

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, April 27, 2010
6:30 PM**

COMMISSIONERS PRESENT

Nick Harris, Vice Chair
Scott Churchill
Teresa Bresaw
Chris Wilson

STAFF PRESENT

Katie Mangle, Planning Director
Brett Kelter, Associate Planner
Ryan Marquardt, Associate Planner
Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Jeff Klein, Chair
Lisa Batey

1.0 Call to Order – Procedural Matters

Vice Chair Harris called the meeting to order at 6:32 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 February 23, 2010

Ms. Mangle stated that Chair Klein submitted two corrections to the minutes via email. One was to add, ***“Chair Klein opened the discussion about officer elections. Commissioner Bresaw nominated Chair Klein for another year.”*** prior to Line 615 on Page 19 to put the paragraph into context. He also questioned whether he stated “12 to 24 months” in Line 617.

The Commission agreed Chair Klein had stated “12 to 24 months” so no further changes were needed.

Commissioner Bresaw moved to approve the February 23, 2010, Planning Commission meeting minutes as corrected. Commissioner Wilson seconded the motion, which passed unanimously.

2.2 March 9, 2010

Commissioner Bresaw moved to approve the March 9, 2010, Planning Commission meeting minutes as written. Commissioner Wilson seconded the motion, which passed unanimously.

Ms. Mangle noted the Design and Landmarks Committee (DLC) would review their portion of the March 9, 2010, minutes at their meeting on April 28, 2010.

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

- 5.1 Summary: Parking Chapter amendments *cont'd from 3/23/10*
Applicant/Owner: City of Milwaukie
File: ZA-10-01
Staff Person: Ryan Marquardt

Vice Chair Harris called the hearing to order and read the conduct of legislative hearing format into the record. He asked if any Commissioners had any ex parte contacts to declare. There were none.

No Commissioners abstained and no Commissioner's participation was challenged by any member of the audience.

Ryan Marquardt, Associate Planner, presented the staff report via PowerPoint, providing responses to the issues the Commission asked staff to address at the March 23, 2010, hearing, which was continued. Those issues included:

- Doing more Neighborhood District Association (NDA) outreach about Metro's minimum parking space requirements for single-family residences and the impact those regulations have had on other jurisdictions.
- Considering alternatives to, and do NDA outreach about, limiting large parking areas in front yards.
 - He clarified that garages would not interfere with the proposed front yard parking limitations because garages are required to be placed behind the required front yard setback. The proposed amendment limited parking in the front yard, which is the area between the dwelling and the front property line.
 - **Ms. Mangle** explained one way to visualize it was as a funnel, with the pinch point as the 20-ft curb cut width. The driveway could be wider as it went farther into the property to access a 3-car garage, for example. It was most restrictive at the curb cut with the new restrictions being in the setback.
 - **Mr. Marquardt** added the advantage of the percentage/ratio-based regulation is that larger properties would have some flexibility in parking design; narrow lots with small front yard setbacks could have a reasonable amount of parking and the ability to pave the entire front yard for parking would be curbed.
 - Comments from NDAs indicated that 50% still allowed for too much paving. Staff noted, however, that the Code had to apply to a wide variety of lots, and no current regulations addressed how much front yard area could be utilized for parking.
- Consider suggestions provided by the Commission about how commercial, RV, and boat parking might be amended.
- Additional proposed amendments included housekeeping items such as correcting scrivener's errors and references as well as a policy change regarding the prohibition of roosters within the city at the request of the Code Compliance Department.
 - **Ms. Mangle** explained staff was already changing this Code section regarding roosters as part of the housekeeping list because it contained provisions that are unenforceable. The Code Compliance Department had talked to the NDAs and did outreach. The rooster issue was raised for the Commission's consideration.
- He noted that the blue sheet distributed to the Commission would replace Subsection 19.507.1. The underlined section above the graphic was basically to incorporate comments from the Hector Campbell NDA, which were received right before the packet was due and were not included in the staff report.

- The actual proposed amendment was contained in Attachment 1, Exhibit B of the packet, which was a clean copy of the Parking Chapter. Exhibit D had the clean copy of all other associated amendments, housekeeping, and policy change that were not part of the Parking Chapter.
- The Code and commentary attachment included with the packet had a description of the changes between the March 23rd packet and the packet presented tonight. It was not a complete commentary on all of the Parking Chapter, but just explained what was different between the two packets.

Mr. Marquardt responded to questions and comments from the Commission as follows:

- When redoing a driveway, a permit was required for anything done in the right-of-way, such as a curb cut or driveway approach. A permit was not required to widen a driveway on the site, but the owner would have to comply with the Parking Chapter standards, including the minimum vegetative requirements.
 - **Ms. Mangle** clarified that many of the new standards were most effective and enforceable at the time of a building permit for a whole site review; the standards would be in place for new development.
- A homeowner could pave their front yard for low maintenance as long as they met the vegetation requirement. Under the proposed regulations, some physical separation would be required so the area was not entirely used for parking. For example, a play area could be paved, but would have to have something physical to convince staff that it was not part of a parking area.

Commissioner Churchill stated that he had a huge problem with prohibiting roosters as a housekeeping amendment in this Parking Code update. It was fine to address the issue in the Municipal Code, but not by sliding it in under the Parking Code revisions. He would have severe problems participating in such a vote tonight.

Mr. Marquardt continued, responding to questions from the Commission:

- Thresholds of development were set up so when doubling the floor area or development on a site, the applicant/owner was expected to come into full compliance with the Parking Standards. This applied to commercial and residential properties. When a structure was increased by less than double the size, the standards required that the area be brought closer to compliance, with those improvements capped at 10% of the permit value. The list of standards indicated what elements of parking had to come closer to compliance. A remodel that did not result in increased floor area was exempt from the Parking Chapter requirements.
- The commercial vehicle parking rules were Code compliance rules that property owners were expected to comply with on an ongoing basis. Complaints were received about commercial vehicles parked in residential areas, which drew staff's attention to the problems with the standards.
- Developing property had to be done correctly within the guidelines. The Romanian Baptist Church graveling their property did not meet the surface requirements for parking under the existing or proposed Code. The City applied the existing Code and issued a citation that was not upheld.
- Gravel was allowed for excess parking areas, such as behind the house or on the side yard of a wide lot, but not within front or side yard setbacks. Staff receives requests for building a shop or additional garage in the back yard on large lots. The owners do not always want a paved driveway to the area, so gravel was generally acceptable, but it should present a nice appearance to the neighborhood and not adversely impact surrounding properties. The side

yard setback requirement was an effort to keep gravel out that could get kicked to surrounding properties.

Ms. Mangle read comments from Commissioner Batey who supported adoption of the proposed amendments with one exception. She strongly supported Option 1 as proposed, which required 1 parking space outside of the setback, rather than staff's recommendation to not specify a location (Option 2).

- She also read comments emailed from Chair Klein, who supported the proposal without further comment as his questions had been addressed.

Mr. Marquardt clarified that Portland, Lake Oswego, and Clackamas County had standards similar to Option 1 that were implemented when they brought their Codes into compliance with Metro's requirements about 10 years ago. Staff had not received feedback about how the requirement was working in those jurisdictions.

- He explained that Option 1 would require a minimum of 1 space located outside of the front or side yard setback. The required front yard setback for most lots in Milwaukie is 20 ft and street side yards of 15 ft to 20 ft.
- He confirmed Option 1 allowed for parking 2 cars tandem. It did not change the Code much but did put it in compliance with Metro.

Vice Chair Harris called for public testimony in favor of, opposed, and neutral to the proposed amendments. There was none.

Commissioner Bresaw inquired why the rooster ordinance was brought up at this time and requested details about any complaints received from the public.

Tim Salyers, Code Compliance Coordinator, explained that the City dealt with a noisy rooster case last summer on 34th Ave in the Lake Road neighborhood. The complainant went to the City Council, who asked Code Compliance to look into it. The complaint was addressed through the Prohibited Noises-Designation subsection of the Milwaukie Municipal Code(MMC) 8.08.070.D Animals, which was effective against animals that disturb any person. Since 2006, they had enforced 12 noisy rooster cases, all of which resulted in the roosters being removed from the location.

- The City does not have jurisdiction to remove a noisy animal, so citations were issued in an attempt to quiet the rooster. Time-wise, this was a good opportunity to move the issue forward, which is why it was before the Commission tonight.
- The NDAs were contacted and the information presented at numerous meetings. Linwood NDA agreed roosters were not good in the city. Hector Campbell NDA mentioned that they like roosters; however, no rooster compliance cases had occurred in the Hector Campbell neighborhood. Ultimately, there did not seem to be opposition to updating the issue in the Code.

Ms. Mangle explained that 5.1 Page 85 of the packet contained the housekeeping part of changing 19.402.3,C Accessory Uses, General Provisions, deleting a 3-line section that staff already proposed for removal because they were not enforceable. That Code section had been on the Code fix list for some time. Mr. Salyers had requested adding the last sentence, "***The keeping of roosters is prohibited.***" She noted that as with all Code amendment projects, staff tries to do quick Code clean-ups when possible.

Commissioner Bresaw asked if there was a way to keep roosters from crowing.

- **Mr. Salyers** responded that since 2006, he had done research online and found some suggestions, which he provided to rooster owners. One option was to put the rooster in a small box at night so it could not raise its neck to crow, which seemed inhumane. He noted daytime crowing received as many complaints as early morning and nighttime crowing.

Vice Chair Harris stated that hearing a rooster crow at 4:00 a.m. in July was not fun.

The Commission took a brief recess and reconvened at 7:50 p.m.

Vice Chair Harris closed the public testimony portion of the hearing on File ZA-10-01.

Planning Commission Discussion

Vice Chair Harris suggested addressing the rooster issue first.

Commissioner Bresaw said many people complain when roosters are near them because they crow all the time. Hens cluck all day, but were not as loud as a rooster.

Commissioner Churchill explained his concern was that roosters were a very politically active subject in many communities, including Portland. He did not want it to appear that the Commission was sliding the issue in with a parking ordinance change. Though that may not be the intent, the appearance was there and he could not participate in that. It was healthy to debate and discuss the issue, but not associate it with what was primarily a parking ordinance change.

Commissioner Bresaw stated she knew people who liked chickens but could not think of anyone passionate about roosters. Why would anyone defend having a rooster in a city?

Commissioner Wilson said that it seemed the existing procedure of using citations was working, because eventually the roosters went away. Neighbors still talked with neighbors, and the NDAs were still involved without putting an actual law into effect.

Commissioner Churchill:

- Noted he was not just concerned about roosters because beekeeping was also mentioned in 19.402.3.D.
 - **Mr. Marquardt** clarified that there was actually no change in 19.402.3.D. The proposal would retain that as the current language read.
 - **Ms. Mangle** explained the strikeout showed the change from the last version that the Commissioners saw in March. That sentence was erroneously added in the March packet, but it did not actually exist in the current Code. Staff did not want to change that section at all, but it was deleted in this packet to show the change from the March version. The only proposed policy changes were in 19.402.3.C.
- Stated that the only way he could participate in the vote was to strike 19.402.3 Accessories, Uses, and General Provisions from the discussion and proposal tonight. He was not saying it should not be addressed, but it should not be tied in with parking. This hearing was noticed and the agenda did not address such a socially active issue as poultry and roosters, which needed to be a separate issue.

Commissioner Wilson asked if Commissioner Churchill would agree with the Parking Chapter if the rooster issue were stricken from it.

Commissioner Churchill stated that he was open to looking at and discussing Option 1. Commissioner Batey's direction seemed reasonable. He was interested in her thoughts about it and was open to discussion about other options as well.

Commissioner Bresaw said that the Lake Road NDA was not aware of the proposed parking changes; they had not gotten those details in their meetings, but they did agree to the rooster issue. She understood it was not on the agenda as a noted item, so the general public might have missed it.

- The Lake Road NDA was not supportive of more restrictions. Option 1 was more of a compromise and less restrictive, though it was more restrictive for new construction.

Ms. Mangle clarified that Option 1 had two requirements: 1 parking space and where it was located. In Option 2, the only requirement was 1 parking space.

Vice Chair Harris clarified that Option 1 would require new construction to provide a minimum of 1 parking space in front of the house, but outside of the setback. He believed he could support Option 1.

Commissioner Churchill added that it essentially created a tandem parking space for 2 cars.

Commissioner Wilson asked if the issue would need to be addressed again in a couple of years to comply with Metro.

- **Ms. Mangle** clarified that if it was not done now, it would eventually have to be done to comply with Metro. This amendment did comply with Metro.

Vice Chair Harris confirmed that the agendas were published a week in advance. He was torn because he understood where the rooster fit in the Parking amendment as housekeeping, but he agreed with the other Commissioners that it was not listed on the agenda, which made it look like it was out of public view. He would like to vote for it, but could not support it now. He read about the issue on the Internet and learned excluding roosters and limiting the number of chickens was a common change in cities across the country. He offered that Victoria charged a per-chicken fee to offset the enforcement of violators.

Commissioner Wilson asked if a motion could be made to approve Option 1 without the rooster clause.

Mr. Monahan confirmed that the Commission could move to approve the staff recommendations, specifically adding Option 1 and deleting the proposed change to 19.402.3.C.

Commissioner Churchill:

- Appreciated staff's clarification that there were no changes regarding colonies of bees, but proposed that 19.402.3.C. and D be addressed together.
- Asked if any changes would be made if the Commission adopted 19.402.3.D.
 - **Mr. Marquardt** answered there would not be any amendment to 19.402.3.D, it would stay as is.
 - **Ms. Mangle** clarified that the version that went to City Council would not include D at all because there was no change.
- Asked if 19.402.3.C and D should be dropped from the approval.

- **Mr. Monahan** suggested leaving the changes as staff proposed on 19.402.3.C that were vetted through the process, except for deleting the language that prohibited the keeping of roosters.
- **Ms. Mangle** explained that the language that staff was proposing to delete was unenforceable, and something the City could not require. It was not a policy change and had probably never been enforced, which was why the amendment was truly a housekeeping item.

Commission Bresaw requested clarification because the bee part said the same thing.

- **Ms. Mangle** clarified that the bee section was also on the Code fix list. One rule staff had for the easy Code fixes was that if more than two conversations about it were required, then it was not “easy” and could not be fixed when other Code changes were made. Only obvious solutions that were not policy changes could be included as Code fixes. After several discussions about how to change the bee colony wording without making policy changes, staff determined it was too complex, and it would remain on staff’s fix list as a problem.

