluated very closely regarding what potential impacts could be produced by the
761 different uses on the site. The questions raised should be asked and would be
762 analyzed during the process.

763
764 **Chair Klein:**

- 765 • Asked what could occur under the existing R3 zoning and if it was possible to double
766 the amount of housing there. Without much of a process, the County could
767 conceivably rebuild all the houses, basically adding another 100 homes in the area.
- 768 • **Ms. Mangle** stated she did not want to oversimplify the process under the current
769 zoning. All the existing public houses were on one lot, so subdivision and street
770 transportation improvements would be involved. The City could potentially
771 require that 29th Ave be continued.
- 772 • Stated that zoning north of the property was R7, so it seemed logical to zone R7
773 rather than R3 if trying to assimilate a new project into an existing community,
774 keeping the number of housing units similar to what existed.
- 775 • Asked if HACC would object to zoning the site to R7 with the exception of Hillside
776 Manor.
- 777 • **Mr. Anderson** replied that HACC was willing to look at the numbers to determine
778 if it was financially feasible to build only 100 new units.

- 779 • Requested clarification about 1:1 versus 1:2 replacement.
- 780 • **Mr. Anderson** said he would discuss the 'at least' phrase and relayed the
- 781 discussion with the Board of Commissioners as follows:
- 782 • Public housing was a vital resource in the community. Rents in public housing
- 783 were based on the income of the resident. Public housing was where people
- 784 with no income could live without paying rent. Rents are determined by a
- 785 household's ability to pay, therefore based on the income.
- 786 • Rebuilding and financing public housing was very difficult and it had to be
- 787 debt-free. To build back a unit would cost \$200,000+ per unit, which all had to
- 788 be obtained from grants because public housing could not be debt financed.
- 789 Receiving the Hope VI Grant was critical for the project to happen, which was
- 790 why he proposed 1:1 replacement. He could not imagine getting financing for
- 791 more than 566 units.
- 792 • The HACC Board, comprised of the Board of County Commissioners and one
- 793 resident, understood the financing problems, but felt that public housing was
- 794 so valuable that at least 566 total units should be built. The 'at least' came
- 795 from the portfolio level.
- 796 • He also clarified that Hillside Park was chosen as the first place to start because
- 797 it was very well-suited in terms of the criteria of access to transportation,
- 798 amenities, employment, and education. After the housing bubble burst, he had
- 799 recommended that the two Oregon City sites not be sold, although the scattered
- 800 sites were still to be sold and replaced in groups around the County.

801

802 **Commissioner Churchill:**

- 803 • Asked if Mr. Anderson knew square footages of the existing 100 non-high rise units,
- 804 the occupancy rate, waiting list, and total number of residents currently on the site,
- 805 including children and extended family.
- 806 • **Mr. Anderson** replied that he did not have the square footage or information on
- 807 the total number of residents at present. The occupancy at Hillside Tower was at
- 808 about 98% with no site-based wait list currently, although they were transitioning
- 809 to one. There was a waiting list of 3,500 households for all public housing with
- 810 about a 3-year wait.
- 811 • Seniors and people with disabilities occupied Hillside Tower and a majority of
- 812 households in Hillside Park. Some households had children, but not many.

- Understood that it was easier to manage single-site, multiple units than scattered single units, but was concerned that it went against the principle of community integration. Was HACC reviewing that policy?

Chair Klein added that the lot sizes were also half the size [of the adjacent neighborhood] with the same size house.

Ms. Mangle interjected that because it was 9:00 p.m. and the project would continue for the next year, Mr. Anderson could return to talk further with the Commission. A meeting was already set with the neighborhood.

Mr. Anderson responded that on the management issue, Commissioner Churchill was correct. HACC was running a business and were stewards of public money. Under the stewardship, it did not make business sense to maintain a portfolio of scattered site units. He understood the policy question and it could be discussed, but on a numbers basis it was a very difficult portfolio to staff, maintain, and operate.

- The HACC was caught between what Congress wanted to pay to operate the properties and all the good research, community integration, and dispersion.

Commissioner Churchill added that the problem of going in the direction of non-scattered sites would end up with a Hillside Manor high-density housing, which created many social issues within the structures as Christopher Alexander had noted.

Chair Klein asked if future Master Plan meetings could be held at a time when the Planning Commission did not meet, so one Commissioner could attend the meetings and report back.

Ms. Mangle concluded that staff would follow up by sending the Commission the copy of the feasibility study. The scope of work for the consultants was still being defined, and when outlined would be provided to the Commission.

Commissioner Churchill requested an opportunity for the Planning Commission to tour the facilities for a baseline idea of what existed.

Commissioner Batey requested information about how many of the 166 scattered sites were in Milwaukie. She also hoped that the Historic Milwaukie NDA would be included in the proceedings since South Ardenwald was next to it. The site was also not far from the Hector Campbell neighborhood.

- **Ms. Mangle** stated that she discussed the project with David Acshenbrenner of Hector Campbell NDA, but not with the Historic Milwaukie NDA.

Chair Klein wanted to know how many units were located within Milwaukie and the UGB.

6.2 Proposed Transportation Code Amendments (Final Briefing)

Staff Person: Susan Shanks

Susan Shanks, Senior Planner, briefly reviewed the key changes to the proposed Transportation Code Amendments (TCA), having distributed a handout to the Commission in order to help prepare for the March 10, 2009 hearing. She addressed questions from the Commission as follows:

- Title 12, which regarded Clear Vision and Access Management Standards, and Chapter 15.32 were removed from the document because they were implemented by the Engineering Department and not subject to Planning Commission review.
- Access Management Standards pertained to where access off of a public right-of-way could be located, including distance to intersections.
- The referral list, indicating who was directly notified about the draft, was attached to the staff report for the March 10, 2009 hearing.
- Since making the document public on January 27, 2009, seven comments were received and were included in the March 10, 2009 staff report: three from the development community, two from NDAs, and two from Metro.
- For the most part, there was no opposition to the major policy changes, including the change from a value-based to impact-based trigger when transportation improvements were triggered by proposed development. Other major proposed policy changes were incorporating more street design flexibility into the Code and streamlining the review process. Comments were mostly supportive.

- Three comments received did ask questions about how the new Code would apply in very specific situations. Staff was preparing responses for the March 10, 2009 hearing.

Commissioner Batey noted that fees-in-lieu-of-construction (FILOC) expire after 10 years and had to be used before then. She knew three people from Island Station who paid fees 5 years ago.

- **Ms. Shanks** replied that Zach Weigel, Civil Engineer, was now the official tracker of the FILOCs. A 2-page handout was distributed to the Commission with Zach Weigel's summary of all the money collected, collected by neighborhood, and the money spent to date. This would not be the same format as the annual report.
- FILOC was better defined in the new Code after interpretation from the City Attorney: money must be used within 10 years and must be used for projects that benefitted the development project that actually paid for the improvements. The practices that had been in place were now codified with legal counsel, making the process transparent regarding money collected and where spent. The new Code provided for an annual report on the FILOC program.
- **Zach Weigel, City Engineer**, read from the handout stating that three FILOCs were collected in Island Station in 2005 and 2006. The program began in 2001 with the first FILOCs collected in 2002.
- He defined "specified improvement" in his report as money that was paid for specific improvements in front of that development and could not be spent on another project in the neighborhood. The money for specific improvements was determined from notice of decision or in building permit notes that indicated the money was collected for a specific development.

Chair Klein stated that FILOCs were returned to the property's developer after 10 years. He believed if the City could not spend the money in 10 years, it should instead return to the present property owner.

- **Ms. Shanks** responded that the new Code did propose that fees return to the actual property owner.

- 911 • She noted the FILOC handout would be included in the March 10, 2009 meeting
912 packet. Some FILOC money was spent on projects such as the Lake Rd
913 Improvement Project.
- 914 • **Mr. Weigel** noted all money in the Llewellyn neighborhood was spent on the
915 Logus Rd project.
- 916 • **Ms. Shanks** understood that FILOC money was separate and not part of the
917 general fund; the City was obligated to track it.
- 918 • Although the City wanted the improvements instead of collecting a fee, there
919 were instances where it was not safe or feasible to build improvements, so the
920 Code changes allowed the collection of the fees. However, they were not more
921 aggressive about collecting FILOC. The new Code was clear that it was the City's
922 first policy to have the improvements constructed instead of collecting a fee.

923

924 **Commissioner Bresaw** believed the Code was good in general and that the
925 introduction was very good and clear, but noted that the intent of the third line under #4
926 on page 53 of 78 of the Code Amendment proposal was reversed and should be
927 corrected.

- 928 • **Mr. Weigel** clarified that the section was correct as written. A shorter cul-de-sac
929 was allowed with a larger development because there was more area to work
930 with to provide connecting streets. In a smaller development, a cul-de-sac was
931 longer because not enough area was available to provide connectivity.

932

933 **Chair Klein:**

- 934 • Asked if residents were notified when their FILOCs were used.
- 935 • **Ms. Shanks** replied not currently. One reason for the annual report was to inform
936 people who actually paid fees and the surrounding neighbors how the money
937 was spent when the improvements were not built along the property's frontage.
938 The report could evolve when feasible to include items the community wanted to
939 know about.
- 940 • **Mr. Monahan** believed the City's only concern was if the money was not spent
941 within the 10-year period of time. Notification would put closure to the issue, so
942 someone wondering where the money was did not call staff.
- 943 • Understood FILOC and their usage were for the benefit of the whole neighborhood,
944 not necessarily for the individual. He did not want it used as neighborhood specific

because that was not always clearly defined, and who actually benefitted was sometimes vague.

Ms. Shanks responded to a prior question from Commissioner Batey about access and the provision for single-family additions. An incremental exaction approach was proposed with a list of five street improvements in the order of how a street was normally constructed. One item was to bring the access up to standard, which appeared more of a private than public benefit. The question regarded if access was unsafe, should it be addressed by the Safety and Functionality Standards.

- **Mr. Weigel** explained that the difference was the Safety and Functionality Standards asked if the access was unsafe, while for single-family addition or replacement the question was whether if it could be made safer.
 - If the access was safe under the Safety and Functionality Standards but did not meet Code, and if the project triggered that section, the access must be brought up to standard, which would still count as a transportation improvement.
- **Ms. Shanks** added that while access might be for the private property owner, the City granted that access from a public street and it needed to be highly regulated and safe. The City granted the access and could not require the private owner to change it on a whim, but had to meet transportation improvement requirements. This did not refer to the driveway, but to the driveway approach, which was in the public ROW. Access was not about aesthetics; it was about functionality and safety.
 - She reiterated that the Safety and Functionality Standards were about safe versus unsafe. The single-family incremental exaction access requirement regarded whether the access could be made safer. It was a benefit to all users of the road in terms of people pulling in and out of driveways and where the private and public abutted.

Commissioner Batey clarified that if the Commission did not come to a decision on March 10, 2009, the hearing would be continued to the first April meeting due to staff vacations.

Chair Klein called for public comment regarding the proposed transportation amendments.

979 **Ed Parecki, 10600 SE McLoughlin, Milwaukie, OR**, noted that he sent an email
980 yesterday to Ms. Shanks, who would include his comments in the staff report.

981 • A year-and-a-half ago, he appeared before the Planning Commission making strong
982 points about the public area requirements in the Downtown Zone (DZ). He was told
983 then that the requirements were constitutional, very clear, and very fair. Yet now
984 there was a report saying the Code was being revamped to be constitutional and fair.
985 He spent over \$50,000 in the appeal process trying to get through to the Planning
986 Commission and City Council without success.

987 • He was disturbed about what was currently happening. A lot of good work went into
988 the proposed changes, but in the portion that might affect him in the future, he still
989 could not determine what public area requirements would be imposed based on the
990 new changes, which was also disturbing.

991 • A lot of room was left for interpretation, shifting the burden from the Planning
992 Director to the City Engineer. Impact and proportionality analyses were required,
993 which could be manipulated. In the long run, the costs for improvements were
994 still unknown.

995 • He wanted the Commission to understand his perspective. His renovation was
996 completed 6 months ago and his beautiful building was sitting empty with no impact
997 to transportation. Yet he was to have potentially a \$120,000 impact fee imposed on
998 him based on exterior renovation and had to remove an elevator to complete the
999 improvements.

1000 • The City Council stipulated that the Planning Department cooperate with him in
1001 developing changes to the Code for clarity. He received two emails from the
1002 Planning Director in the past year about the changes, but it was not a cooperative
1003 venture; he was not asked for input about what might work. Now the final proposal
1004 was before the Planning Commission.

1005
1006 **Chair Klein:**

1007 • Recalled thinking during that hearing that Mr. Parecki was asking the Commission to
1008 do the wrong thing. The Commission ultimately agreed with Mr. Parecki's point, but
1009 the Planning Commission was bound by the Code at the time the project came
1010 before the Commission.

1011 • **Ms. Mangle** clarified that Mr. Parecki had appealed the Code interpretation, not
1012 the land use decision or public area improvement requirements. The Code

- 1013 interpretation was required because staff acknowledged that the Code did not
1014 adequately require the City to only exact improvements where there were
1015 impacts. By interpreting the Code, she directed the Engineering Department to
1016 do an impact-based assessment, which was the process currently proposed for
1017 codification. It was not in the Code, which was why she did the interpretation.
- 1018 • Stated that the Commission believed that Ms. Mangle had interpreted the Code
1019 correctly. The Commission had hoped Mr. Parecki would do something different,
1020 because they agreed it was not necessarily fair to business owners. He sympathized,
1021 but noted it was the path Mr. Parecki had taken that led to that discovery.
- 1022
- 1023 **Commissioner Batey** asked if Mr. Parecki had specific objections to items in the
1024 proposed Code.
- 1025 • **Mr. Parecki** objected to the fact that the Code would still be left to interpretation
1026 again, but now by the City Engineer, based on an impact analysis that could be
1027 manipulated any way one desired.
- 1028
- 1029 **Chair Klein** responded that unfortunately after looking at a number of different models,
1030 the Commission was not able to come up with anything different. He believed Mr.
1031 Parecki was present at one of those meetings. It was difficult and challenging to
1032 consider, but a Code had to be written.
- 1033 • **Mr. Parecki** felt that he clearly stated his concerns.
- 1034
- 1035 **Commissioner Churchill** believed Mr. Parecki made a good case for his position that a
1036 façade improvement to a building did not have transportation impact issues. It came
1037 back to tracking the details associated with the improvement. If language was proposed
1038 to defer the improvements so potential tenants could see a finished product and be
1039 attracted to it, then the rent structure would be clear about covering the public area
1040 improvements.
- 1041 • **Mr. Parecki** replied that assumptions were being made on a project before knowing
1042 who the actual tenant would be. He did not know who the final tenant would be in his
1043 building, but fees were exacted based on an unknown. Exactions needed to occur
1044 after the tenant was acquired, when it was known what the impact of that tenant
1045 could be. He could rent to a fast food chain with a huge impact or to a bookstore with
1046 minimal impact.

1047

1048 **Chair Klein** responded that it was not always that easy. The downfall was it put the cart
1049 before the horse, but the reality was that for the downtown beautification changes to
1050 occur as the community and businesses wanted, public area improvements were
1051 necessary. It was impossible to quantify minute differences in impact and the resulting
1052 public area requirements. Hopefully, the public area requirements would draw some
1053 tenants to Mr. Parecki's building.

1054

1055 **Commissioner Churchill** added that it was desirable to encourage development, which
1056 might be achieved through rear-loading public area improvement costs in the overall
1057 lifecycle of the building. However, it created a tracking problem for staff to ensure
1058 improvements were tracked properly.

- 1059 • If a bad economic cycle occurred after a developer invested in the upfront costs, it
1060 would be financially harmful to the developer and owner. So, he suggested doing the
1061 public area improvements when the tenant actually came in.
1062 • His focus was on considering rear-loading the fees instead of on the true impact of
1063 the variety of tenants to help smaller developers. North Main had a different funding
1064 mechanism for those public area improvements.