Commissioner Churchill confirmed that he did not want to include 19.402.3.C or D with the parking changes tonight. The whole subject justified its own stand-alone decision.

Vice Chair Harris asked if Commissioner Churchill would have felt differently if the rooster issue had been on the agenda.

Commissioner Churchill replied possibly, but it would have had to be noticed that way. He was not averse to waiting 2 weeks to vote on the proposal after public notice was given.

Ms. Mangle stated that if the rooster was the only issue, she preferred adoption of the rest of the package tonight. The rooster issue could be pursued in a different project. She thanked the Commission for their consideration.

Mr. Marquardt noted the definition of agriculture in Chapter 19.103 also had a proposed amendment about the rooster prohibition. He recommended striking it also.

Commissioner Churchill moved to adopt Option 1 of Issue #1 of ZA-10-01, Zoning Ordinance Amendment, striking Subsection 19.402.3.C and D completely and striking the proposed change to Chapter 19.103 Definition of agriculture regarding the rooster prohibition. Commissioner Wilson seconded the motion, which passed unanimously.

Ms. Mangle confirmed that the Commission recommended to City Council to change 19.507.1 Residential Driveways and Vehicle Parking Areas, as described on the blue supplemental sheet distributed to the Commission with the Option 1 requirement. Staff would modify the Code language of this section to reflect the policy in Option 1 and she would share it with the Commission as staff prepared it for the City Council.

Vice Chair Harris restated that the Commission recommended to City Council approval of the ZA-10-01 provisions of the blue sheet provided this evening, Option 1, and removing the previously mentioned sections.

6.0 Worksession Items

- 6.1 Summary: Natural Resources Overlay project briefing
Staff Person: Brett Kelter

Ms. Mangle introduced the Natural Resources Overlay project, stating that the Commissioners had received copies of emails to the Natural Resources Overlay Advisory Group, but had not discussed it since October. Staff has done a lot of work on this challenging project, which has many constraints and choices to make. It would soon become a Planning Commission project, so this update was the start of that transition.

Brett Kelter, Associate Planner, presented the update on the Natural Resources Overlay project via PowerPoint with these additional comments:

- MMC Chapter 19.322 currently addresses Water Quality Resource Regulations and those rules that are directed by the Statewide Planning Goals & Guidelines. Goal 6 regards certain protected streams and delineated wetlands. Metro helped local jurisdictions adopt rules to put cities in compliance with Goal 6 by establishing Title 3. Code language was adopted in 2002 that brought the City into compliance with Metro's Title 3. Title 3 rules apply to Water Quality Resources (WQR), which are protected features with a buffer area around them that include Kellogg Creek, Johnson Creek, properties along the Willamette, and several specific wetland areas.
- The Natural Resources Overlay project was motivated by Habitat Conservation Areas (HCAs), in response to a statewide goal regarding natural resources, not just WQRs. Statewide Goal 5 prompted Metro to adopt the Title 13 Nature in the Neighborhoods program. When Milwaukie comes into compliance with Metro's Title 13, it would also be in compliance with Statewide Goal 5.
- He explained the differences between high, moderate, and low-value HCAs, and indicated a disturbed area of graveled parking and another area with more vegetation and trees. He noted that the HCAs were related to streams. When completing the inventory, Metro was concerned about habitat areas close to streams. The consideration of habitat was less in areas farther away from streams. Vegetative cover and shrubbery were also considered with regard to habitat.
- He noted that residential lots in the area near the railroad, Pendleton Woolen Mills, and the Springwater Corridor McLoughlin Blvd crossing also abutted the WQR area. The proposed boundary between the residential properties and resource areas was 100 ft, but perhaps a tighter trigger was needed.

Commissioner Wilson:

- Asked if the resource area where sheds or other minor disturbances were allowed was in the 50-ft buffer zone next to the WQR.
 - **Mr. Kelter** responded that the 50-ft buffer zone tied to the WQR was a restricted area. Any building or disturbance in that area had to be approved by the Planning Commission. The darker yellow area on the Water Quality and Natural Resource Area map was designated as HCA, which was a less restrictive area. A homeowner could build a small shed in an HCA without coming to the Planning Commission.
- Noted sheds typically were used to store lawnmowers, gas, paints, thinners, solvents, et cetera. There was most likely a slope from the yellow area indicated on the map down to stream.
 - **Mr. Kelter** replied that sheds could not be built in the areas within 50 ft of the stream, but a small shed could be built farther from the stream into other habitat areas. The Code could allow the building of a shed, but could not designate what went in the shed, which was probably more of a hazardous material and public safety concern.
 - **Ms. Mangle** clarified that the Prohibition section of the draft code applied to all of the habitat areas and included more egregious things. She agreed with Commissioner

Wilson's concerns, but at present, the Prohibition section included no uncontained areas of hazardous materials, no invasive or noxious vegetation, and no outside storage of materials.

- **Mr. Kelter** added that if a lawnmower in a shed in a resource area was dripping gas, it would take a complaint to the City for it to be corrected because the Code would not catch that. It allowed for construction of a shed to store the lawnmower. If it became an uncontained hazardous material, then the City could act.
- Stated that he did not want more rules than necessary, but wanted to raise the concern.

Commissioner Churchill stated that the City was careful about invasive vegetation, but did not have rules and regulations to monitor egregious conditions. It was a good footnote to indicate that maybe it should tie back into some sort of enforcement or ordinances that did address the issue. The language was pretty loose about storage of uncontained hazardous materials.

Mr. Kelter agreed it could be tricky, especially when trying to keep the balance of not making the Code so prescriptive concerning specific details. At present, if one were storing uncontained hazardous materials, it could be enforced. The Code was not set up to manage at the micro level what was stored in a shed. However, other agencies and rules already existed that regulated hazardous materials.

Commissioner Wilson:

- Asked if the Code required the implementation or creation of a Spill Prevention Countermeasure and Containment plan (SPCC) in commercial areas. If a certain amount of liquids was stored on a property, an SPCC plan needed to be in place.
 - **Ms. Mangle** responded that staff would get back to him about SPCC.
 - **Mr. Kelter** believed areas of overlapping protections existed; however, the proposed Code had not made a connection with spilled liquids because other agencies and rules were in place to address that issue.
 - **Commissioner Bresaw** said that Portland had a spill hotline to report any hazardous spill issues 24 hours a day. Many people did not know that discharging into the stormwater system was prohibited.
 - **Ms. Mangle** added that next week the Council agenda included a different part of the Code that addressed illegal discharge into the stormwater system.
- Asked if the City had taken an inventory of any Underground Injection Control devices (UIC) within the zones.
 - **Ms. Mangle** believed there was a partial inventory, but she would check on it.
- Explained that the City was going to great extent to protect resources, but a direct conduit to subsurface groundwater was in one of the protected zones.
 - **Mr. Kelter** understood that the first step was knowing where the UICs were within the zone and then to know more about how they functioned.
- Stated that based on the 1996 Clean Water Act, the Department of Environmental Quality (DEQ) began implementing rules in 2008. All UICs needed to be registered, removed, or have filtration systems installed in accordance with DEQ rules. Bottom line, it seemed the City would want UICs removed within the protected zones.
- Clarified that in large cities, surface flow drainage from roofs and parking lots was captured and drained into the big sewer, then to a treatment plant or a river. In smaller, more rural areas, and commonly throughout Oregon, UICs were just holes in the ground. They worked when originally designed, but today even parking lot surface flow contaminated the ground water, so they needed to be removed or have filtration systems installed.
 - **Mr. Kelter** agreed that even if the City was not adopting HCA rules, which regarded

habitat and more surface-focused water quality, it would be good to understand more about how it interacted with water quality. This project might be an opportunity to require that UICs meet certain standards or be removed.

- **Ms. Mangle** added that staff would talk with other departments about reporting water quality compliance. The issue might be addressed by pointing to other sections of the Code.

Commissioner Churchill asked if the City was monitoring water quality in the streams. Efforts were made to prevent issues, but was there a baseline to indicate progress in improving the quality of surface water?

- **Ms. Mangle** responded that the drinking water wells were tightly monitored. The City had the total maximum daily load (TMDL) that monitored the stream water temperature and was reported to either the State or federal agencies.

Commissioner Wilson asked if grants were available to encourage graduate students to adopt a stream and monitor surface water.

- **Mr. Kelter** said that the Johnson Creek Watershed Council and newly forming North Clackamas Urban Watershed Council would be very interested in grants for graduate students.
- **Ms. Mangle** added that part of Metro's Nature in Neighborhoods program was regulatory, but in addition to the two watershed councils, it also had a grant program to encourage restoration, monitoring, and education outreach. Metro might have grants for monitoring surface water or education.
- Regulation was not the City's only tool, but it was the one thing that had not been figured out. Staff would do additional research about what else was being done and to tie the pieces together.

Commissioner Churchill noted that the major tributaries, such as Johnson Creek and Kellogg Creek, had good coverage now, but other tributaries like Spring Creek were not monitored. Perhaps the NDAs and schools could be educated about how the streams could be monitored.

- **Ms. Mangle** added that Spring Creek was an amazing resource and an interesting test case to consider in terms of the review process necessary to remove concrete and restore Spring Creek, how its underground segments should be shown on the WQR map, et cetera. The City wanted to encourage restoration, but a project like that would affect a lot of property. Spring Creek might be an excellent test case.
- **Mr. Kelter** pointed out the Code process invoked many issues and questions that really were not Code issues. Staff hoped that some conversations and connections would be made that would result in grant money or schools involved in monitoring Spring Creek, for example.
- Milwaukie Presbyterian Church had received Metro funding for restoration of WQRs and HCAs on their property at Kellogg Lake and Lake Rd, close to Milwaukie High School.
- As an educational component, Metro has competitions through the Title 13 program to encourage people in industry to develop designs that promote habitat-friendly development.

Mr. Kelter noted Attachment 1 Ongoing Issues, shown on 6.1S Page 2 of the supplemental packet, tracked the issues raised in the Advisory Group and listed key issues needing the Planning Commission's feedback.

- The variance process even in the existing WQR Code was a specific area that needed to be made clearer, both for staff as well as for property owners and applicants. He explained how stair-step review levels of the current Code could ultimately bring a project before the

Planning Commission, but allowed for too much discretion.

- By the time the application came before the Planning Commission, the applicant would have tried to meet certain clear and objective standards and proposed a particular mitigation plan that fit their needs, so it would look like a variance already.
- One section of the revised Code addresses adjustments and variances and focuses on economic hardship as the main reason for a variance, which was not usually an allowable criterion.
- Staff also questioned whether someone requesting a variance needed to address the three criteria of Chapter 19.700.

Commissioner Churchill believed the proposed economic hardship language was headed in the right direction. The decision had to be made on the basis of economic viability. For instance, a historic structure could be done out of respect for its historic nature to push that envelope harder, but that was a rare condition.

Commissioner Wilson noted economic hardship was a tough sell for the Planning Commission. Although the zone change off Lake Rd at a previous hearing involved a different set of criteria, the nature of it was economic hardship.

Mr. Kelter suggested that it might be helpful for staff to provide a specific example of the appropriate process for an applicant who did not believe they could comply with other discretionary parts of the Code.

- Staff was considering May 25th for the Planning Commission to meet with the Advisory Group for a hand-off opportunity. The Commission could ask questions and hear what the Advisory Group had done on the Code. Many different viewpoints regarding the level of regulations would be presented.

Commissioner Wilson asked where flood plain maps came into the process and if Metro had completed an overlay and adopted the flood plain areas.

- **Ms. Mangle** responded that the Federal Emergency Management Agency (FEMA) did the flood plain maps, which were adopted by the City. FEMA redrafted their maps a year and a half ago.
- **Mr. Kelter** added that Title 18 of the Code dealt with flood management and paid more attention to the latest FEMA maps and flood information. He understood that Metro's inventory of HCAs did involve looking at flood plain areas. HCAs did not follow the flood plain boundary, but Metro did take it into account when looking at the location of the resources.

7.0 Planning Department Other Business/Updates

7.1 Summary: Fee Schedule Update Staff Person: Katie Mangle

Ms. Mangle stated the fee schedule was really a City Council decision but she believed the update would give the Commission important background information regarding the Planning Commission's work. If the schedule changed significantly in the future, she would seek the Commission's formal concurrence. This was a challenging budget year for the City, so staff was researching and reviewing many different items, including fees, procedures, expectations, and service levels, to see what changes might be made. She noted the following findings, and subsequent proposed changes to the Planning Department's Fee Schedule:

- The City's Planning fees were very outdated and were some of the lowest fees in the region.

Many discounts were also offered. The fees did not cover all the costs of completing development review and in some cases, did not cover the actual expenses.

- However, there had never been an expectation that fees would cover the development review work, which was different in Milwaukie than in other jurisdictions. The expectation set by the Planning Commission, City Council, and the community was for a high level of customer service and high levels of service to the committees, which was staff's focus. Staff also needed to be efficient with their time and resources.
- Increasing fees to fund services was not the most important issue. The proposal was designed to make sense, make the fee schedule understandable and as simple as possible, and to keep the City from giving money away.
- Staff proposed collapsing the list of 60 fees down to 4 key fee types with a few extras, and reducing discounts substantially. For example, reducing the senior discount to 10%.
 - New fees are proposed to cover services that require staff time but are not currently being charged. For example, a Land Use Compatibility Statement requires research and a staff signature to confirm that a property complies with the Zoning Code. A \$25 fee is proposed for that service. Staff also proposes charging a fee if any applicant changes his application half way through the process, as staff time is involved with the changes.
- Most fees for actual applications would not increase much more than \$100 to \$200. While this still will not cover all of the City's expenses, many applications are for government agencies, non-profits, and small families, and staff wants to be sensitive to that.
- It was helpful for the Planning Commission to be aware of the fee schedule to understand that the applicant paid fees each time they appeared before the Commission and the City incurred expenses every time there was a hearing or an issue was re-noticed.

Commissioner Churchill commented that for a Milwaukie resident to appeal to the City Council, the cost is \$500, which was a stretch, so pushing it to \$1,000 would rule them out. He understood that a reasonable correlation to staff's effort was needed. He was concerned that increasing the fee could be obstructive and prevent anyone who may not agree with the opinion of the Planning Commission from being able to appeal it effectively. For the average developer, \$1,000 was not a problem, but it was a problem for a small homeowner who felt they were not heard. Perhaps the fee could be \$750 or \$800 because the \$1,000 threshold looked onerous.

Ms. Mangle believed that was a fair comment, and explained that her motivation was that having the same \$500 fee for appeal to Planning Commission or to appeal to City Council appeared to devalue the Planning Commission process. The Planning Commission should be and was the deciding body most of the time because very few appeals occurred. The fee increase was not meant to be obstructive.

- She confirmed that the fee would be waived for an NDA-sponsored appeal if the NDA had commented during the process. One only had standing to appeal if they commented during the process.

Commissioner Bresaw agreed with Commissioner Churchill's comments. She asked about the cost of building a new house in Clackamas County and Milwaukie, since they work in conjunction.

- **Ms. Mangle** replied that staff did a fee comparison amongst seven cities and the County. The building permit fees were not being changed because most were set by the State. Only Planning staff fees were being reviewed.

Vice Chair Harris commented that reducing the discount for senior citizens might be onerous, since most were on fixed incomes. However, providing any discount for senior citizens was

outstanding.

- **Ms. Mangle** responded that staff had discussed it and noted that many seniors were not on fixed incomes. Some recent applications involved seniors who were doing full development of buildings and projects, and were receiving the discount. Perhaps other metrics could be used, such as a senior who was on a fixed income. The low-income discount was 25%.
 - Most communities did not have discounts. Milwaukie staff was not expected to generate their own revenue, so they could do community-oriented things like discounts.

Ms. Mangle reported that the fee schedule would go through the budget process, then be presented to City Council in May and adopted in June with the rest of the budget. It was still a draft, so she welcomed additional questions or comments.

- Staff was in the process of doing a cost forecast. The City offers discounts for multiple applications, for example when a builder applied for Water Quality Resource, Transportation Facilities Review, and a Variance, the first application was full price and the other two received a 50% discount. Those discounts made it hard to build a forecasting model, but staff was doing it because they wanted to answer that question. Staff had to reconstruct which applications were half price or full price and what the new fees would generate. She would report back to the Commission with those figures.

8.0 Planning Commission Discussion Items—None.

9.0 Forecast for Future Meetings:

May 11, 2010	1. Public Hearing: DR-09-10 Riverfront Park
May 25, 2010	1. Worksession: Review Procedures Code project update

Ms. Mangle stated that the Riverfront Park meeting could be continued to a second meeting if needed because it was a big application. She corrected that if Riverfront Park was not continued, the May 25th meeting would be a joint session with the Natural Resource Overlay Advisory Group.

Meeting adjourned at 9:25 p.m.

Respectfully submitted,

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



Jeff Klein, Chair



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday April 27, 2010, 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 23, 2010
 - 2.2 March 9, 2010
- 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
 - 5.1 Summary: Parking Chapter amendments *cont'd from 3/23/10*
Applicant/Owner: City of Milwaukie
File: ZA-10-01
Staff Person: Ryan Marquardt
- 6.0 Worksession Items**
 - 6.1 Summary: Natural Resources Overlay project briefing
Staff Person: Brett Kelter
- 7.0 Planning Department Other Business/Updates**
 - 7.1 Summary: Fee Schedule Update
Staff Person: Katie Mangle
- 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:**
 - May 11, 2010 1. Public Hearing: DR-09-10 Riverfront Park
 - May 25, 2010 1. Worksession: Review Procedures Code project update

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
Nick Harris, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill
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 23, 2010
6:30 PM

COMMISSIONERS PRESENT

Jeff Klein, Chair
 Dick Newman, Vice Chair
 Teresa Bresaw
 Lisa Batey
 Chris Wilson
 Nick Harris

STAFF PRESENT

Katie Mangle, Planning Director
 Susan Shanks, Senior Planner
 Brad Albert, Civil Engineer
 Bill Monahan, City Attorney

COMMISSIONERS ABSENT

Scott Churchill

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes

2.1 January 12, 2010

Chair Klein stated that he would prefer that lines 701-702 read, "The Harmony Mini-Storage had a very limited impact for the zoning on the site. He ~~did not want another project started on the site~~ **would prefer this project in comparison to what could be built.**"

Commissioner Bresaw moved to approve the January 12, 2010 Planning Commission minutes as corrected. **Commissioner Batey** seconded the motion, which passed 4 to 0 to 2 with Vice Chair Newman and Commissioner Harris 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

5.1 Summary: Harmony Mini-Storage Substantial Construction Variance
 Applicant/Owner: Hans Thygeson/HT Investment Properties, LLC

43 Address: 5945 & 5965 SE Harmony Rd

44 File: VR-10-01

45 Staff Person: Susan Shanks

46

47 **Chair Klein** called the public hearing for VR-10-01 to order and read the conduct of minor
48 quasi-judicial hearing format into the record.

49

50 **Susan Shanks, Senior Planner**, cited the applicable approval criteria of the Milwaukie
51 Municipal Code as found in 5.1 Page 6 of the packet, which was entered into the record. Copies
52 of the report were made available at the sign-in table.

53

54 **Chair Klein** asked if any Commissioners had a conflict of interest or any ex parte contacts to
55 declare.

56

57 **Commissioner Wilson** stated that he spoke to teenagers at the site earlier today, but his
58 conversation had nothing to do with the application.

59

60 Each Commissioner had visited the site, except Chair Klein. No Commissioner, however,
61 declared a conflict of interest, bias, or conclusion from their site visit. No Commissioner's
62 participation was challenged by any member of the audience, nor was the jurisdiction of the
63 Planning Commission to hear the application.

64

65 **Ms. Shanks** presented the staff report via PowerPoint, noting the address of the application had
66 changed from 5900 and 6011 SE Harmony Rd in the original approval to 5945 and 5965 SE
67 Harmony Rd because the address numbers were out of order.

- 68 • She clarified that the application for Variance approval was not to revisit the details of the
69 applications previously approved by the Commission, but a request to extend the allowed
70 timeframe in which to use those approvals. The Commission had already granted one
71 extension, which would expire February 27, 2010. The Code did not allow for additional
72 extensions, but the requested variance would extend the timeframe to February 27, 2012,
73 allowing the Applicant time to complete substantial construction and retain the existing
74 Conditional Use approvals.
- 75 • She confirmed that the current exit-only driveway would be widened to become entrance
76 and exit, allowing only right turns in and out of the driveway.

77

78 **Commissioner Batey** quoted the unusual circumstances variance criteria stating, "Such
79 conditions may only relate to physical characteristics of the property lot or boundary
80 configurations, or prior legally existing structures." She noted staff had tried to make the case
81 that the variance had to do with slope and engineering, but that was not brought to the attention
82 of the Commission a year ago during the extension request. Everyone knew the economy was
83 probably why the extension was requested, and perhaps City Code should allow for that.

- 84 • She had trouble accepting that the quoted Code provision regarding physical issues of the
85 land allowed for a variance in this situation. The Commission approved the physical aspects
86 of the application. She had not heard about any engineering issues in the past 1½ years,
87 and nothing was discussed in the meeting packet.
- 88 • She inquired how staff would get around the language of the variance criteria.
 - 89 • **Ms. Shanks** appreciated Commissioner Batey's point, adding that staff also struggled
90 with the variance language. Variances could apply to many different sections of the
91 Code as some relate to dimension and others to more abstract concepts.
 - 92 • The subject variance was more in the realm of the abstract. The characteristics of
93 the site were complex because of its size and the Water Quality Resource Area,
94 which staff considered when evaluating the physical circumstances of the project and
95 meeting the substantial construction deadline.

96

97 **Ms. Shanks** clarified that the shared driveway had more to do with managing turning
98 movements and access to Harmony Rd than the water quality resources in the area. Harmony
99 Rd was an arterial County road, and the County wanted to keep the driveway as far from the
100 International Way/Harmony Rd intersection as possible and minimize the number of driveways
101 which were conflict points. She continued with the staff report with added comments and
102 responding to questions as follows:

- 103 • A building could be constructed and operational with completed inspections, but not
104 occupied because the City would not issue final occupancy if the parking lot landscaping,
105 striping, Water Quality Resource mitigation, or other external factors were not complete. It
106 was not uncommon for a structure to be complete but the final occupancy not allowed until
107 everything required by the Code and land use approvals was completed. In this case, no
108 rentals could occur until final occupancy was issued.
- 109 • She displayed and described a diagram indicating three separate plant communities on the
110 site. Plant Communities A and B were located on the north side of the creek, and Plant

Community C on the south side. Plant Community B, closest to the creek, was the most heavily canopied portion of the site, while Plant Community A had a more open tree canopy. Plant Community C was characterized as having the conditions of a neglected lawn, very few trees, and very few invasives. A picture taken in 2008 and included in the Water Quality Resource (WQR) report showed the vegetative conditions of Plant Community C. She reviewed the mitigation proposed for Plant Communities A and C, which also addressed any future invasive plant problems.

- She distributed a copy of the notice sent to all residents within 300 ft of the site. Staff did not hear from any individual residents, but did receive official comments from the Neighborhood District Associations (NDAs), which were favorable and included in the meeting packet.

Commissioner Batey:

- Understood substantial completion was not final completion, so what staff proposed for Building 1 made sense. However, she was concerned that staff proposed to allow the Applicant to return at a later date to construct Building 2. Building only half of the project did not result in substantial completion, which could be achieved if the Applicant scaled down the project and only built Building 1. The idea of an open-ended application to build the bridge and Building 2 at a later date was problematic and bad public policy. Conditions could be completely different by then.
- **Ms. Shanks** replied that surprisingly, most projects, even Community Service Use (CSUs) applications, gave applicants open-ended approval to build when they wanted. Applicants often obtained approval if they knew codes would be changing to have the development standards in place to build whenever they chose. It was unique that Conditional Uses and Variances had this time constraint for utilizing the approvals.
- The proposal was to build Building 1 and allow that to represent substantial construction for the project as a whole.
- Stated that with no time limit for Building 2, things like water quality, Title 13 issues, and traffic implications could change over time. Such things did not change much in 2 years, but it was impossible to know how many changes would occur in 10 years.
- **Ms. Shanks** said she could address Title 13 because when adopted those maps would be fixed, but agreed things like water quality and traffic requirements could change over 10 years. Based on Commissioner Batey's earlier email comments, she was considering attaching an additional condition to help mitigate variables regarding the water quality resource.

Ms. Shanks noted the 120-day clock on this application expired May 12th, but the actual approval expired February 27th. She was not sure how the 120-day clock would work if the hearing was continued. If the project was denied, the Applicant could either resubmit the same or a different project.

Bill Monahan, City Attorney, clarified that the process would toll the February 27th expiration date because the application was initiated before the deadline.

Ms. Shanks displayed and reviewed aerial photos of the site taken from 2001 to 2008 that showed a sequential history of the vegetative changes to the site and surrounding area.

Commissioner Batey:

- Explained that she had requested the aerial photos to see how much canopy cover had been removed from the creek. Four or five large trees were down at the back of the property, allowing more sunlight to reach the riparian area along the creek than before the Harmony Mini-Storage project came along.
- Was concerned about how what landholders did while preparing to sell the land to this Applicant had done to the creek. The aerial photos indicated that the issue was not as bad as she feared because the main line of tree cover had not moved substantially.
 - **Ms. Shanks** said she visited the site and took pictures in 2007. She had not noticed much change in the dense tree cover on the north side of the stream, but she realized that was her subjective opinion.
- Noted that she had only looked at the area from the back of the Panattoni site. There were still some trees along the north side of the stream, but they were smaller than the trees that were down in 2008 that had fallen across the lawn along the back of the riparian area. She had questioned what might have occurred in the ensuing two years, such as blackberry encroachment.
 - **Ms. Shanks** suggested an additional condition of approval could require an update of the 2008 WQR study, specifically Sections 4.0 and 6.0, pertaining to existing conditions and the mitigation plan. This would affirm whether the mitigation plan still made sense or required updating to manage any changes that might have occurred on the site over time, such as invasive encroachment.

- She clarified that the City's consultants reviewed the application, but that Mart Hughes was engaged by the Applicant, who could address whether Mr. Hughes had reviewed the Variance application

Commissioner Bresaw:

- Suggested amending the second sentence of Finding 6.B, 5.1 Page 9 to read, "The Planning Commission finds that there are ***no reasonable and justified*** alternatives to this variance," to provide more descriptive language.
- Requested wording to address changes that might occur in water quality and stormwater standards before Building 2 was finally constructed.
 - **Ms. Shanks** responded that in general, changes to standards were different than land use approvals changing. Typically when submitted, an application is reviewed against the current standards in place at that time.
 - The Applicant could be required to update the WQR report when ready to begin construction of Building 2.

Brad Albert, Civil Engineer, explained that the City's Public Works Standards referenced the most current City of Portland Stormwater Management Manual. When Building 2 came in for construction, the City would review that application to the stormwater management practices required at that time, not today's practices.

Ms. Shanks confirmed that the City received no additional comments regarding the application.

Chair Klein called for comments from the Applicant.

Hans Thygeson, HT Investment Properties, LLC, 2290 Michael Dr, West Linn, OR, thanked staff, and especially Ms. Shanks, for the staff report, adding he agreed with the recommendations.

- He reviewed two display boards that showed the colored elevations of proposed Building 1. Since the application was approved in 2008, the Applicant had completed engineering, architectural, structural, and landscaping plans. The attractive, first-class building would accent and blend well with the apartments and surrounding community. The building would buffer the concrete tilt-up buildings next door.
- He hoped to get approval and begin construction on Building 1 in spring of 2010.

- He clarified that the construction was split-face CMU block with StuccoTek siding, which was a steel siding that looked like stucco. The north elevation facing the creek would be steel siding and split-faced block. The side facing the public had better visual appeal.

Commissioner Batey asked the Applicant's intention regarding Building 2.

- **Mr. Thygeson** replied that the sooner the project was built and occupied, the better. In this economic environment, lease-ups and occupancies were slower, making it hard to warrant such a large project, so the phasing was proposed.
- Building 1 was twice the size of Building 2, and the additional cost was a lot of burden on the project right now. Getting a development loan was uncommon today, so to be at this stage with one building was significant in the current economic environment, let alone two buildings. The bank would say it was too long a lease-up period and Building 2 would not carry itself.
- He hoped to be constructing Building 2 in the spring of 2011. The engineering package had already been started and he had Building 2's elevations with him, but he had not submitted for permit on Building 2 yet.

Commissioner Wilson asked if the Applicant had been required to do a Phase I Environmental Site Assessment and geotechnical report when pursuing financing.