1065

1066 **Chair Klein:**

- 1067 • Noted that the public funds for North Main were inevitably paid back.
1068 • **Mr. Parecki** disagreed, stating the City still owed \$738,000 on the improvements.
1069 • **Ms. Mangle** stated the important point was that the same Code applied to North
1070 Main.
1071 • Recalled a mistake being made at Spring Creek Coffee when the previous Planning
1072 Director did not apply the actual public area requirements that were needed. It was
1073 then passed on to the tenants that inevitably moved in.
1074 • **Mr. Parecki** clarified that no impact analysis was done. Since it remained retail,
1075 no public area requirements would have been required. No mistake was made,
1076 although the Mayor wanted to make that an issue.
1077 • Asked how public area requirements should be done; should citizens or the
1078 businesses opening the facilities pay for them?

1079

1080 **Commissioner Churchill** reiterated that he heard Mr. Parecki ask for a rear-loading of
1081 fees.

- 1082 • **Mr. Parecki** stated that he suggested the impact could not be calculated until the
1083 type of business that was known rented the building.

1084

1085 **Chair Klein:**

- 1086 • Asked if that was implemented, would Mr. Parecki come to the Commission and say
1087 that his tenant would not move in because he would have to pay \$10,000?

- 1088 • **Mr. Parecki** replied that was happening now. Long after JL Hair Design moved
1089 in, public area requirements were imposed even though it was a retail use to
1090 retail use and no impact analysis was done.

- 1091 • Stated it was difficult for the Commission as well because it came back to the
1092 question of who inevitably paid for the public area improvements.

1093

1094 **Ms. Shanks** appreciated Mr. Parecki's question and concern. She was not directly
1095 involved with the appeal for his project at Main and Monroe, but she had talked with staff
1096 and the City Attorney to understand the situation.

- 1097 • It was common to evaluate a project for impacts and require improvements before
1098 there were any known tenants. Assumptions were made based on real world things
1099 like zoning.

- 1100 • The Panattoni Business Industrial Zone development on Harmony Rd and
1101 International Way was a spec development. Prospective tenants were unknown,
1102 but no one would have been happy if the buildings were allowed without
1103 improvements. The improvements were expected to occur as the project was
1104 being developed, not when individual tenants came in one at a time. It would be
1105 too difficult to manage and having the improvements built incrementally was not
1106 efficient from a development standpoint.

- 1107 • She sympathized with Mr. Parecki, but it was more difficult when an existing building
1108 was being redeveloped for an unknown tenant, which was evaluated through zoning
1109 and previous uses.

- 1110 • The City would apply the proposed Code with regard to change in uses and
1111 redevelopment by looking at the most conservative outright allowed use when
1112 evaluating a change in use.

- 1113 • A façade improvement would no longer trigger the Code. However, the Main and
1114 Monroe building was not just a façade improvement because the interior
1115 improvements and the zoning combined with the previous use constituted the
1116 change in use. The change in use was evaluated against the impacts to the
1117 system. The previous use was office; the new use was retail.
- 1118 • The most conservative numbers were utilized for determining trip generation. It was
1119 possible that a tenant might have more impacts to the transportation system than the
1120 conservative numbers utilized. In speculative development, there might be a two-
1121 step process where a bare bones situation could be evaluated using what was
1122 outright allowed in the zone. But when a new tenant applied for a building permit, the
1123 original assumptions would be reevaluated to be sure the actual tenant was covered.
- 1124 • A change in use might not trigger any public area requirements because it might
1125 not produce an impact to the system. She reiterated that in Mr. Parecki's case,
1126 the change in use was from office to retail, which always had more impacts on
1127 the system. The City stood by the analysis completed for the change in use and
1128 the impact associated with it.
- 1129 • She understood that Mr. Parecki might not agree, and she could appreciate his point
1130 about the timing of when the improvements were required, but it was common
1131 practice because it was difficult to require improvements after a tenant came in.
- 1132 • The process was clear-cut for new development with a new use but less clear-cut
1133 with a speculative redevelopment with a previous use. The Code would definitely be
1134 applied from an impacts-based perspective and then evaluated as to whether any
1135 needed improvements were proportional to the impacts required.
- 1136 • Existing Code fell short of requiring certain things, so it was being updated to reflect
1137 something that was hopefully more balanced and fair because it would look at
1138 impacts and whether the improvements, as a result of the impacts, were proportional
1139 to the project.

1140

1141 **Ms. Mangle** reminded that the public hearing would be opened at the next meeting. Any
1142 other questions or comments should be sent to Ms. Shanks.

1143

1144 **Chair Klein** hoped all questions and comments were submitted prior to the March 10th
1145 meeting, so staff could review them and provide a summary.

- 1146 • **Ms. Shanks** stated that the staff report would be finalized at the end of the week.
 1147 She would appreciate any grammatical or other corrections to be sent before Friday,
 1148 so they could be incorporated in the draft. There was still time to make changes, but
 1149 she wanted to get minor changes addressed in the final draft.

1150

1151 **Vice Chair Newman** asked if the process of evaluating a project as described would be
 1152 included in a former fashion within the Code.

- 1153 • **Ms. Shanks** replied that not everything could be included in the Code or it would be
 1154 too large. She was taking notes on the key issues that were applied when
 1155 implemented and would draft a document regarding implementation of Code in
 1156 different scenarios.

- 1157 • **Ms. Mangle** added the document would be public information for staff and
 1158 developers to help everyone understand what they might be facing.

- 1159 • **Ms. Shanks** said they wanted to be clear internally regarding application of the
 1160 Code. Unfortunately there was always room for interpretation because there would
 1161 always be scenarios that were not quite captured. Staff was very clear about what
 1162 the Code meant and hoped that the specific policy direction proposed was
 1163 comfortable for everyone.

1164

1165 **7.0 Other Business/Updates from Staff—None.**

1166

1167 **8.0 Planning Commission Discussion Items** – This is an opportunity for comment
 1168 or discussion for items not on the agenda.

1169

1170 **Chair Klein** noted that a complimentary letter from the Bridge City Community Church
 1171 about the sign was received and was available for the Commissioners to read.

1172

1173 **9.0 Forecast for Future Meetings:**

- 1174 March 10, 2009 1. CSU-08-06 Community Service Use – Public Hearing
 1175 for Johnson Creek Blvd. facility modular office
 1176 2. ZA-09-02 Transportation Code Amendments – Public
 1177 Hearing for Recommendation to City Council
 1178 3. Parking Code Amendments Worksession (tentative)

1179

1180 If time was not available on March 10th, the worksession would be moved to the March
1181 24, 2009 meeting.

1182

1183 March 24, 2009 1. Comprehensive Plan Update project briefing
1184 2. Joint Session with Design Landmarks Committee

1185

1186 The primary topic of the joint session would be how the two committees worked
1187 together.

1188

1189 Meeting adjourned at 10:11 p.m.

1190

1191

1192 Respectfully submitted,

1193

1194

1195

1196

1197 Paula Pinyerd, ABC Transcription for
1198 Alicia Stoutenburg, Administrative Specialist II

1199

1200

1201

1202

1203 _____
Jeff Klein, Chair



MILWAUKIE

Dogwood City of the West

To: Planning Commission

From: Katie Mangle, Planning Director *KM*

Date: April 5, 2009 for April 14, 2009 Work Session

Subject: Director's interpretation on how to apply Milwaukie's Community Service Use code to existing community service uses

ACTION REQUESTED

No action is requested at this time. This is a briefing intended to provide the Commission with background information on how the code will be applied to future land use applications.

BACKGROUND INFORMATION

In 2006, the City adopted significant changes to Milwaukie Municipal Code (MMC) Section 19.321, the code regulating Community Services Uses (CSU). While implementing this code over the past three years, staff has become aware of many sites that are used as community service uses but were not established according to the current CSU criteria and standards. The CSU code does not explicitly grant automatic CSU status to uses that were designated Conditional Uses or had a Community Service Overlay (CSO) designation under older regulations. The City Attorney has advised that this raises questions about whether the City can appropriately process permits for uses that were not originally permitted through the current CSU process.

The purpose of the attached Directors' Interpretation memo (attachment 1) is to outline how the City will regulate sites that are used as community service uses but have not received a CSU permit. Staff will reference the approach outlined in this memo during future public hearings on CSU applications.