- **Mr. Thygeson** answered 'yes.' No subsurface features were found when the Phase I Environmental Site Assessment was completed. The houses and commercial building on the west side were on septic, so those issues existed on site. Before he acquired the property, the existing improvements connected to the City's trunk line.
- The geotechnical report was also completed. He did not believe that there was any note in the boring logs regarding odorous or stained soils. He had been most concerned with weight loads for the size of building proposed. He provided the geotechnical report to Commissioner Wilson for review.

Commissioner Bresaw asked to see the east elevation of the building facing the apartments and was glad that the building was not orange.

- **Mr. Thygeson** replied that orange was supposed to help lease-up because people driving by think of leasing. However, this project was the new generation of self-storage with inside storage, climate control, and security. Similar facilities were located in Beaverton and Tigard.

Katie Mangle, Planning Director, entered the Carlson Geotechnical Report dated August 26, 2008 into the record as Exhibit F.2.

There were no further questions of the Applicant.

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

Ms. Shanks added that the east elevation would also have vegetative screening with various types of evergreen and deciduous trees to help mitigate the expanse of the building.

Ms. Monahan addressed the question about placing a time limit on Building 2. The Code did provide open-ended approvals, such as in the CSU provision and did not require that a building had to be constructed within a period of time.

Ms. Mangle suggested that a hard deadline could be given by specifying that everything across the site needed to be done to a substantial completion standard by 2012. If Building 2 was not completed by 2012, the Applicant would have to obtain new land use approvals for that building. The Applicant could choose to phase the project, but would have to do an expansion of a CSU.

Chair Klein questioned where the Commission stood since no clear standard of "substantial development completed" existed. A lot of the work was already completed before a developer actually started construction, such as designing, testing, engineering, etc. The construction portion was the last and shortest thing to be done.

- **Mr. Monahan** explained that was why it was open to interpretation. Substantial completion was an area of the Code that probably required either more definition of "substantial completion," or perhaps another Code provision to identify the timeframe in which approvals are valid.
- **Ms. Mangle** explained that in interpreting "substantial completion," staff wanted the interpretation to apply to many projects, not just the subject application. The Applicant did not necessarily define substantial development as constructing just one building.
- Substantial development should not be so tightly defined that a developer ran out of time before completing construction. However, the intent of the Code was to ensure site conditions did not change significantly before the use was in place. Staff's interpretation

seemed like the right balance, while also acknowledging that many projects were completed in phases. The decision was up to the Commission, but another option might be available.

- Believed it was awkward to set a 2012 completion deadline and then tell the developer the project was over even though it was still incomplete. This was a problem in the Code that applied to other issues as well and should be addressed at a later date.
- **Ms. Shanks** noted research completed by staff indicated that substantial construction/completion was defined by other jurisdictions as everything from absolutely complete to just having financing arrangements in place. Staff did not want the bar set so high that the building was incomplete and the owner not be allowed to use it as designed. Staff recognized problems existed with the current Code, but the existing language was what the City had to use at this time.

Commissioner Bresaw suggested requiring completion of Building 1 by 2012 and allowing another year to complete Building 2.

- **Ms. Shanks** responded that according to the City Attorney, it was not possible to require two different dates, but perhaps the Commission could allow more time for the completion of both buildings. For example, require that both buildings be ready for occupancy by February 2013.

Commissioner Batey believed that was a more palatable approach.

Chair Klein called for rebuttal or additional comments from the Applicant.

Mr. Thygeson stated he had been through several land use processes in other jurisdictions, and often there was a 2-year timeframe before development, especially with annexations. A Conditional Use timeframe in this economic environment was a big hurdle for development and a big risk for him as a developer. Not a lot of development was occurring in the area at present. He preferred to have as much leeway as possible, which would help him as a developer, and the City as a whole, in the end.

- If the current zoning was not allowed in 2012, the process for approval was so arduous the first time that it would not pay to reapply for another Conditional Use because Building 2 was on such a small site.

- He believed the project was the best thing that could have happened to the area because of site issues.

Commissioner Batey requested clarification about the Applicant's timeline. Was having a timeline on Building 2 not workable, even if it was more relaxed?

- **Mr. Thygeson** said that the more relaxed the timeline, the better. In two years, he hoped to have Building 2 built and going through lease-up; however, looking back to 2008, no one expected the economy or development banking to be where it was now. Looking ahead, he would like to have some latitude.
- Also, that back site would not warrant the land use actions and the more than \$100,000 required to get the original Conditional Use for the entire site.

Commissioner Harris asked what percentage of Building 1 needed to be leased to proceed with the construction of Building 2.

- **Mr. Thygeson** replied a 40% lease-up was needed. If he saw demand and momentum, he would immediately begin pushing Building 2. Much of the civil and architectural requirements were completed for Building 2, so it would not be as much of a hurdle.

Chair Klein closed the public hearing for VR-10-01 at 7:43 p.m.

Planning Commission Discussion

Vice Chair Newman agreed the unusual circumstances of the application were not covered in the Code. The City Attorney often reminded that the Commission did not set precedents with each vote, although he did believe it sent awkward messages to the public if circumstances were changed for one applicant and not for another. However, the community would benefit from the improvements to the area, since it was a main entrance to the city.

- Regarding the timeline, he had been waiting 5 months for delivery of a countertop, so he could not imagine how difficult it was to coordinate supplies for a project like the Applicant's. Although there were some cloudy points, he supported the project and would vote to approve the application.

Commissioner Bresaw agreed with Vice Chair Newman. The site was difficult to develop and the proposed mini-storage would be the best use in that BI Zone. It was a shame that a creek

was present, but it was not a good area for a park because it had development all around it. Building 2 was a concern, but no one knew what would happen in the future. She believed it was reasonable and justified for the variance to extend the timeline a couple of years.

Commissioner Batey agreed with Vice Chair Newman's sentiment. She liked the project from the start. It was the best fit for the property, especially with the traffic issues on Harmony Rd. She still liked the project, but she did not believe that this was what the Code's variance language meant. She wished staff had brought a Code change. She believed the variance criteria should be flexible to allow for economic downturns, but did not interpret them to do so.

- She might be willing to vote yes on the 2-year extension, but there was no way that the completion of one building was substantial completion for two buildings. Based on legal terminology, "substantial" was definitely far more than half and near full completion. If the Applicant chose to end the project with the completion of Building 1, then that would be substantial completion as proposed in the staff report. The idea of leaving Building 2 open-ended and calling the project "substantial completion" did not pass the "smell test." It was very problematic and very poor public policy.
- She might get past the variance criteria issue, but substantial completion issue would keep her from voting for the application.

Commissioner Bresaw asked what would happen if Building 2 was never built in their lifetime.

Commissioner Batey agreed that was possible, and if the Applicant was willing to say that now, that was fine.

Chair Klein asked what if Building 2 was never included in the initial application.

Commissioner Batey replied that [the completion of Building 1] would be substantial completion, and she would agree with the staff report; that building the building without constructing all the sidewalks, etc., was substantial completion, even though that was not full compliance for occupancy. She agreed with that. However, the issue was that Building 2 was included with the idea that it could be constructed at any time.

- Additionally, if it was true that a CSU could be held indefinitely, then the Commission should also be reviewing that in the Code.

Chair Klein pointed out that the high school sign was a similar issue. Once approved, the CSU was out there forever, even though the funding was not available.

Commissioner Batey responded that this was a different Code provision with very restrictive timelines, much more so than other parts of the Code. There was a reason why City Council enacted that provision, and she did not think allowing open-ended changes in other contexts changed the Code requirement in this instance.

- She firmly believed the idea of interpreting “substantial completion” as finishing one building of a two-building project was a very bad idea.
- Allowing a third year for completion of both buildings was a more palatable compromise than calling [completion of Building 1] substantial completion.

Vice Chair Newman added the term "substantial" should not be used. Though it provided flexibility, it was subjective and did not mean anything.

Commissioner Batey explained that "substantial" was seen often in codes. "Significant" was one level and then there was "substantial," which was definitely higher than "significant," but everybody measured them differently, and it depended on the context.

Chair Klein questioned whether “construction” was measured based on actually putting a structure up, or did it include all work from the beginning: design, land use applications, requesting variances, and obtaining funding; in which case, construction involved a much longer timeframe than just putting bricks on the ground.

Commissioner Batey agreed the process had many stages, but no one could believe the definition of construction did not include putting bricks on the ground. She did not believe the public, City Council, or anyone else would think that was what was meant by “substantial construction.”

Commissioner Wilson understood that greater than 50% completion was considered substantial, though it should be more in the 70% to 80% range. The Applicant stated that from the beginning he had laid out \$100,000 for the entire site, not just Building 1, including design, engineering, geotechnical, and other work. When Building 1 received final occupancy, he believed the Applicant would be substantially done with the project. He supported the project.

415

416 **Commissioner Harris** believed the development was a great boon for that section of Harmony
417 Rd. He agreed with the misgivings of leaving it open-ended for Building 2, but believed the
418 Applicant had every intention of building a business as soon as the economy would allow. He
419 did not read that the Code allowed for the variance either, but would vote yes based on the
420 benefit the project would have for the community. It would improve water quality along the
421 stream long-term because the additional plantings would add more shade. The required street
422 improvements would also be beneficial.

423

424 **Commissioner Batey** noted that people seemed to be looking at this as a CSU and a public
425 benefits test. She agreed a public benefit existed, but there was no public benefits test in any of
426 the criteria.

427

428 **Chair Klein** supported the project, although he agreed with Commissioner Batey on many
429 points. He never liked the idea of an open-ended date on anything, because a project should be
430 completed. He reiterated his initial feeling about the project, that what was being built on the site
431 versus what could be built was greatly different. He did not know if the water quality resource
432 would improve, but certainly projects that could be on the site may not be as positive as the
433 mini-storage project. He hoped that the economy turned and Building 2 was built by 2012 or
434 sooner. This wasn't the first time the Code has caused issues.

435

436 **Commissioner Harris** added that his initial read of the application was the same; the variance
437 did not fit but he could not change the Code today.

438

439 **Ms. Mangle** clarified that even if staff had presented a Code amendment, the project was still
440 subject to the Code in place at the time of application, so a Code change would not have helped
441 this application.

442

443 **Chair Klein** believed a majority of the Commission wanted the project to go forward. Though
444 there was discussion about extending to three years, he believed the application should go
445 forward as presented by staff.

446

447 Vice Chair Newman and Commissioner Wilson agreed.

448

Commissioner Bresaw also agreed, adding that having at least one building completed in 2012 was better than possibly having nothing built in 2013.

Commissioner Batey reminded that the Commission had not discussed Ms. Shanks' proposed language about an additional condition related to plantings that would require an update of the 2008 WQR study.

Chair Klein asked to have the suggested language displayed for the Applicant's review.

Mr. Thygeson understood that at the time of construction of the north side of the creek, he would need to have a WQR consultant do a review.

Ms. Shanks explained that her drafted language for the new condition of approval was intended in the context of staff's recommendation, which regarded the south side of the creek. The new condition was based on questions and concerns raised when the last water quality resource was prepared, and whether or not the existing conditions and mitigation plan were still current and appropriate. The language could be also applied to the north side, which was even further into the future.

- Typically, such conditions were enforced after construction when planting was being done. However, it could be done any time through the building permit review process.

Commissioner Wilson asked what the cost was for updating the WQR report.

- **Mr. Thygeson** replied that he generally budgeted for a \$6,000 fee based on past WQR reports. However, this application was a review, so it would cost less.
- He could see that being justified on the north side of creek where there were more issues. However, the south side was basically someone's lawn at one time, yet staff recommended planting about 40 plants and trees, which seemed like a lot.
- More was involved in inspecting the site's swales and ensuring the Applicant's planning was done correctly. The management practices for monitoring invasive plants would go on for three years. The most significant invasive species were blackberries, which were few because the area was too shaded.
- He believed the requirements were overkill, especially on the south side of the creek, but he was willing to cooperate.

Commissioner Bresaw did not believe the point was to have the Applicant spend an additional \$6,000. She asked if the City had its own consultant or staff to supervise to ensure the practices were done or do a final review of some sort.

- **Ms. Shanks** explained that the Applicant paid for the three-year monitoring. Once the plantings were completed and finalized, the three-year monitoring cycle kicked in and an annual report was prepared.
- She read from the original Pacific Habitat Services report regarding the plan for invasives, "The large-scale removal of blackberries and other non-native species will lead to the unnecessary destruction of tree seedlings and saplings that are currently established in the area. Additional plantings would quickly outgrow the non-native and invasive plants and form a canopy cover over the blackberries and provide sufficient shade." The report went on to say, "It is recommended, however, that the growth of blackberries be closely monitored and that control measures, including cutting and direct herbicide applications, be employed if the blackberries become a nuisance and threaten to out-compete the native plantings." So as the new plantings took hold, a monitoring process was in place to address invasives if they got out of control over the next three years.
- **Ms. Mangle** added that the proposed displayed condition was intended to address questions raised by the Commission about the change in existing conditions. It would only be appropriate to add if the Commission was concerned that things had changed a lot since the application was originally reviewed in 2008.

Chair Klein noted that after viewing the aerial photographs, it did not look like there was a lot of change.

Commissioner Batey noted the pictures only showed changes in the tree canopy, which had not changed significantly; however, if the Applicant was not successful in constructing Building 2, then there would be more problems. Also as written, he really did not have obligations on the north side of the creek. She believed the north side of the creek was more of an issue than the south side, which was largely lawn.

Chair Klein understood the north side of the creek would always be more shaded from the sun.

Commissioner Batey:

- 517 • Added that if the Applicant did construct Building 2, the clearing required would essentially
518 remove most of the invasives.
- 519 • **Mr. Thygeson** clarified they would stay out of the buffer area along the north side of the
520 creek, so the construction of Building 2 would not interfere with the vegetative corridor
521 on the north side. The full canopy in the buffer area was so large that he did not see that
522 it would be impacted either way. The bridge, which was addressed significantly in the
523 initial application, was the only thing that would affect that area.
- 524 • Begged to differ with Mr. Thygeson on that, but said she would not belabor the point. She
525 believed the removal of the trees had already impacted the area, the full effect of which
526 would not be known until further research was done, and that expertise brought to bear.
 - 527 • It was now two years after initial report. If construction of Building 2 did not begin for
528 another two years, that was four years after the initial assessment, and who knows
529 what had changed on the site. Neither the Commission nor the Applicant was expert
530 in that area and no expert had looked at that yet. The Pacific Habitat report, dated
531 January 3, 2008, was already two years old.
- 532
- 533 **Chair Klein** asked if staff would still recommend approving the Variance after hearing this
534 evening's discussion.
- 535 • **Ms. Shanks** stated that although the WQR report was two years old, it was not uncommon
536 to see even older ones, such as for North Clackamas Park, where it took a long time to
537 complete construction. There was a monitoring process in place that occurs after
538 construction, plus the Water Quality Resource area was highly regulated. Applicants were
539 not allowed to cut down trees in Water Quality Resource areas, but could cut trees in other
540 parts of the site.
- 541 • She wished she knew definitively about what trees were cut down and by whom, and
542 whether it occurred when the property was still in the County.
 - 543 • She and the City's consultant had visited the site and believed the WQR report did
544 reflect the conditions accurately at that time and that the mitigation plan was appropriate.
545 With the monitoring, she believed any invasive issues could be mitigated.
 - 546 • The Applicant would be required to replant the trees if the cut trees impacted the site,
547 but trees that were already down would not require mitigation if they did not actually
548 have an impact. She did not believe anyone present knew whether the cut trees
549 impacted the site.

- **Ms. Mangle** clarified that the storage facility part of the Conditional Use approval had the time limit and was expiring, not the WQR approval. The bridge had a WQR permit for construction, so if someone rented the north half of the property to a business that was allowed outright in the BI zone, the bridge could be built for that with the permits already in place. The use as a storage facility required the Conditional Use and when considering granting special permits, other aspects of the project came into the purview because it was a discretionary discussion.

Commissioner Bresaw did not believe the additional condition was needed if the process was monitored and construction practices did not damage the Water Quality Resource area.

Commissioner Wilson agreed.

Commissioner Batey understood the three-year timeframe for monitoring invasive plants started when the Applicant constructed Building 1, and asked if a new three-year monitoring timeframe would begin if Building 2 was constructed a year later.

- **Ms. Shanks** believed that was the intent. The timeframe applied as soon as the mitigation plantings were in, so if the north side of the creek started later, then the monitoring process would also start later.

Chair Klein clarified that no conditions were being added to the application. He was reluctant to make an environmental error, but since there would be lots of eyes on the project, he did not believe the additional condition was necessary at this time.

Commissioner Bresaw asked about her language suggestion for Finding 6.B. Rather than saying there were no alternatives to the Variance, state that there were no reasonable and justified alternatives, which was more of a pragmatic result.

Commissioner Batey explained that in approving the Variance, the Commission was finding that there were no alternatives because that was what the Code said.

The Commission agreed that changing Finding 6.B was not necessary.

Chair Klein supported the Variance. Development took a long time overall. The Applicant had passed 50% completion at this point because construction was the easy part. Under the existing economic conditions, he would even say the Applicant was 99% done because it was a tough time to build and funding was difficult. He realized the difficult economy did not justify a variance, but he would address that later.

Commissioner Bresaw moved to approve VR-10-01 and adopt the recommended findings and conditions of approval in Attachments 1 and 2, extending the Conditional Use to February 27, 2012. Commissioner Wilson seconded the motion. The motion passed 5 to 1, with Commissioner Batey opposing.

Chair Klein read the rules of appeal into the record.

The Commission took a brief recess and reconvened at 8:20 p.m.

6.0 Worksession Items - None

7.0 Planning Department Other Business/Updates

7.1 Summary: Officer Elections

Vice Chair Newman announced his resignation effective immediately. Technically, he could attend the next two meetings, but his house had sold quickly and he was moving to a condo in downtown Portland. He said that as a superintendent, he worked with school boards for 36 years and believed the Milwaukie Planning Commission was professional and made thoughtful decisions for the benefit of the City with no thought about personal interests. If anyone wanted to know their city, he recommended getting on the Planning Commission. He thanked staff and the Commission for giving him the opportunity to learn so much and to work with such great people.

Chair Klein commented that he would miss Vice Chair Newman as a resource. He appreciated the mentorship he provided and thanked him for all that he had done for the City of Milwaukie. He had made a lot of very good decisions. He would always remember that Vice Chair Newman once said, "Jeff was right."

- He stated that he saw his appointment to the Commission ultimately coming to an end. His present term would expire March 31, 2011, and he was eligible for another four-year term. He assured he did not have plans to leave in the next 12 to 24 months.

Commissioner Bresaw nominated Jeff Klein as the 2010 Planning Commission Chair. Commissioner Batey seconded the nomination, which passed unanimously.

Chair Klein noted that he would be missing some meeting dates during this summer.

Commissioner Bresaw nominated Nick Harris as the 2010 Planning Commission Vice Chair. Commissioner Batey seconded the nomination, which passed unanimously.

8.0 Planning Commission Discussion Items

Ms. Mangle made the following announcements:

- The City would receive a \$50,000 Smart Growth Code Assistance Grant from the State to work on procedures, the “Dry Rot Code project,” and Residential Standards. She wanted to begin working on the Commercial Zone standards, but that would not be funded by the grant. She hoped to accept the grant during one of the March City Council meetings.
- The bylaws were going before City Council next week for Consent Agenda approval, after which the Commission would be provided a final copy.
- The Natural Resources Overlay Project Advisory Group meeting would be held Wednesday, February 24th to discuss the Code. Commissioner Churchill would be attending, but everyone was also welcome. The project would likely come before the Planning Commission in the next month. A lot of information was available on the website.
- She encouraged the Commissioners to attend the light rail open house scheduled at Milwaukie High School for Thursday 4:30 p.m. to 7:00 p.m.

9.0 Forecast for Future Meetings:

March 9, 2010 Joint Worksession with DLC

1. Light Rail briefing

2. City Hall Sculpture Garden

March 23, 2010 1. Public Hearing: ZA-10-01 Parking Code Amendments

Ms. Mangle briefly reviewed the upcoming meetings, noting that not many comments had been

649 received about the Parking Code Amendments. Staff had discussed the amendments with the
650 NDA leadership group.

651

652 Meeting adjourned at 8:32 p.m.

653

654

655 Respectfully submitted,

656

657

658

659

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

662

663

664

665

666

Jeff Klein, Chair

CITY OF MILWAUKIE
JOINT SESSION
PLANNING COMMISSION
AND
DESIGN & LANDMARKS COMMITTEE
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, March 9, 2010
6:30 PM

COMMISSIONERS PRESENT

Jeff Klein, Chair
 Nick Harris, Vice Chair
 Lisa Batey
 Teresa Bresaw
 Scott Churchill
 Christopher Wilson

STAFF PRESENT

Katie Mangle, Planning Director
 Susan Shanks, Senior Planner
 Li Alligood, Assistant Planner
 Beth Ragel, Community Services

COMMISSIONERS ABSENT

None

DLC MEMBERS PRESENT

Becky Ives, Chair
 Greg Hemer
 Sarah Knaup
 Patty Wisner

DLC MEMBERS ABSENT

None

1.0 Call to Order – Procedural Matters

Chair Klein called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

2.0 Minutes

2.1 Planning Commission Minutes—January 26, 2010

Commissioner Batey stated that Vice Chair Newman's declaration of recusal on 5.2 page 3 should read, "...Commissioner Newman recused himself, declaring that his property was ~~continuous~~ *contiguous* with the Applicant's property."

Commissioner Bresaw moved to approve the January 26, 2010, meeting minutes as corrected. **Commissioner Wilson** seconded the motion, which passed unanimously.

47 2.2 Design & Landmarks Committee Minutes—January 27, 2010

48

49 **DLC Member Knaup moved to approve the January 27, 2010, meeting minutes as**
50 **presented. DLC Member Hemer seconded the motion, which passed 3-0-1, with**
51 **DLC Member Wisner abstaining.**

52

53 **3.0 Information Items**

54 Introductions were made.

55

56 **4.0 Audience Participation** –This is an opportunity for the public to comment on any
57 item not on the agenda. There was none.

58

59 **5.0 Public Hearings**

60 There were none.

61

62 **6.0 Worksession Items**

63 6.1 Light Rail Project Briefing—Part 2

64 Staff Person: Katie Mangle

65

66 **Ms. Mangle** introduced TriMet staff Dave Unsworth, Bob Hastings, and Leah Robbins.

- 67 • The light rail alignment was currently at 30% design. At that point, the City had
68 achieved a great deal in terms of applying downtown Code and standards to the
69 project, such as reducing the size of the Tacoma Park & Ride, traffic calming on
70 Johnson Creek Blvd, maintaining freight access to industrial properties, no Park &
71 Ride in downtown Milwaukie, bicycle and pedestrian improvements around the
72 downtown light rail station, and recognition that many elements in downtown and in
73 the Kellogg Creek area needed to be distinct. Outstanding design issues included
74 final design of the Tacoma Park & Ride, bridges, mitigation for visual and noise
75 impacts, and integration of public art.
- 76 • Stated that the City had a permitting role; parts of the project would be reviewed by
77 the Planning Commission and/or the Design and Landmarks Committee (DLC).

78

79 **Dave Unsworth, TriMet**, stated that City staff had been wonderful representing the City
80 of Milwaukie. He presented the project schedule via PowerPoint presentation.

81 • Preliminary engineering would be complete by the end of March 2010; 30% design
82 was complete; final design approval was expected in October 2010; the final
83 Environmental Impact Statement (EIS) was expected in May 2010; and the Record
84 of Decision (ROD) was expected in July 2010.

85 • The Portland region was competing with every city in the United States for light rail
86 dollars; Portland had been pretty successful in competing for money.

87
88 **Commissioner Churchill** asked what the approximate cost per mile of the proposed
89 light rail alignment was.

90 • **Mr. Unsworth** responded that the cost was approximately \$200 million per mile.

91
92 **Leah Robbins, TriMet**, presented a Google Earth flyover view of the light rail alignment
93 from the Tacoma Park & Ride to the Park Ave Park & Ride.

94 • The elevated track over Tacoma St was designed to accommodate future expansion
95 of McLoughlin Blvd to 6 lanes.

96 • The bridge over Tacoma was designed to accommodate light rail when it was built.
97 The Tacoma Park & Ride had been reduced by 200 spaces, though the building
98 footprint remained the same.

99 • There had been talk of redevelopment of the Pendleton site, on McLoughlin Blvd just
100 north of the Springwater Corridor. The owners were involved in conversations but
101 there were access issues to the site.

102 • There were impacted properties along the alignment in the North Industrial Area,
103 including the Beaver Heat Treating building (east structure) and the Anderson Siding
104 building. Anderson Siding would be relocated. The main tenet of the light rail
105 alignment in that area was the retention of access to industrial sites.

106 • In response to community concerns, the length of elevated structure over the Union
107 Pacific tracks had been reduced from over 3,000 feet to about 1,300 feet.

108
109 **Commissioner Churchill:**

110 • Asked Ms. Robbins to show where the elevated structure began and ended.

111 • **Ms. Robbins** indicated that the elevated structure began south of Moore St and
112 returned to grade to the west of Malcolm St. She indicated that the light rail line
113 must be elevated in that section to go over the Union Pacific track.

- 114 • Noted that the crossing at Malcolm St was the first at-grade crossing
115 coming into Milwaukie. The City adopted a quiet zone; the Memorandum
116 of Understanding (MOU) between the City and TriMet would incorporate
117 quiet zone-compatible design elements.
- 118 • Asked if the quiet zones of the main Union Pacific line would follow later than the
119 light rail quiet zones.
- 120 • **Ms. Robbins** stated that she could not speak to the freight rail line quiet zone
121 implementation.
- 122 • Asked for an explanation of the retention walls proposed for the banks north and
123 south of Harrison St.
- 124 • **Ms. Robbins** confirmed that retaining walls would be required south of Harrison
125 St, to the east of the light rail tracks.
- 126 • Asked what the differential in height of the retaining walls would be.
- 127 • **Ms. Robbins** stated that the peak height of the retaining walls in that area would
128 be between 12 ft and 15 ft and would vary by grade. She stated that those
129 elements were not designed, but would be part of the conversation during final
130 design.
- 131 • Questioned Ms. Robbins' statement that 30% engineering did not include retention
132 walls.
- 133 • **Ms. Robbins** clarified that the 30% engineering included height and materials for
134 construction cost engineering, but did not include the retaining wall design.
135
- 136 **Ms. Robbins** continued the Google Earth tour of the light rail alignment.
- 137 • Noted that the downtown light rail station had a 2-platform configuration, which was
138 different from the initial proposal. She pointed out that the downtown crossings
139 included future right-of-way widths as required by the City's downtown public area
140 requirements.
- 141 • There would be one pier in the water when the bridge was built over Kellogg Creek;
142 the structure would be designed to allow for a future pedestrian pathway underneath
143 the light rail structure.
- 144 • Subject to revisions of the Community Service Use (CSU) determinations for the
145 Trolley Trail, the facility south of downtown would create the most open and green
146 environment possible. She noted that the use of a property owned by ODOT along

McLoughlin Blvd would permit the Trolley Trail to separate from the light rail line and avoid impacting the existing large sequoia along McLoughlin Blvd.

- Noted that the Park Ave Park & Ride now had 600 spaces, as opposed to the 1,000 spaces originally proposed.

Bob Hastings, TriMet, provided an overview of the Conceptual Design Report (CDR).

He noted that the final report was the result of efforts by many stakeholders. The purpose of the final design phase was to flesh out characteristics and qualities of design that had been discussed.

- TriMet had been working with City and Clackamas County staff to determine what the design expectation was. Key considerations had been identified, and the next step was to create a vision for urban design through the different station areas. It was important to work together on the Tacoma Park & Ride design.
- At this point the scope and extent of the project had been described. The design elements would come along as the project was fleshed out. The question for downtown Milwaukie was how to bring the vision the City had for the community and deliver on it within the scope of the project?
- Provided a review of opportunities and challenges via PowerPoint presentation.
 - The design concept would build on the South Downtown Concept planning. The City had done a conceptual design for the station area, which was a very constrained site. The proposed light rail station building was not part of the scope of the TriMet project but was being considered in the overall design
 - Noted that there were several components of TriMet transit designs which included consistency among fixed elements, public art at stations, and elements that reflected individual station identity. The elements and systems buildings could be designed to reflect Milwaukie's character.

Commissioner Churchill:

- Asked if TriMet had done any specific designs in the past that incorporated neighborhood identity.
- **Mr. Hastings** stated that the west side of Portland had more neighborhood-specific designs, as well as some areas in North Portland along the Interstate Ave light rail line.

- Asked specifically which portions of the Interstate Ave line had incorporated neighborhood-specific designs.
- **Mr. Hastings** stated that light rail station areas in Overlook and other residential areas had different designs than non-residential areas. It was important that station design was context-sensitive.