For reference during the meeting, staff has prepared a map of sites in Milwaukie that contain a use listed in the Applicability section of 19.321. Sites are categorized by a preliminary assessment of how each has or has not been permitted by the City. Please note that category of "no known permit" reflects preliminary staff research into permits granted since 1984. This map will be refined as better information becomes available.

ATTACHMENTS

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

1. Memo re: Interpretation of MMC 19.321 Community Service Use - Procedures for permitting changes to properties used, but not established as, community service uses
2. Map of existing community service use sites in Milwaukie



To: Community Development, Planning, Engineering and Building Departments

CC: Mike Swanson, City Manager; City Attorney

From: Katie Mangle, Planning Director

Subject: Interpretation of MMC 19.321 Community Service Use - Procedures for permitting changes to properties used, but not established as, community service uses

Date: January 30, 2009

Problem/Issue:

While implementing Milwaukie Municipal Code (MMC) Section 19.321, the code regulating Community Services Uses (CSU), I have become aware of many sites that are used as community service uses but were not established according to the current CSU criteria and standards. The CSU code contains no provision granting automatic CSU status to uses that were designated Conditional Uses or had a Community Service Overlay (CSO) designation under older regulations. The purpose of this Directors' Interpretation is to outline how the City will regulate sites that are used as community service uses but have not received a CSU permit.

The ambiguity of the code with respect to these uses creates the potential for inconsistent application of the CSU regulations and uncertainty as to the zoning status of some uses. Several issues have been identified:

- There are many sites in Milwaukie (recreation facilities, religious and public institutions, etc.) that contain a use listed in the Applicability section of 19.312, but have not been approved as either a CSU (existing code), a CSO (former code), or a Conditional Use (CU). These institutions have not necessarily remained static over time. Many have changed names, changed ownership, changed programs and services, experienced membership fluctuations, and modified structures. Some of these institutions and facilities predate the City's first zoning code (circa 1946).
- Allowing nonconforming uses in the Willamette Greenway (WG) Zone or within the natural resource areas depicted on the City's Water Quality Resource (WQR) Maps to automatically receive a CSU designation, without a public hearing process, could undermine the strong public policy interest in protecting these areas from inappropriate development.

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- Since 2006 the City has used the CSU process to issue permits to modify institutional uses that were not originally established by CU, CSO, or CSU permit. A question has arisen as to whether this approach is authorized or an appropriate procedure under our current Code

Considerations

The purpose of this memo is to document my interpretation of how the current code is to be applied to establish, modify or expand institutional uses. I do so in the context of four relevant factors:

1. If former CSO uses are allowed to be treated as CSU uses there will be situations in which a use that is currently nonconforming will become a conforming CSU. In most urban zones allowing institutional uses by this means will not create unacceptable conflicts. In the sensitive WG zone and mapped Water Quality Resource areas, however, conversion of a nonconforming use to an allowed use risks undermining the purpose of the regulations intended to protect valuable and sensitive resources.
2. The City's CU standards are substantively different than the CSO/CSU standards. A community service use that was properly approved as a CU, but not as a CSU or CSO use, has not been evaluated against any community service use standards and should carry with it no special determination that it complies with current CSU requirements.
3. The City has applied same standards to the establishment of and major modifications to CSO and CSU uses. Arguably, a use that was reviewed and approved as a major modification to a CSO/CSU was tacitly treated as having full CSU status by the City at that time, even if the whole use was not reviewed according to the CSO or CSU standards.
4. The City adopted the WG zone and implementing regulations to meet the requirements of Statewide Planning Goal 15, and the WQR regulations to meet the requirements of Statewide Planning Goal 5 and Title 3 of Metro's Functional Plan. Per MMC 19.320, within the WG zone all land use actions and any change or intensification of use, or development permitted in the underlying zone, are processed as conditional uses. One of the CU review criteria is that the use complies with the standards of the zone in which it is located.

The City adopted the WQR regulations (MC 19.322) to comply with Goal 5 by protecting wetland and riparian corridors. Per MMC 19.322, within mapped WQR areas (shown on the City zoning map as Wetland Buffer and Vegetated Corridor), additions, alterations, rehabilitation and replacement of lawful structures are subject to approval by the Planning Commission under quasi-judicial review procedures and compliance with specific development standards.

Due to the complexity of the City's application of the Community Service Use regulations, a complexity that is evidenced in this memo, I have determined that the City should apply a more conservative approach when Goal 5 resources are involved. Therefore, for any community service use located within the WG zone or a mapped Vegetated Corridor or Wetland Buffer, the

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standards of the CSU zone must be applied to any land use action, change, modification or development proposed and lying within these areas.

With these factors in mind, the following guidelines should be followed by staff in processing applications for establishment of or modifications to properties used as community service uses (as listed in MMC 19.321.2).

Procedures for permitting changes to community service uses

When the City receives a proposal to which Section 19.321 of the MMC applies staff should determine which of the following categories applies to the use:

Category 1 - The existing use was approved as a CSU under the current code (after November 2006). Examples include Sweet Pea Daycare and the Pond House.

Category 2 - The existing use was approved as a CSO under prior City code. Examples include the Southgate Park and Ride and the Waldorf School.

Category 3 - The existing use, when initially established, did not receive CSU or CSO approval or was initially approved as a CU. However, subsequent site or use modifications were approved under applicable CSU/CSO code provisions. Examples include Bridge City Community Church and Milwaukie Elementary.

Category 4 - The existing use was approved as a Conditional Use. Examples include Milwaukie Covenant Church and the American Legion facility in downtown.

Category 5 - The existing use predated the City's zoning code and has been determined to be a legal nonconforming use. Examples include the Pioneer Cemetery and the Masonic Lodge.

Category 6 - The use is located within the MMC Section 19.320 Willamette Greenway Zone or within a mapped MMC Section 19.322 Water Quality Resource area (Vegetated Corridor or Wetland Buffer). Examples include Spring Park and the Kellogg Wastewater Treatment Facility.

Category 7 - The use was established illegally, without the approvals required at the time (staff can not document prior CSU, CSO, or CU approval).

Applications for uses that fall into one of the above 7 categories should be processed as outlined below:

If the use is in Category 1 or 2 (previously approved as a CSU or CSO) and Category 6 does not apply:

- MMC Section 19.321 Community Service Uses applies to all requests related to continuation of the existing use.

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- Staff shall determine whether a proposed change or intensification exceeds any approval requirements or conditions of the existing CSU or CSO approval. If so, a new CSU review and approval is required.
- If not, the level of review required (CSU major modification or CSU minor modification) would depend upon whether the change or intensification met the minor modification criteria as set forth in MMC 19.321.6.C.

If the use is in Category 3 (City has approved modifications to the site through CSU or CSO review, but the initial establishment of the whole use was not approved as a CSU or CSO) and Category 6 does not apply:

- The site will be considered to be a defacto CSU. Staff should apply the CSU minor and major modification standards set forth in MMC 19.321.6, allowing modifications to the site to be permitted as modifications to a CSU.

If the use is in Category 4 (permitted as a CU) and Category 6 does not apply:

- MMC Chapter 19.600 Conditional Uses applies to continuation of the existing use.
- Staff should determine whether a proposed change or intensification exceeds any approval requirements or conditions of the existing CU approval. If so, a new CSU review and approval for the entire operation is required. If CSU approval is denied, the facility would still be able to operate under the original CU approval, assuming the use still meets all the original conditional use requirements.

If the use is in Category 5 (it is a nonconforming use) and Category 6 does not apply:

- MMC Chapter 19.800 Nonconforming Uses applies to the continuation of the existing use.
- Applicant to provide documentation that the site has, for the most part, been continuously used for as a community service use (e.g., as a religious institution, as a school, etc). Changes of name and ownership are irrelevant.
- Applicant to provide documentation of existing uses and operations to serve as baseline for proposed or future change/intensification, i.e. number of people who use the site on a weekly basis, hours of operation, types of programs and services, etc.
- If the applicant seeks approval of the proposed change or intensification as a CSU under existing CSU standards, the use retains its nonconforming use status until a new CSU is approved.

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If the use is in Category 6 (within the Willamette Greenway Zone or a mapped Water Quality Resource area):

- Applications for all development or change or intensification of use on sites located within the WG zone or within a mapped WQR area, are subject to compliance the CSU standards listed in MMC 19.321.6. If the application pertains to a proposal to change land lying within the WG zone or a mapped WQR area, then the CSU standards are applied only to the proposed use, change, or intensification within the WG or mapped WQR area. None of the uses within these mapped areas will be considered to be defacto CSU sites.
- The CSU review need not be required for pre-existing permitted uses located on that portion of the applicant's property lying outside the WG Zone or mapped WQR area. Those areas will fall into categories 1 through 5 outlined above, as applicable.
- If an application for a change or intensification of the existing use is processed as specified in the first bullet of this Category 6 and the Planning Commission concludes that the existing use meets all of the CSU Standards set forth in MMC 19.321.5, the application for any change or intensification will be processed as any other application (as a Major or Minor Modification) under MMC 19.321.4 and 19.321.6).

However, if the Planning Commission concludes that the existing use does not meet the CSU Standards, then the existing use will be deemed a nonconforming use and thereafter the application is processed through one of two avenues at the applicant's election: (i) as an alteration of the nonconforming use under Code Section 19.802 or (ii) as an effort to convert the nonconforming use to a conforming use, which requires compliance with all applicable requirements including, without limit, Willamette Greenway Zone standards, Water Quality Resource area standards, conditional use standards and current CSU standards.

If the use is in Category 7 (staff can not document prior CSU, CSO, or CU approval, or the use was established illegally, without the approvals required at the time):

- Sites operating as community service uses (a use listed in 19.321.2 in a zone that would not allow the use outright) that do not predate the City's zoning code and for which staff cannot locate either a CU or CSU land use approval are potentially illegal.
- Applications for all development or change or intensification of use on sites where prior CSU, CSO, or CU approval cannot be documented, are subject to compliance the CSU standards listed in MMC 19.321.6,
- If the record is unclear or incomplete, such uses will be deemed nonconforming uses (not defacto community service uses). Continuation of these uses will be subject to the limitations of MMC Chapter 19.800. Because these uses would not be given defacto CSU status, existing uses would not be allowed to alter or intensify in any way without

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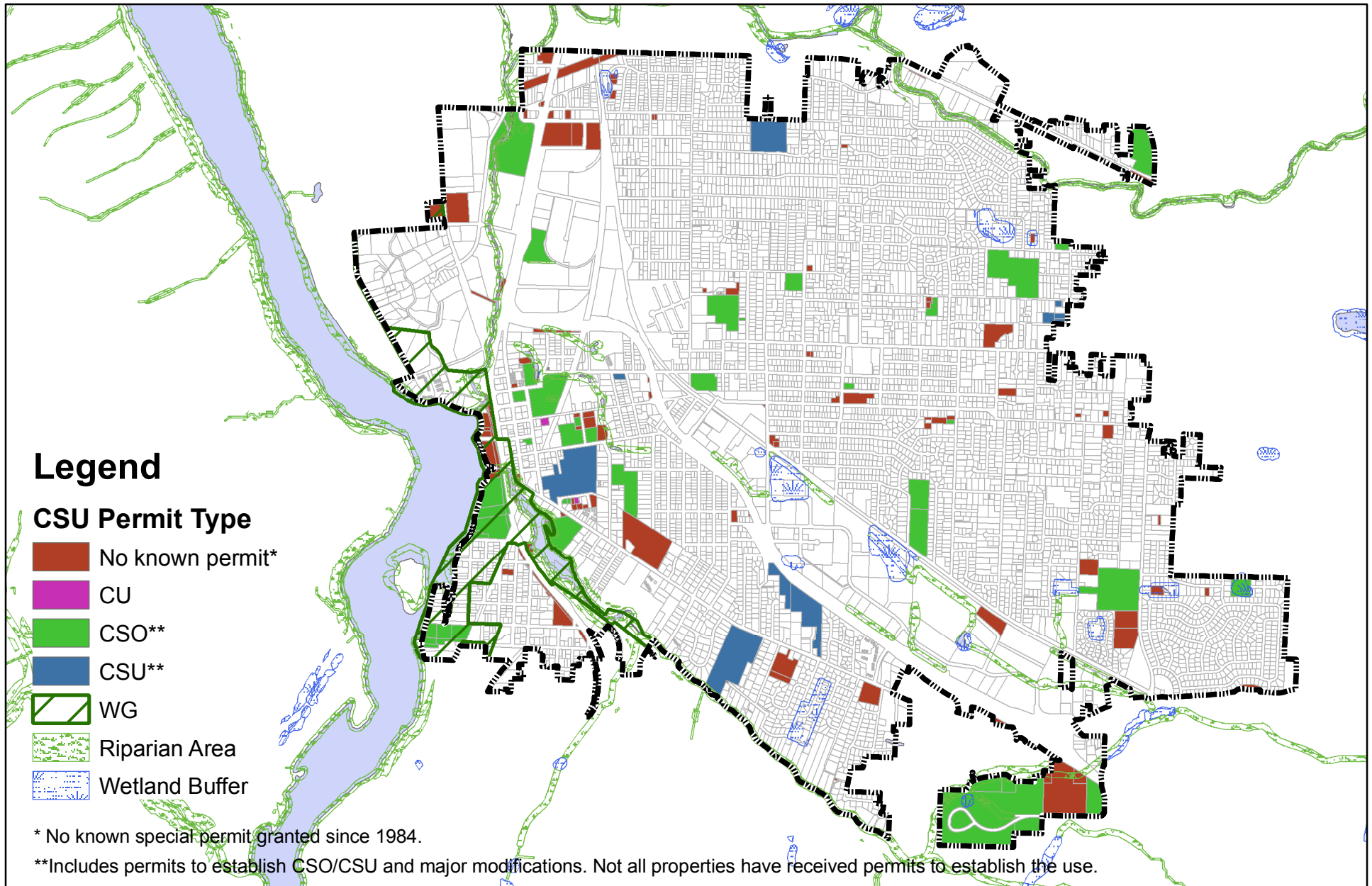
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either (i) meeting the requirements of MMC 19.800 or (ii) obtaining approval of a CSU for the entire facility. Staff should obtain baseline use information from the applicant and prepare a nonconforming determination memo for the address file.

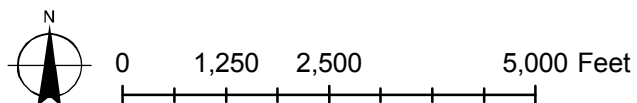
- If the record is clear and complete, such uses will be deemed illegal. Staff should work with the applicant to legalize the use through the CSU review process or to remove the illegal use.

Potential Code Fix

The interpretation outlined in this memo is intended to guide staff implementation of MMC 19.321 as a short term solution. The City should identify and implement code amendments to address this problem by ordinance.



Properties used as Community Service Uses



Author: City of Milwaukie Planning Department, January 2009
 Source: City of Milwaukie GIS, Clackamas County GIS,
 Metro Data Resource Center
 All data depicted is approximate.
 Not suitable for building or engineering purposes.



MILWAUKIE
Dogwood City of the West

M E M O R A N D U M

TO: Members of the City of Milwaukie Planning Commission, Planning Director
Katie Mangle

FROM: William Monahan

DATE: April 3, 2009

RE: **Planning Commission Bylaws**
File No. 49979-36738

The Planning Commission operates under the authority granted to it by statute and the municipal code (the “Code”). Section 2.16.010 of the Code notes the Planning Commission’s purpose. The City Council was charged with adopting bylaws for each board, committee, or commission’s “meetings and the performance of its duties,” 2.10.050A. Further, the Code provides that the bylaws shall be reviewed and updated annually by each board or commission then reviewed and accepted by the City Council.

The bylaws that are in place now for the Commission were adopted in June 1998. In order that the Commission be in compliance with its obligation under the Code, we suggest that the Commission conduct a thorough review of the bylaws in 2009, update the bylaws, and then schedule an annual review for future years.

In order to assist the Commission in its review, we have read through the bylaws and have identified areas that we believe require attention either because we have observed issues arise in the interpretation or application of specific language, or because laws or procedures have changed, or because language is out of date.