Mr. Unsworth provided an overview of the land use and permitting process. He discussed the various downtown zones and design review processes.

- Stated that TriMet would use the Downtown Design Guidelines and pull out location-specific characteristics. Design review input would be needed during final design.
- Provided information about the Land Use Final Order (LUFO), which was passed as House Bill 3478. The land use decision was made to put light rail along this alignment, and local government must issue land use approvals and permits. However, the City could apply reasonable conditions.

DLC Member Wisner asked TriMet staff to explain why the light rail tracks elevated after crossing Tacoma St.

- **Ms. Robbins** stated that the light rail tracks were on the west side of the freight tracks south of Tacoma station. In order to serve the downtown Milwaukie station, the tracks needed to be on the east side of the freight tracks. That location was the best and most efficient way to get there.
- **Ms. Mangle** added that the light rail tracks were prohibited from crossing freight tracks at grade.

Commissioner Batey:

- Asked if the design for the future bridge pier in Kellogg Lake was being designed with consideration for the future removal of the Kellogg dam.
- **Ms. Unsworth** stated that TriMet was supportive of the dam being removed; where the creek would be reestablished was unknown. The desire was to connect between the downtown Milwaukie light rail station and the Island Station neighborhood, and TriMet was trying to plan for that up front.
- Noted that both the Tacoma and Park Ave Park & Ride garages had been downsized and asked whether it was because ridership on the I-205 light rail line was not as high as expected.

- **Ms. Robbins** responded that the mitigation that would be required at Park Ave to meet the requirements of a 1,000-space Park & Ride included much more acquisition and demolition than identified in the earlier EIS. TriMet conducted a utilization survey of existing Park & Rides in 2009 and determined that inner core Park & Ride utilization was much higher than terminus garages. Terminus garages were over capacity and underutilized.

- There were also lessons learned from the recent I-205 Green Line project. The lower Park & Ride utilization was due to current economic conditions, but TriMet also didn't want to overbuild in the McLoughlin corridor due to the potential for a future connection to Oregon City. The Tacoma Park & Ride mitigation requirements did not change after the EIS, but by reducing the size of the garage the potential visual impacts to the Ardenwald neighborhood and potential traffic impacts were reduced.

DLC Chair Ives stated that the DLC had recommended and was really hoping for unique bus shelters on the Jackson St transit facility, and asked if there was any thought of using the same shelters at the bus facility near the downtown Milwaukie light rail station.

Ms. Wisner noted that the DLC wouldn't want to limit what options would be seen during the station design process.

Mr. Unsworth responded that those questions related to the City's architectural compatibility and contrast guidelines.

Mr. Hastings stated that the design process would be about finding whole parts of the project and how they coordinated with the City of Milwaukie. There would be discussions about the potential for the project to clarify where downtown Milwaukie was, and what delineated the district. That process involved thinking about light rail as transit and movement as well as light rail.

Ms. Wisner stated concerns about the visual impact of the bridge over Kellogg Lake, and asked if there was an option to dye the concrete to a more natural color, rather than cold gray concrete.

248 • **Ms. Robbins** stated that the structure was partially concrete and partially steel.
249 There were opportunities to color concrete, but it was not built all at once so there
250 was difficulty in getting consistent color. There were also issues with the longevity of
251 colored concrete and future repairs. Paint had the same long-term maintenance
252 issues. Aesthetics were still being discussed. TriMet went to more costly structure
253 type than was originally proposed.

254 • **Mr. Hastings** stated that the question was how did the bridge begin to reflect the
255 context? That was part of the inventory of the neighborhood and different areas
256 adjacent to the alignment. Potential strategies such as color and texture would be
257 considered during design process. The current effort was for the overall alignment.

258

259 **Commissioner Bresaw** noted that the electrical system cabinets did not look that great
260 and were very utilitarian. She asked if TriMet had considered alternative placement or
261 screening of the cabinets.

262 • **Mr. Hastings** responded that there would be some cabinets located near pedestrian
263 uses, and some that would be located in less visible locations. The locations related
264 to where the downtown design review areas were located and where the City
265 decided that it wanted a level of aesthetic review. Simple things like color schemes
266 throughout the alignment could have a strong impact.

267

268 **Commissioner Churchill:**

269 • Asked if the locations of the required structures had been identified during
270 engineering.

271 • **Ms. Robbins** stated that the substations and signal communications buildings
272 had been located. The location of electrical cabinets could be tweaked.

273 • Noted that at 30% engineering, the location of the substations and signal
274 communications buildings were determined within a few meters of the final location.

275 • **Ms. Robbins** stated that the level of determination depended on the facility, and
276 what type of building or structure it was. If those buildings moved, they moved in
277 large changes. Smaller things on the platform or at gated crossings changed in a
278 smaller fashion.

279 • Suggested that it would be useful to the Commission and the DLC to understand
280 which elements of the preliminary engineering plans were fixed and requested that
281 those elements be pointed out in the meeting packet.

- **Ms. Robbins** provided a review of the plans contained in the meeting packet.

Commissioner Batey asked Ms. Robbins to explain the difference between traction power substation and signal/communications bungalows.

- **Ms. Robbins** stated that the signal/communications bungalows were smaller structures and gave information to the transit tracker or other automated systems. The downtown traction power substation was located between Washington St and Monroe St. Residential property would need to be purchased for that location. A bungalow was located on Adams St east of 21st Ave on property owned by TriMet. Bungalows needed to be located close to stations. The Park Ave station had three buildings clustered nearby.

Ms. Wisner asked for more information about the large sequoia tree near the Park Ave station.

- **Ms. Robbins** stated that the project affected mature fir trees along the route south of Kellogg Lake; TriMet had maneuvered the Trolley Trail so that it would not require removal of the tree. The tree was the remainder of sequoias planted along McLoughlin Blvd decades ago. TriMet would be replanting trees that were removed, and they planned to plant the most mature trees possible.

Commissioner Churchill:

- Noted that there was a very important feature to address, and asked what the strategy was for light poles as the light rail line came into downtown.
 - **Mr. Hastings** responded that the strategy for light poles would be determined by the urban design/streetscape plan for the project. TriMet didn't know yet, but there was the ability within the project to make those decisions. The question of where to shift from industrial to downtown designs was still being identified and determined. Parts and pieces were what would be coming in the next several months. The design palette would be identified by October 2010.
- Stated that it appeared the budget had been downsized, as in the reduction of size at the Tacoma and Park Ave Park & Rides. He was concerned that the budget would be driving design decisions too much and there would be utilitarian lighting and materials in downtown Milwaukie. He requested that TriMet be in constant

communication with both the Commission and the DLC about those design decisions and asked TriMet staff to keep downtown's urban landscape in the forefront.

- **Ms. Robbins** noted that during the last budget exercise, TriMet upgraded the budget for catenary poles in downtown Milwaukie. The lighting would be part of the downtown public area requirements.

- Expressed concerns about the retaining walls along the alignment and stated that he hoped they were not utilitarian, and he preferred basalt to interlocking keystones.

- **Ms. Mangle** added that the City had been sharing the public area requirements with TriMet, and those were the assumptions that TriMet was working with in the design and budget.

- Noted that there was an emphasis on downtown Portland and the quality of the pedestrian experience there, and he hoped Milwaukie was treated equally in terms of design and consideration.

Chair Klein stated that though Milwaukie was a small portion of this project, it didn't mean the structures built there should be compromised. He warned that the requests that the City would be making would be astronomical. The City was trying to move forward while looking back to grab its history. Chair Klein did not want standard TriMet structures. TriMet was very good at this, and Milwaukie was not experienced in this area. Many people had stood up and said "these are the things we want to see". He supported the project up to the point where he would go kicking and screaming if things didn't happen as requested.

Commissioner Churchill stated that while Milwaukie was a small fish, it was a vocal fish. Downtown Milwaukie was impacted far more than other neighborhoods along the alignment. He would hold Metro and TriMet accountable and expected stellar performance.

Chair Klein noted that the city was already bisected by McLoughlin Blvd/99-E and Hwy 224. There were many barriers that divided the city, both theoretical and physical

- **Ms. Robbins** assured that TriMet was committed to a quality project along the entire length.

DLC Member Hemer stated that he had served on the light rail Citizens Advisory Committee (CAC) for a number of years and had been very impressed with the amount of time TriMet had spent listening to citizens and local groups—they had gone above and beyond what he expected in terms of listening to the public. He believed that TriMet would come forward with great ideas.

Chair Klein noted that some people said the money being spent on light rail was too much, while others said it was nowhere near enough to accomplish what needed to be done.

Chair Klein asked each DLC and Commission member to make a comment, and reminded to be clear about their concerns because they were also providing direction for City staff.

Mr. Hemer stated that the Tacoma bridge wasn't very well designed for pedestrian traffic into the Sellwood-Moreland neighborhood. He was also concerned about how the buses would interact with the light rail and what it meant to downtown. Would there be a shuttle service? Would the bus transit facility on Jackson St move? He asked TriMet to consider those issues and future traffic patterns.

DLC Member Knaup stated that she had lived in North Portland and was very impressed with what happened in her community after light rail came through. She was not nervous about what the outcome would be, because of the positive impacts she had seen in North Portland. The challenge was defining what Milwaukie character meant, because that would be an important piece to guide design.

Ms. Wisner stated that she had three concerns.

- Light rail would be a whole different animal coming into Milwaukie, and would permanently disrupt some of the things the residents loved about Milwaukie. The new bridge would be to east of the Kellogg Lake trestle and would block views of it. A bridge could be utilitarian or a thing of design beauty. She would love to see a bridge that enhanced the feel of Kellogg Lake and didn't take away from it. Everyone that travels McLoughlin Blvd had seen the seasons change over Kellogg Lake.

- 381 • People wanted a beautiful small town in Milwaukie, and didn't want the coldness and
382 harshness of downtown Portland. They wanted a pedestrian scale and a warm and
383 quality feeling that gave structures longevity. That included lighting and signage.
384 They wanted a different feel for downtown Milwaukie, something that reflected its
385 character as a residential town.
- 386 • She had always had a strong concern about what would happen to traffic on the
387 east/west connector streets and didn't think those concerns had been solved.
- 388 • **Ms. Robbins** noted that the upcoming monthly meeting on light rail would spend
389 a lot of time on traffic modeling, including worst case scenarios. She invited
390 anyone interested in those questions to attend the meeting.
- 391
- 392 **Chair Ives** stated that her brother lived in North Portland and she was impressed by the
393 changes in the area when the light rail went in.
- 394 • She echoed Mr. Hemer's concerns, and was also astounded by the number of
395 people that climbed the barrier on McLoughlin Blvd and ran across.
- 396 • She was glad to hear that TriMet had the Downtown Design Guidelines. The
397 verbiage was very heavily reviewed and stood true, but the images were not
398 consistent with the verbiage in the book. The DLC was working on determining what
399 those images should be.
- 400
- 401 **Commissioner Wilson** shared Commissioner Batey's concern about the planned pier in
402 Kellogg Lake. The goal was to have fish spawn in the creek, and he was not sure if the
403 pier would hinder or help.
- 404 • He was concerned about the bridge for pedestrians, and felt it was a good idea but
405 the fish should be considered.
- 406 • Three of his five kids would be at Milwaukie High School when the light rail line
407 opened, and he was concerned about the safety of the students at the high school.
408 He suggested training for the kids at the school.
- 409 • **Ms. Robbins** stated that TriMet had a very active education process with all of
410 the schools near the light rail alignments.
- 411 • **Mr. Hastings** added that there were always a lot of surprises. The outcome of
412 the Interstate light rail process was that the way to educate the parents was
413 through the kids. They were early adopters of the light rail line and became the
414 educators.

- 415 • He appreciated the comments because the designers wanted to hear hopes,
416 wishes, and aspirations. They wanted to hear what communities did want,
417 rather than what they didn't.

418

419 **Commissioner Wilson** noted that there had been questions about inconsistencies in
420 regard to scale when reviewing the Trolley Trail application, and had concerns about
421 access to the Elks Lodge facility near the Park Ave station.

- 422 • **Ms. Robbins** noted that the back side of Elks Lodge facility will be along 27th Ave,
423 and the new roadway access was only for the Elks Lodge.

424

425 **Commissioner Harris** had concerns that included the bridge over Kellogg Lake and the
426 aesthetics of retaining walls, lighting, and catenaries in downtown Milwaukie. Concerns
427 had been expressed that would have a very significant impact on downtown. With the
428 reduction of parking spaces at the Park & Rides, would bicycle parking be reduced?

- 429 • **Ms. Robbins** said that the biking facilities identified in plans were well beyond what
430 TriMet had built to date and would not be impacted.

431

432 **Commissioner Bresaw** noted that the light rail in downtown Portland was balanced in
433 scale because of the tall buildings. Milwaukie did not have those and that was why they
434 were so concerned about the scale of the light rail and the buildings.

- 435 • Requested screening of electrical cabinets.
436 • Was concerned about noise for pedestrians walking beneath the bridge over Kellogg
437 Lake, and asked that noise from the light rail be a consideration in design.
438 • Hoped there would be a choice of bollards and lights. Belgian cobblestones break up
439 concrete—whatever could be done to make the environment better for pedestrians.

440

441 **Commissioner Churchill** shared Ms. Wisner's concern about the bridge over Kellogg
442 Lake. It was the gateway to Milwaukie and could be a very poor gateway to the south
443 end of the city. There was a huge cost but materials could be massaged and considered.

- 444 • Asked for consideration of basalt finish retaining walls, such as those along US 101
445 through San Rafael, CA, for example. Those were shotcrete material that had been
446 acid-washed, had some durability, and seemed to hold up well. The forms were a bit
447 artificial but softer than seen in a regular retaining wall. He asked TriMet to stay away
448 from keystones if possible, or screen with vegetated growth.

449

450 **Commissioner Batey** was concerned about plantings that would be done to replace
451 trees that were removed. She requested that the TriMet team consult with the Parks and
452 Recreation Board (PARB) regarding native plants and habitat.

- 453 • Aligned herself with the comments of those who said they were excited about the
454 North Portland project, and looked forward to light rail in Milwaukie.

455

456 **Ms. Wisner** noted that in the 1990s, a member of the Lake Road Neighborhood District
457 Association (NDA) named Milt kept saying that Milwaukie had very unique soil, and he
458 was concerned about heavy construction in Milwaukie. She asked if TriMet had done
459 core samples on soil.