Please consider this memo as a starting point for your review. There are likely other sections of the bylaws that individual members of the Commission wish to review and consider revising. We welcome your input to establish a more complete list of topics for discussion at a future work session.

I. Issues From the Existing Planning Commission Bylaws.

Article V. Organizational Procedures

A. Meetings. - The Commission may want to specify a target time for the meetings to conclude and the process to use to extend a meeting beyond that time.

C. Voting. - Some language could be added to discuss what happens if there is a tie vote. For instance, “a tie vote means the decision is not approved” or “on a tie vote, the motion is lost.” Or, the bylaws could provide that a new motion is appropriate.

E. Parliamentary Authority. - The present bylaws refer to “Roberts Rules of Order Revised” as the parliamentary authority applicable to the commission “unless superceded by these bylaws or local, state, or federal law.” This type of provision causes problems since it is not clear where the conflicts between local bylaws and Roberts Rules exist. It is recommended that the Commission adopt and periodically review “Rules of Procedure” that are as complete as possible without having Roberts Rules as a backup. Challenges to Commission process citing Roberts Rules can be disruptive and difficult to resolve. The use of Roberts Rules is more appropriate in large legislative bodies rather than smaller settings such as the Commission. We recommend deleting reference to Roberts Rules and preparing Rules of Procedure, or relying on these bylaws to govern hearings.

F. Statement of Economic Interest. - This section needs to be brought up to date to refer to the Oregon Ethics Commission presently there is a need for filing quarterly reports but pending SB 30 would eliminate that requirement. We suggest the word “annual” be deleted.

G. Duties of Members. - This section should be re-written as it is intended to state the duties of members but also makes reference to candidates. It can be written more clearly. In fact, much of the language should be taken out of this section and added into section Article V. A. Meetings.

Article VI. Duties of Officers

A.2 and A.3 - Refer to duties of the Chair. It is my observation that these are not commonly carried out by the Chair and may not be necessary.

A. - Can be rewritten to spell out the duties of the Chair in legislative, quasi-judicial, and other settings.

C. - This statement “the Chair may mentor the Vice-Chair” goes without saying and is not needed in the bylaws.

E. and F. - These sections refer to the Chair working with the Community Development Director. The present structure of the City organization has the Planning Director assigned as the planning staff support to the Commission. This section should either be changed to add “or designee” after Community Development Director in both places or change the reference to “Planning Director.”

Article VII. Duties of the Commission

C. - This section encourages Commissioners to visit sites that are subject to land use actions. This section could be expanded to say “and report any observations gained from the visit that he or she plans to take into consideration that are in addition to or inconsistent with the packet materials.” This is required in order that all Commission members and parties to the proceeding are aware and can question or refute the observations.

II. Suggested Additions to the Current Bylaws.

1. Article V has a section that addresses Statement of Economic Interest, but there is not reference to ORS 244.135 that specifies how Planning Commission members must handle conflicts. The bylaws should have language that duplicates the statutory responsibility.

2. The bylaws provide no direction to a Planning Commission member who attends a continuance hearing but did not attend the initial or subsequent hearing where evidence was presented. It would be helpful to provide some guidelines as to the expectations of the Commission on: i) how a member prepares to be able to participate, or ii) when a member should not participate.

3. Duties of Chair – Some jurisdictions clarify whether the Chair acts as a meeting facilitator with a vote on all issues or does not vote except in the case of a tie vote. In addition, it is common to have clear direction whether the Chair is authorized to make motions. The Commission may want to consider reviewing these questions.

4. Abstentions – A general rule is that all members of public bodies are expected to vote on all issues unless there is a reason why they are precluded from voting. The Commission should consider requiring that a member who abstains cite the reason for abstaining so that the reason is recorded on the record. The Commission could add “A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final determination regarding the matter of the hearing, unless he or she has reviewed the evidence received.”

III. Ideas from the Bylaws of Other Cities That Could be Considered.

1. Authorization be given to the Chair to “sign all documents memorializing Commission actions promptly after approval by the Commission.” Presently the process works fine, but the bylaws should include a reference to the process followed.

2. Open Meetings – All meetings of the Commission are open to the public, but it may be useful to state this in the bylaws for the sake of making the public aware of this fact. If the Commission adds a reference to open meetings, it could also comment that the Commission can hold executive sessions.

3. Agenda: Order of Business – The Commission could include in the bylaws the order of business that is commonly followed.

4. Lack of a Quorum – The Commission may want to provide clear direction what will happen if staff learns before a meeting that a quorum cannot be met. Language such as the following could be added:

“In the event a quorum will not be present at any meeting, the Planning Director shall notify the Commission members in advance of that fact, and all items scheduled before the meeting shall be automatically continued to the next regularly scheduled meeting. The Planning Director shall post notice of the

continuance on the exterior doors of City Hall notifying the public of the continuance and specifying the date and time when the matter will be before the Commission. Notice shall be placed once the Planning Director knows that the quorum will not be present and the notice will remain through the day on which the meeting was scheduled.”

5. Vote to Reconsider – There is no mention of the ability of the Commission to reconsider a vote. If it is desired to have the right, a section could be added to read:

“A motion to reconsider can be made only at the same meeting the vote to be reconsidered was taken. Suspension of this rule is not permitted. Further, a motion to reconsider may only be made by a member who voted on the prevailing side of the issue.”

6. Minutes – Minutes are referred to within Article IV. D. identifying minutes preparation as a staff duty. It would be useful to add to Article V Organizational Procedures, a new section that notes that:

“A staff representative or designee shall be present at each meeting and shall provide for a sound, video or digital recording, or written minutes of each meeting. The record of the meeting, whether preserved in written minutes or a sound, video or digital recording, shall include at least the following information:

- members present;
- motions and proposals, and their disposition;
- results of all votes and the vote of each member by name;
- the substance of any discussion on any matter; and
- a reference to any document discussed at the meeting.

Written minutes need not be a verbatim transcript, but give ‘a true reflection of the matters discussed at the meeting and the views of the participants.’

Written minutes of a meeting will be made available to the public ‘within a reasonable time after the meeting.’”

7. Voting on Minutes – While it is not required that a Commission member abstain from voting on approval of minutes from a meeting that he or she did not attend, the Commission could adopt its present practice. If it desires, the Commission could add this language:

“Any Commission member not present at a meeting must refrain from voting on approval of the minutes of that meeting.”

Please note that since meeting minutes must be made available in a reasonable time after a meeting, draft minutes must be available to the public if requested.

8. Amendment of Bylaws – The Commission may want to spell out the process to amend the bylaws. If so, it could consider the following:

“These bylaws may be amended by approval of a majority of the members of the entire Commission at a regular or special meeting, provided notice of the proposed amendment is given at the preceding regular meeting, or at least five (5) days’ written notice is delivered to, or mailed to the home address of each Commission member. The notice shall identify the section or sections of this resolution proposed to be amended unless the entire document is being reviewed.”

I will be available at the April 14, 2009 Commission meeting to discuss the bylaws. I look forward to your ideas and input.

Attachments

1. Planning Commission Bylaws, adopted 1998

PLANNING COMMISSION BYLAWS

Article I. Name

The name of this commission is the Planning Commission (PC).

Article II. Purpose, Authority, and Objective.

- A. **Purpose.** The purpose of the Commission is to serve as an advisory body to, and a resource for, the City Council in land-use matters.
- B. **Authority.** The Commission is authorized by ORS 227 and Milwaukie Municipal Code, Chapter 2.16.
- C. **Objective.** The Commission's objectives include articulating the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan.

Article III. Membership

- A. **Appointment.** Each Commission member shall be appointed by the Mayor with the consent of Council. Members shall serve at the pleasure of the Council.
- B. **Term of Office.** Terms are for a period of four years. Commission members shall serve no more than two, consecutive full terms. The Council may waive this limitation if it is in the public interest to do so.
- C. **Membership.** The Commission consists of seven members. No more than two members may be non-residents, and no more than two members shall be engaged in the same kind of occupation, business, trade, or profession. No member may be a City of Milwaukie officer, agent, or employee, and no more than two voting members of the commission may engage principally in the buying, selling, or developing of real estate for profit as individuals, or members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit.
- D. **Vacancy and Removal.** Vacancies are filled in the same manner as original appointments. A member of the Planning Commission may be removed by the appointing authority, after hearing, for misconduct or nonperformance of duty.