- 460 • **Ms. Robbins** stated that the special properties of the soil had to do with noise and
461 vibration, meaning it transmitted vibrations well. Metro was finishing up noise and
462 vibration testing. TriMet had done geotechnical work for large structures and would
463 do more with final design. The structures would stand up to seismic loading and
464 other key requirements.

465

466 **Chair Klein** stated that all of the comments from the DLC and Commission had been
467 really helpful. He added that he hoped the Park Ave station would be used as an
468 example of a gem of the TriMet line. He hoped TriMet would have patience with
469 Milwaukie so they could give feedback and show their desires for what they hoped to
470 see, and that the budget could be flexible enough to accommodate those desires. He
471 thanked the TriMet staff for their presentation.

472

473 The Commission and DLC took a brief recess and reconvened at 8:34.

474

475 **Ms. Mangle** stated that David Aschenbrenner, who was present at the meeting, was on
476 the Citizen's Advisory Committee for light rail. He asked her to remind the DLC and
477 Commission that there were a lot of Milwaukie representatives on the committee who
478 were attending a lot of meetings about light rail. Once the design issues, treatments,
479 and elements they wanted were identified, the more they were able to speak with one
480 strong voice, the more likely they would be to get what they needed as a community.

481

482 6.2 City Hall Sculpture Garden project briefing

Staff Person: Beth Ragel

Beth Ragel, Community Services Program Specialist, was the staff liaison for the City's Arts Committee, and the City Hall Sculpture Garden would be one of their biggest projects. She asked for feedback from the members present about the design, the proposed movement of Memorial Rock, and the replacement of the dogwood trees that flanked the City Hall exit. She provided a background of the project.

- The City received stimulus funds for the Jackson Street Improvement project, and decided to do a project on the south lawn of City Hall to complement it. She received an \$18k grant from the Clackamas County Tourism and Cultural Affairs Commission (CCTCAC) to do public art on the site. In October, she issued a call for proposals for the sculpture garden. In November, she gathered a selection committee, which interviewed two designers. The selection committee agreed unanimously on the design of Gardens by Rebecca, owned by Becky Ives. They liked the natural, open, northwest feel. She described the proposal. Ms. Ives was asked to do design work for the front of City Hall to complement the new sculpture garden, although the entire vision couldn't be funded immediately.
- Tryon Creek Landscaping was selected to construct the project under Ms. Ives management. The design kept the openness of the south lawn and maintained public access.
- **Ms. Ragel** asked for input about the dogwood trees next to entrance of City hall and the movement of Memorial Rock to the center of the triangle-shaped bed in front of City Hall. Her research didn't indicate that the specific location of the rock was chosen for any particular reason.

Chair Klein asked what the budget for the front landscaping would be.

- **Ms. Ragel** replied that there was a \$2,000 budget to replace the trees flanking the entrance, as well as some planters on the front steps.

Ms. Ives described the design. She gave credit to DLC Member Wisner because over the last several years she had spoken so passionately about the importance of Milwaukie's streams and rivers.

Chair Klein:

- 517 • Was glad to see that the triangle-shaped bed plantings would be replaced.
518 • Verified that the grand scheme was unfunded and asked what the total cost would
519 be.
520 • **Ms. Ragel** estimated that the total cost would be about \$20,000.

521

522 **Commissioner Batey:**

- 523 • Stated that she had a resident in her neighborhood who was a very active member of
524 Friends of Trees, and always raised concerns about trees planted around town that
525 were not native. The landscaping plan called for hemlocks, but also called for
526 maples. She suggested that anytime there were plantings in public spaces, the
527 PARB should be consulted.
528 • **Ms. Ives** clarified that the dogwoods in front of City Hall would actually be
529 replaced with Mountain Hemlocks. Most landscapers had gone to “regionally
530 appropriate”, because it is so difficult to determine whether a plant is truly native.
531 She agreed that any plantings in public spaces should be regionally appropriate.
532 • Stated that she was not a plant expert but heard it from many quarters. She
533 reiterated that using the PARB and Mark Hughes as a check against what should be
534 planted was a good idea.

535

536 **Ms. Wisner:**

- 537 • Suggested smoothing off a top of a boulder and incising a directory of the park as it
538 related to streams/rivers/islands around the town.
539 • Commended Ms. Ives on her design.

540

541 **Ms. Ragel** stated that the CCTCAC asked for a plaque to be installed in the garden, but
542 it could be as small or large as the Commission and DLC wanted. There could be many
543 different ways to provide markers within the garden indicating the meaning of various
544 components.

545

546 **Mr. Hemer** asked if the garden was easy to maintain or costly.

- 547 • **Ms. Ives** responded that it was very easily maintained, and regular maintenance
548 would be done by the contractor that currently cares for the City Hall lawn. The
549 garden reduced the lawn area and maintenance required.

550

Commissioner Bresaw was really happy that the pink dogwoods would be removed, and thought replacement trees would be an improvement.

Ms. Ragel asked if anyone had comments about moving the Memorial Rock. There were none.

Chair Klein encouraged the placement of trash cans around the site, because there was often trash in the triangle bed. He thought the plan was great.

6.3 Scope of Work for Upcoming Code Amendment Projects—Review Procedures and Residential Standards Staff Person: Katie Mangle

Ms. Mangle stated that the next phase of the Smart Growth Development Code project was funded by a Transportation Growth Management (TGM) grant from the State of Oregon. The project would include residential standards and administrative provisions. The DLC would be involved in residential standards. She introduced the scope of work for consultant and asked for input from the Commission and DLC before it went to City Council. There was none.

7.0 Planning Department Other Business/Updates

There was none.

8.0 Planning Commission Discussion Items

There were none.

9.0 Forecast for Future Meetings:

Planning Commission:

March 23, 2010 1. Public Hearing: ZA-10-01 Parking Chapter
 Amendments

2. Worksession: Discussion of permit time limits

April 13, 2010 1. Public Hearing: DR-09-01 Riverfront Park *tentative*

585 **Design & Landmarks Committee**

- 586 March 24, 2010 1. Worksession: Main Street Reconnaissance Survey
587 overview
588 2. Worksession: Historic Photo project presentation
589 *tentative*
590 3. Worksession: Milwaukie Character discussion

591

592 **Ms. Mangle** thanked the DLC and Planning Commission members for all of the
593 thoughtful comments.

594

595 Meeting adjourned at 9:06 p.m.

596

597

598 Respectfully submitted,

599

600

601

602

603 Li Alligood, Assistant Planner for
604 Alicia Stoutenburg, Administrative Specialist II

605

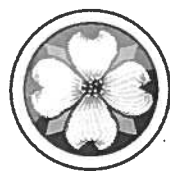
606

607

608

609 _____
Jeff Klein, Planning Commission Chair

Becky Ives, DLC Chair



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Ryan Marquardt, Associate Planner

Date: April 20, 2010 for April 27, 2010 Public Hearing
Hearing continued from March 23, 2010

Subject: File: ZA-10-01
 File Type: Zoning Ordinance Amendment
 Applicant: Katie Mangle, Planning Director, City of Milwaukie

ACTION REQUESTED

Recommend that City Council adopt the proposed amendments to Milwaukie Municipal Code (MMC) Title 19 Zoning Ordinance with the recommended findings in support of approval (see Attachment 1 and associated exhibits).

BACKGROUND INFORMATION

Please refer to the March 23, 2010 staff report for File #ZA-10-01 for background information, including the history of prior actions and discussions, code history, and summary of the proposed amendments.

During the hearing on March 23, 2010, the Commission directed staff to modify the proposal and contact the Neighborhood District Associations. Staff has revised the amendments from what was presented in the March 23, 2010 staff report. These revisions are described in Attachment 2. Items that are not described in Attachment 2 are unchanged from the March 23, 2010 staff report. Exhibits B, C and D in Attachment 1 incorporate the changes described in Attachment 2.

The major changes relate to residential parking regulations, and are discussed further under the Key Issues section of this report. The other changes described in Attachment 2 are minor edits, rewordings and corrections. An additional housekeeping amendment was added at the request of Code Compliance Coordinator. The amendment would prohibit keeping roosters as farm animals or household pets within the city. See pages 20-21 and 29-30 of Attachment 2 for the proposed amendment. A flyer on this topic has been distributed to the Neighborhood District Associations (see Attachment 3).

KEY ISSUES

Summary

- A. How should the City comply with Metro requirements to reduce the minimum parking requirement for a single family dwelling and a residential home from 2 spaces per dwelling unit to 1 space per dwelling unit?
- B. Do the proposed limitations on parking areas appropriately limit large parking areas on residential properties?
- C. Do the proposed regulations for commercial vehicle, boat, and RV parking achieve a good balance between neighborhood appearance and the ability to store residential accessory vehicles?

Analysis

- A. How should the City comply with Metro requirements to reduce the minimum parking requirement for a single family dwelling and a residential home from 2 spaces per dwelling unit to 1 space per dwelling unit?**

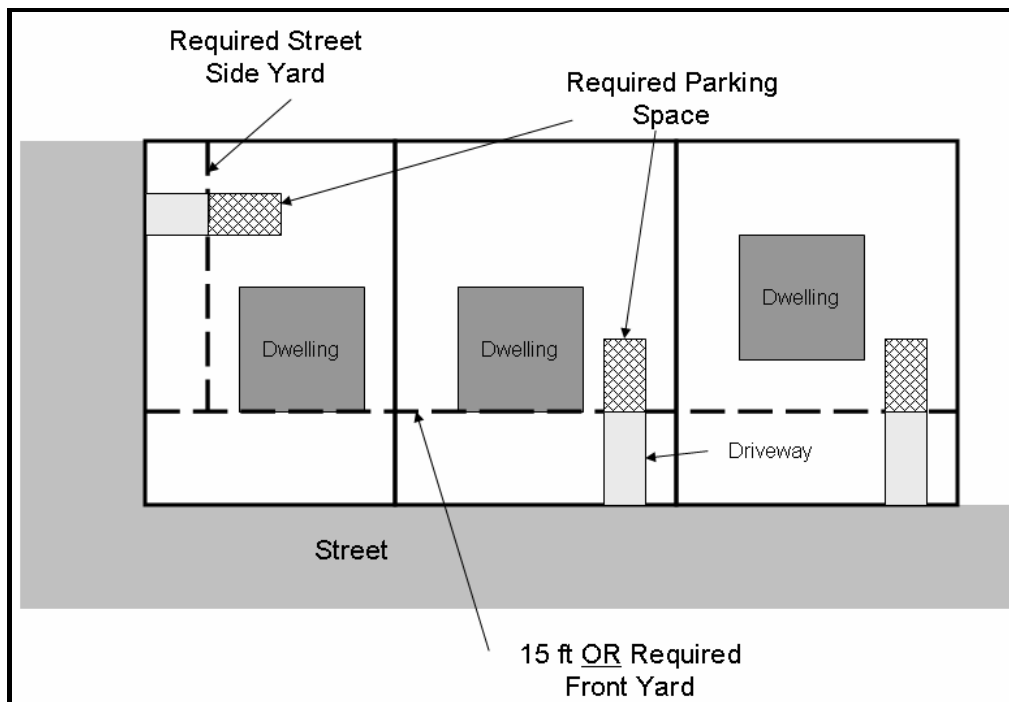
As described in the March 23, 2010 staff report, staff learned in early March that Metro would require that Milwaukie revise its parking ratio for single family dwellings to conform with Metro's regional parking ratio requirement.

Planning Commission directed staff to inform the Neighborhood District Associations (NDAs) about this change, and asked for information on how development in other jurisdictions has been affected when only 1 space is required.

Staff researched the other 24 municipalities and 3 counties within Metro. Three other cities (Tualatin, Gresham, Happy Valley) and unincorporated Multnomah County require 2 parking spaces per dwelling unit. In addition, staff found that Portland, Clackamas County, Oregon City, and Lake Oswego require only 1 parking space, but require that the space be located behind the required front yard setback. This results in a driveway leading to the required parking space that, in reality, serves as a second driveway on the site.

Prior to taking this issue to the NDAs, staff developed two alternative approaches for how a minimum required parking ratio of 1 space per dwelling unit could be implemented. The first would simply be to change the requirement to require only 1 parking space and allow the space to be located anywhere on the property. The second, based on the examples from Portland and Clackamas County, would make the required space be located behind the front yard setback. Figure 1, below, illustrates what this standard would require.

**Figure 1 –
1 required parking space, required be located behind the setback**



There are drawbacks to requiring the parking space to be located behind the setback. Properties with a driveway wide enough to hold 2 cars in the front yard, but no other parking on site, would not comply with this standard. This would be allowed to remain as a non-conformity unless the owner wants to expand the house, at which point the City may require modification to the driveway to bring the property closer to compliance. Similarly, a project to convert a garage into living space would only be allowed if a parking space is available behind the setback. This may not be possible for some properties if the only available parking area is in the front yard. This circumstance is illustrated by the houses in Figure 2.

**Figure 2 –
Properties with limited parking options except the front yard**



These options were presented to the NDAs in a handout that explained these alternatives, their benefits, and their drawbacks (see Attachment 4). It was distributed at the NDA leadership meeting on March 31st. It was also posted on-line with an email notification sent to the NDA Chairs and Land Use Committee members on April 2nd. The comments received from NDAs and citizens are summarized in the comments section below. The comments themselves are in Attachment 5.

Metro staff has indicated that most jurisdictions in the region came into compliance with the regional standard in the late 1990s or early 2000s. Most development in the region since that time has been developed with regulations that require one off-street parking space. Tigard, Lake Oswego, and Oregon City all have a minimum requirement of one space per dwelling unit. Planners from these cities have indicated that nearly all of their development permits are to construct a home with a two car garage. Some new homes in Oregon City and Lake Oswego have single car garages, though the required driveway in front of the garage creates an additional space.

Staff's recommendation remains to adopt a minimum parking ratio of 1 space per dwelling unit for single family dwellings¹ and not require that the space have any setback or location requirements. Staff believes that changing the regulation would have little impact on development in Milwaukie. Most home buyers and home owners in a suburban setting like Milwaukie want more than one off-street parking space on their property. Staff does not expect that most new homes would provide any less than 2 spaces, and that additions or remodels to existing homes will also retain at least two off-street spaces. Requiring that parking be placed behind the front setback would in fact have a greater impact on Milwaukie, because it would make more existing homes nonconforming.

B. Do the proposed limitations on parking areas appropriately limit large parking areas on residential properties?

On March 23, 2010 staff proposed to regulate large parking areas on residential properties by requiring setbacks and vegetative screening for parking areas in excess of 2,500 square feet. The Planning Commission expressed concern that this approach would be difficult to implement and would not encourage parking to be located outside of the front yard.