- E. **Attendance.** Upon failure of any member to attend three consecutive meetings, the Commission may recommend termination of that appointment to the Council, and the Council may remove the incumbent from the Commission and declare the position vacant to be filled in the manner of a regular appointment.
- E. **Compensation.** Planning Commission members shall receive no compensation for their service, but shall be fully reimbursed for all duly authorized expenses.

Article IV. Officers and Staffing

- A. **Officers.** The officers consist of a chair and a vice chair who shall be selected by the membership and who shall serve at the pleasure of the membership for one year. Nominations and election of new officers shall be taken from the floor at the Committee's first meeting of the year. Officers may be re-elected. In the event that an officer is unable to complete the specified term, a special election shall be held for the completion of the term.
- B. **Chair.** The Chair shall preside at all deliberations and meetings of the Commission and call special meetings in accordance with these bylaws and review Commission agendas with the staff liaison
- C. **Vice Chair.** During the absence, disability, or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all duties and be subject to all the responsibilities of the Chairperson. In the absence of the Chairperson and Vice-Chairperson, the remaining members present shall elect an acting Chairperson.
- D. **Staff.** The City of Milwaukie Community Development Department will provide staff support to the Commission for: land-use issues, meeting notifications, postponements, final disposition of matters, and other steps taken or acts performed by the Commission, which include administrative housekeeping functions such as, word processing, minutes preparation, copying, and information gathering to the extent the budget permits.

Article V. Organizational Procedures

- A. **Meetings.** The Commission shall hold meetings as necessary at a time and place designated by staff consistent with Oregon Public Meetings Law.
- B. **Quorum.** A quorum is four (4) of the voting membership of the Commission. The concurrence of a majority of the Commission members present shall be required to decide any matter. If a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting shall be cancelled.

- C. **Voting.** All members who are present at Commission Meeting, including the Chair and Vice Chair, are allotted one vote each on all motions.
- D. **Repeal or Amendments.** These bylaws may be repealed or amended, or new bylaws may be adopted by a majority vote of the Milwaukie City Council on its own initiative, or upon a recommendation from the Commission.
- E. **Parliamentary Authority.** The parliamentary authority for this Commission is Robert's Rules of Order Revised, except where superseded by these bylaws or local, state, or federal law.
- F. **Statement of Economic Interest.** Commissioners are required to file annual statements of economic interest as required by ORS 244.050 with the Oregon Government Standards and Practices Commission.
- G. **Duties of Members.** Individuals being considered must be willing to dedicate to, at a minimum, two meetings per month for Planning Commission membership. The Planning Commission shall meet at least once a month, on the second and/or fourth Tuesdays at 6:30 p.m. at a place designated by staff. These meetings may be set aside upon agreement of a majority of the Commissioners and upon compliance with applicable land use laws and procedures.

Article VI. Duties of Officers

- A. The Chair or Vice-Chair, in addition to the duties in Article IV, shall preserve the order and decorum of the meeting.
 - 1. The Chair may assess the audience at the beginning of the meeting and with the consent of the Commission, announce reasonable time limits.
 - 2. The Chair will summarize the issues to be addressed and the criteria to be applied at the conclusion of public hearing testimony.
 - 3. The Chair will summarize the hearing results at the conclusion of the public hearing.
- B. The Chair will ask for response and opinion from the members of the Commission.
- C. The Chair may mentor the Vice-Chair.

- D. The Chair may appoint Commissioners to specific projects or committees, and may select a Commissioner to be spokesman for the Commission when the Chair or Vice-Chair is unavailable.
- E. The Chair or Vice-Chair shall confer with the Community Development Director on a regular basis outside scheduled meetings concerning the direction each expects of the Commission.
- F. The Chair, in conjunction with the Community Development Director, shall orient new members.

Article VII. Duties of the Commission

- A. Planning Commission members shall address all those who come before the Commission in a formal and courteous manner.
- B. If a member is unable to attend a meeting, it is that member's responsibility to inform the Community Development staff and/or the Planning Commission Chair of that fact prior to the meeting to be missed.
- C. Prior to planning Commission meetings, Commissioners are encouraged to visit sites that are subjects for land use actions.
- D. The commission shall carry out the duties assigned to it by the City Council relating to development, updating, and general maintenance of the Milwaukie Zoning Ordinance, and the Milwaukie Comprehensive Plan.

Article VIII. Goals and Objectives

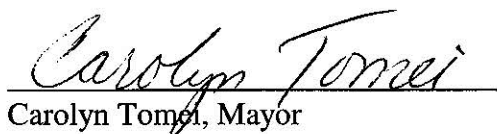
- A. The Planning Commission shall review the City Council goals annually for establishment of Planning Commission goals which enhance and augment those of the City Council.
- C. The Planning Commission shall establish goals, at a minimum, annually.

Adopted by the Planning Commission of the City of Milwaukie, Oregon with a Quorum in attendance at its regular meeting of June 23, 1998, and signed by the Chairperson in authentication of its adoption this 23rd day of June, 1998.

A handwritten signature in cursive script, appearing to read "Michael L. Smith", written over a horizontal line.

Mike Smith,
Planning Commission Chairman

Adopted by the City Council of the City of Milwaukie, Oregon, this 1st day of September 1998.

A handwritten signature in cursive script, appearing to read "Carolyn Tomei", written over a horizontal line.

Carolyn Tomei, Mayor



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Susan P. Shanks, Senior Planner

Date: April 7, 2009 for April 14, 2009 Meeting

Subject: NE Milwaukie Sewer Extension Briefing

Action Requested

None. This is an informational briefing on the NE Milwaukie Sewer Extension project.

Background

Over the past year, the City has been moving toward extending public sewer service to properties adjacent to the City's northeast boundary in accordance with the 1990 Urban Growth Management Agreement (UGMA) between the City and Clackamas County. The UGMA established an urban growth management area to the south and east of the City in which the City and County agreed to coordinate the future delivery of urban services. Within this larger area, two areas were called out and identified as Dual Interest Areas "A" and "B". Properties in Dual Interest Area "A" are not connected to public sewer. They have either septic systems or cesspools.

With regard to Dual Interest Area "A", the UGMA states that "the City shall assume a lead role in providing urbanizing services, whenever possible and according to adopted capital improvement programs." One of the main reasons that the City agreed to extend sewer service to this area is because of topography and adjacency. See Attachment 1 for the location of Dual Interest Area "A" in relation to the City of Milwaukie. See Attachment 2 for a map of Dual Interest Area "A" properties and their current County zoning. There are approximately 350 properties in the project area. Most are zoned and developed for residential purposes.

The Engineering Department is managing the sewer extension portion of this project. The Planning Department will be managing the annexation portion of this project since it is City policy to require annexation when properties either desire or need City services. As a result, the City will not require annexation upon construction of the new sewer system. The City will only require annexation when either the property owners in the project area choose to connect to the new system or need to connect because their septic systems have failed.

Planning Commission Staff Report: NE Milwaukie Sewer Extension Briefing
April 14, 2009
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This approach will result in the incremental expansion of the City boundary over many years. Staff plans to bundle as many annexations together at one time as practicable

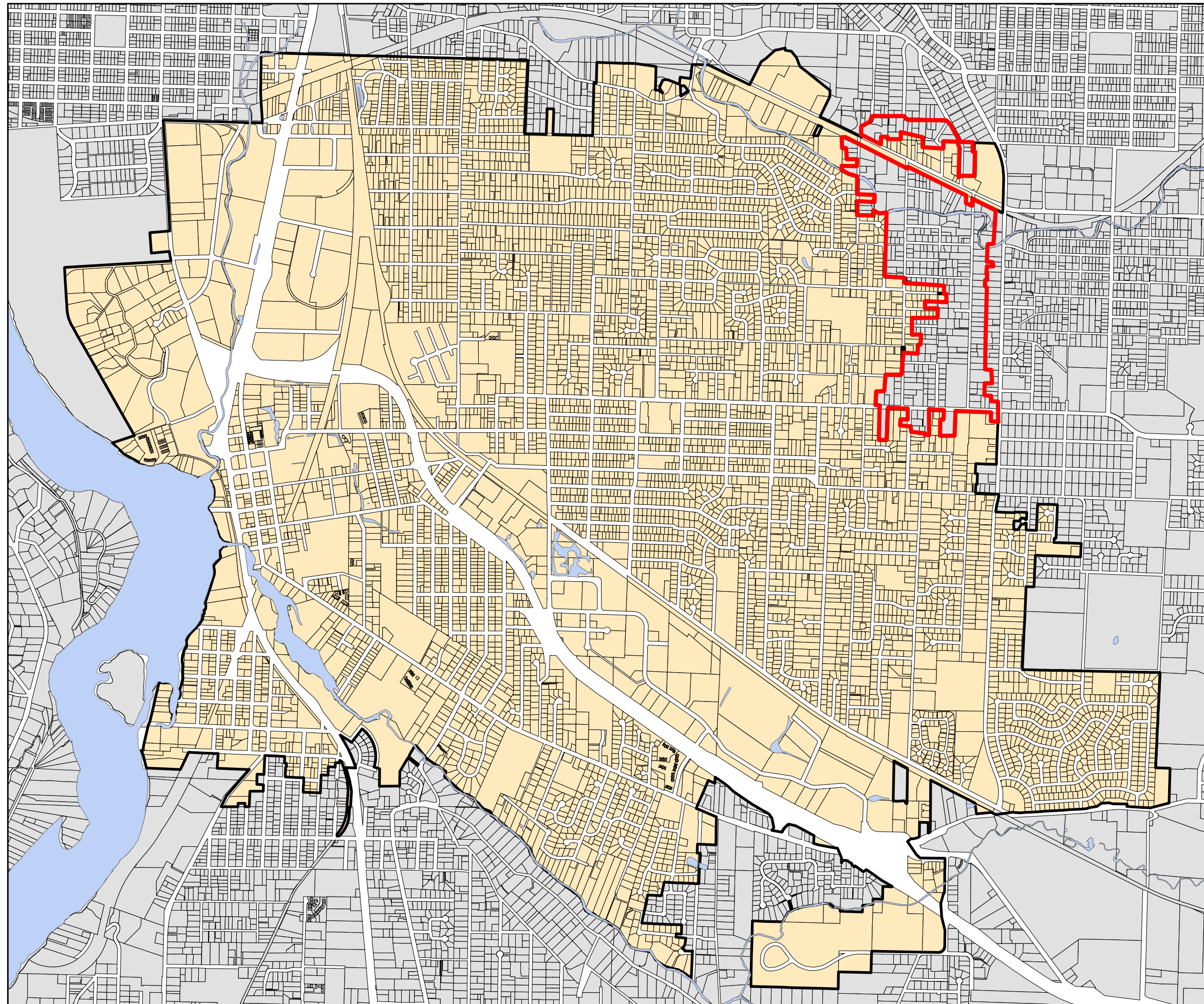
and expects that most annexations will be expedited rather than non-expedited. Expedited annexations do not require a public hearing and go straight to City Council for approval. Non-expedited annexations usually involve a request for a zone change and require hearings by both Planning Commission and City Council, as is the norm for any zone change request.

Current Status

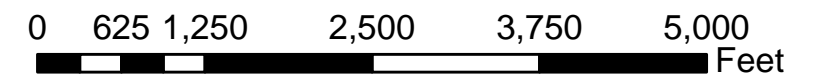
The City's engineering consultant, Century West, is currently creating final engineered sewer extension plans. Plans are expected to be complete in early summer 2009. Construction is expected to begin a few months later and take a year to complete. The first round of annexations is expected to occur immediately after sewer line construction is complete.

Attachment


1. Dual Interest Area "A" Location Map
2. Dual Interest Area "A" Boundary and Zoning Map (that shows NE Milwaukie Sewer Extension project area)




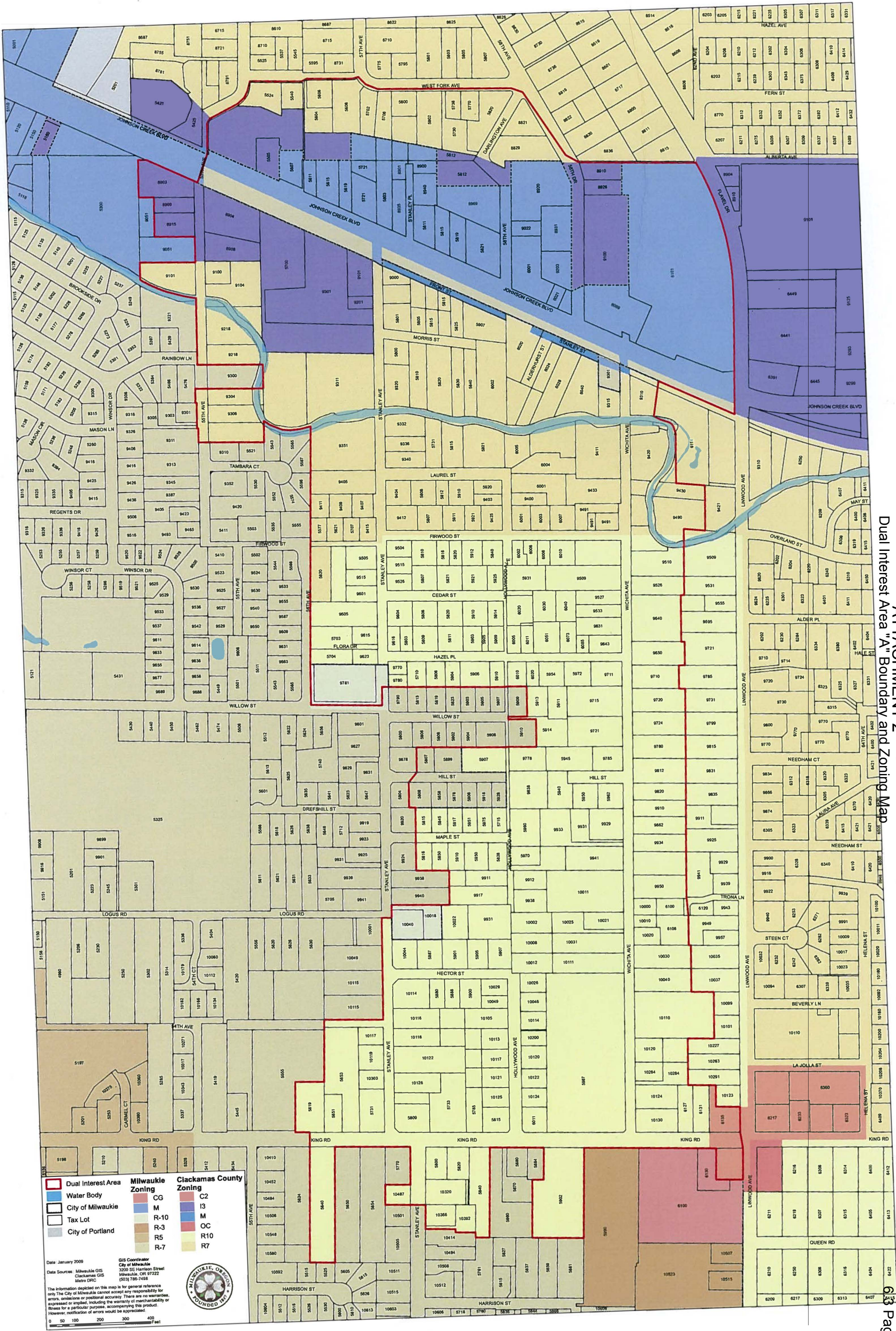
City of Milwaukie and Dual Interest Area "A"



Legend

 Bodies of Water

 Dual Interest AreaA



Date: January 2009
Data Sources: Milwaukie GIS, Clackamas GIS, Metro DRC
GIS Coordinator: City of Milwaukie, 3200 SE Harrison Street, Milwaukie, OR 97222, (503) 786-7488
The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

Milwaukie Zoning
CG
M
R-10
R-3
R-5
R-7

Clackamas County Zoning
C2
I3
M
OC
R10
R7

0 50 100 200 300 400 Feet

MILWAUKIE, OREGON
FOUNDED 1917