Staff has developed an alternative approach for regulating large parking areas on residential properties. The regulations would limit the amount of a front yard and street side yard that could be used for parking area (see Figure 3). This includes any area used for the parking or maneuvering of standard vehicles, and boats and RVs. The specific limitations would be:

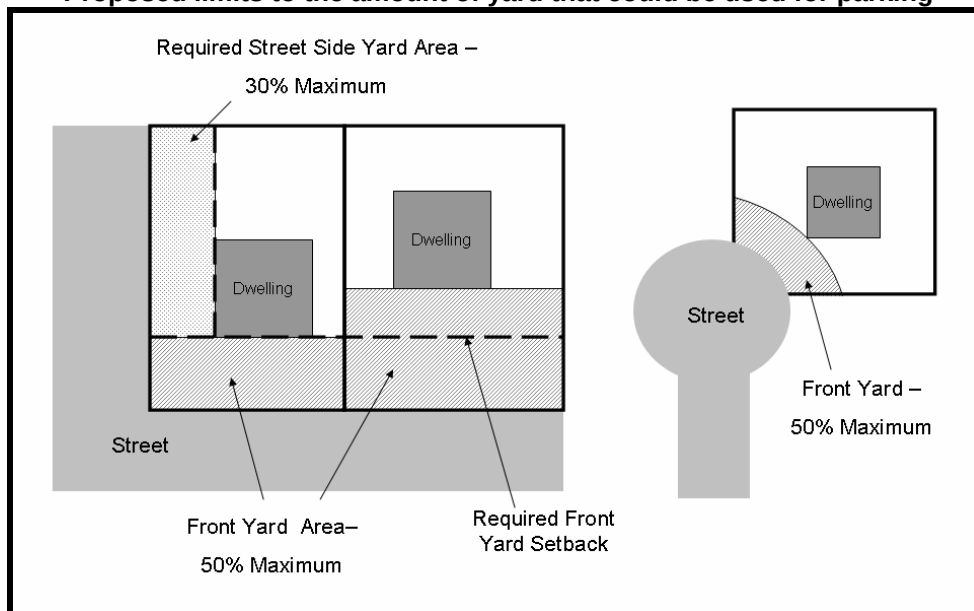
- No more than 50% of a front yard area could be used for parking. The front yard is defined as the distance between the front lot line and the nearest point of the dwelling, which may be set back farther than the minimum required setback.

¹ This ratio also serves as the basis for the minimum required ratio for residential homes. A change to 1 space per dwelling unit for single family dwellings would also change the minimum ratio for residential homes from "2 spaces per dwelling unit plus 1 space for each staff member" to "1 spaces per dwelling unit plus 1 space for each staff member."

- No more than 30% of a required street side yard could be used for parking. The required street side yard is the setback required from a side lot line that abuts a right of way.

Figure 3 –

Proposed limits to the amount of yard that could be used for parking



Staff believes this approach effectively deals with large parking areas and is a sensible regulation for the wide range of residential properties in the city. While large properties would be allowed a proportionally larger parking area, they also have to reserve an equally large open area in the front yard. For smaller properties, such as a 50 ft wide lot with a front yard depth of 20 ft, the 50% limitation would allow a 2-car wide driveway in the front yard.

C. Do the proposed regulations for commercial vehicle, boat, and RV parking achieve a good balance between neighborhood appearance and the ability to store residential accessory vehicles?

The following are the key changes in the regulations related to commercial vehicle, boat, and RV parking on residential properties between the March 23, 2010 staff report at this report.

1. Commercial vehicles would be allowed to be parked on residential properties so long as they are not parked in a front yard or required street side yard. The prior proposal would have prohibited commercial vehicles from being stored anywhere on a residential property. The proposed definition of a commercial vehicle remains unchanged.
2. The area used for parking a boat or RV would count toward the maximum amount of parking allowed in the front yard or side yard setback. This helps to encourage these vehicles to be stored in a side yard or rear yard.

3. A provision in the existing code that encourages boats and RVs to be stored in a side or rear yard would be retained. It was proposed for deletion in the March 23, 2010 materials.

Staff believes these changes reflect the direction given by the Planning Commission at the March 23, 2010 hearing. The changes help to maintain the residential character of neighborhoods by requiring or encouraging these vehicles to be kept out of the front yard area. At the same time, the changes allow home owners to keep these vehicles on their property in a reasonable manner.

CONCLUSIONS

Staff recommendation to the Planning Commission is as follows:

Vote to recommend that City Council adopt the draft ordinance and related amendments as proposed. The staff recommendations, including recent changes described in this staff report, are reflected in Exhibits B, C and D to Attachment 1.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- Chapter MMC 19.900 Amendments
- Subsection MMC 19.1011.5 Legislative Review

The proposed amendments are subject to legislative review, which requires both the Planning Commission and City Council to consider whether the proposal complies with the code sections shown above. For legislative actions, the Planning Commission assesses the application against the review criteria, evaluates testimony and evidence received at a public hearing, and makes a recommendation to City Council. City Council will hold another public hearing to consider the Commission's recommendation, evaluate any additional testimony and evidence, and make the final decision on the proposal.

The Planning Commission has the following decision-making options:

1. Forward a recommendation to City Council to approve the proposed amendments and ordinance.
2. Forward a recommendation to City Council to approve the proposed amendments and ordinance with modifications.
3. Continue the hearing to further evaluate the proposed amendments and ordinance.
4. Deny the proposed amendments and ordinance. This would have the effect of deciding to continue to implement the code in its current state.

Because this proposal is a legislative action, there is no deadline by which the City must make a final decision.

COMMENTS

The following is a summary of the comments received by the City. See Attachment 5 for further details.

- **Gary Michael, Island Station NDA Land Use Committee Member:** Commented that he supports the idea of limiting parking in front yard areas overall. He would like some exemptions for properties that have front yards that slope down from the street and for properties that have a small front yard setback.

Staff Response: Mr. Michael raises interesting points. Properties with downward facing slopes could benefit from a looped driveway that avoids having to back uphill into the street. Properties with reduced front yard areas may come closer to the 50% limitation than those with normal setbacks. However, staff believes that neither of these situations should justify an exemption that would allow more than 50% of a front yard area to be used for parking. A looped driveway can be designed so that it meets this requirement. Houses that choose to develop with a small front yard setback need to balance their ability to build close to the street with the amount of parking they would like on-site and where it is located.

- **David Aschenbrenner, Hector-Campbell NDA Treasurer:** Commented that the side yards and rear yards for many homes are not available for parking due to location of the dwelling. He also commented in a phone call that he is opposed to encouraging parking in back yards.

Staff Response: Staff acknowledges that the front yard may be the only available parking area for properties with narrow side yards. This is the reason that a lower percentage limitation for the front yard was not proposed. Staff appreciates the desire not to have parking in back yards. Given the existing regulations, a large parking area could be constructed in a front or rear yard. The policy in the current proposal is that if a large parking area is desired, some of it should be located in a rear or side yard, rather than taking up an entire front yard.

- **Linda Hedges, Hector-Campbell NDA Secretary:** Commented that she believes the 50% limitation allows too much of a front yard to be used for parking. She also commented that she is opposed to only requiring a single car driveway because of impacts to on-street parking.

Staff Response: Staff appreciates that this can be a large percentage of a front yard. In the current code there is nothing to prohibit using an entire front yard for parking. Staff believes the 50% limitation places a cap that would prohibit excessively large parking areas while also having a standard that smaller properties can reasonably meet. Staff believes that impacts to on-street parking as a result of the proposed minimum ratio is minimal. Most new and existing houses will continue to provide 2 or more off-street parking spaces in order to satisfy homeowner's/homebuyer's desires.

- **Mary Weaver, Hector-Campbell NDA Chairperson:** Commented that she is not in favor of changes that would increase on-street parking. She is also in favor of the percentage limitations for front and side yard areas, and instead favors maximum quantities of parking allowed for single family properties.

Staff Response: Staff's response to increased on-street parking concerns are addressed in the comment above. The idea of outright limitations on the number of parking spaces, rather than limiting how much area can be used for parking, is a different approach to this problem. Staff believes that finding a workable proposal for the number of vehicles that *any*

property in the city can have is more problematic and restrictive than placing limitations on areas, as proposed. No other city that was studied in the preparation of these amendments has a maximum parking ratio for single family dwellings.

- **Hector-Campbell NDA Leadership:** The Hector Campbell NDA leadership submitted comments on the proposed parking area limitations, number of required spaces, and other parking related issues.

Staff Response: Staff appreciates the detailed and thoughtful comments from the Hector Campbell NDA. Staff received them very close to the deadline for completion of this report. Staff will analyze and respond to the comments in Planning Commission packet supplement to be mailed approximately April 21, 2010.

ATTACHMENTS

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

1. Draft Ordinance (all attached)
 - Exhibit A: Draft Findings in Support of Approval
 - Exhibit B: Proposed Chapter 19.500 (existing chapter to be repealed)
 - Exhibit C: Underline/Strikeout Version of Amendments (19.100, 19.300, 19.400, 19.600, 19.700, 19.1500)
 - Exhibit D: Clean Version of the Amendments 19.100, 19.300, 19.400, 19.600, 19.700, 19.1500)
2. Revised Code Amendments with Commentary (attached)
3. Public information flyer on prohibiting roosters (attached)
4. Public information flyer on proposed residential parking regulations (attached)
5. Comments received (attached)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 19 OF THE MILWAUKIE MUNICIPAL CODE. THE AMENDMENTS REPEAL AND REPLACE THE OFF-STREET PARKING AND LOADING CHAPTER. (FILE #ZA-10-01).

WHEREAS, it is the City's goal to update and improve its zoning regulations on a consistent basis; and

WHEREAS, the amendments improve the City's regulations concerning off-street parking and loading areas; and

WHEREAS, the Planning Commission conducted a public hearing on March 23, 2010, as required by Zoning Ordinance Section 1011.5 Legislative Actions, and adopted a motion in support of the amendments; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, City Council finds that the amendments are in the public interest;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. Findings of fact in support of the proposed amendment are attached as Exhibit A.

Section 2. Title 19 of the Milwaukie Municipal Code is amended as described in Exhibit B (replacement of Chapter 19.500), Exhibit C (strikeout amendments) and Exhibit C (clean version amendments).

Section 3. All sections not amended as described in Exhibits B, C, and D remain as written.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

Document2 (Last revised 2/6/2008)

**Findings in Support of Approval
Land Use File ZA-10-01**

1. The City of Milwaukie proposes to amend various regulations that are contained in Title 19 of the Milwaukie Municipal Code, also referred to as the Zoning Ordinance. The land use application for these amendments is ZA-10-01.
2. The purpose of the proposed code amendments is to make the City's off-street parking and loading regulations easier to understand, use, and defend. The majority of the proposed amendments are to Milwaukie Municipal Code (MMC) Chapter 19.500, which is the City's main regulatory document for off-street parking and loading. The proposed amendments would repeal the existing chapter and replace it with a new chapter. Since off-street parking regulations are referenced elsewhere in the municipal code, amendments are proposed to other code sections. In addition, housekeeping amendments are proposed. The housekeeping amendments do not change all of the following code sections:
 - MMC Section 19.103 (Title 19 Definitions)
 - MMC Subsection 19.312.4 (Development Standards for Downtown Zones)
 - MMC Subsection 19.314 (Manufacturing zone)
 - MMC Subsection 19.318 (Mixed Use Overlay zone)
 - MMC Subsection 19.320 (Willamette Greenway Overlay zone)
 - MMC Subsection 19.321 (Community Service Use)
 - MMC Subsection 19.402 (Accessory Structures and Uses)
 - MMC Subsection 19.403.1 (Storage in Front Yard)
 - MMC Chapter 19.500 (Off-Street Parking and Loading)
 - MMC Subsection 19.602.10 (Type II Accessory Dwelling Unit)
 - MMC Section 19.708 (Circumstances for Granting Home Improvement Exceptions)
 - MMC Subsection 19.1502 (Annexations)
3. The proposed amendments are subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Chapter 19.900 Amendments
 - MMC Subsection 19.1011.5 Legislative Actions
4. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this land use application.
5. Public notice was provided in accordance with MMC Subsection 19.1011.5 Legislative Actions.
6. Milwaukie Municipal Code Chapter 19.900 – Amendments.
 - A. MMC Section 19.901 requires that a text amendment to the Milwaukie Zoning Ordinance be initiated by the City Council, Planning Commission, or by a property owner.

The amendments are proposed by the City of Milwaukie and were initiated by the Planning Commission at its meeting on March 23, 2010. Planning Commission finds that this criterion is met.

B. MMC Section 19.902 – Amendment Procedure.

- i) MMC Subsection 19.902.1.A requires that proposed amendments be heard at a public hearing and follow the procedures outlined in MMC Subsection 19.1011.5 –Legislative Actions.

The Planning Commission held a public hearing on the proposed amendments on March 23, 2010. A public hearing before City Council is scheduled for April 20, 2010. Public notice was provided in accordance with MMC Subsection 19.1011.5 for the Planning Commission hearing and will be provided for the City Council hearing. The Planning Commission finds that this criterion is met.

- ii) MMC Subsection 19.902.1.B establishes standards for providing notice to Metro of any proposed amendments to the City's Comprehensive Plan or Zoning Ordinance.

Metro was provided notice of the proposed amendments on February 4, 2010, which exceeds the 45-day notification requirement. An analysis demonstrating compliance with the Metro Urban Growth Management Functional Plan will be sent to Metro no later than fourteen days prior to the final City Council hearing on the proposed amendments. Planning Commission finds that this criterion is met.

- iii) MMC Subsection 19.902.1.D requires that the Planning Director forward the Planning Commission's recommendation to City Council within forty days of the final Planning Commission hearing on the proposed amendments.

The Planning Director will forward the Planning Commission's recommendation to City Council within 40 days of the recommendation date. The Planning Commission finds that this criterion is met.

C. MMC Subsection 19.904.1 requires that proposals for zoning text amendments provide written evidence that the following requirements are satisfied:

- i) Applicable requirements of MMC Section 19.1003, which specify the form of petitions, applications, and appeals.

The Planning Director submitted an application on the prescribed form. Because no development is proposed, the other portions of MMC Section 19.1003 are not applicable. City Council finds that this requirement is met.

- ii) Reasons for requesting the proposed text amendments.

The City of Milwaukie seeks to update its off-street parking regulations to ensure that the code remains current with best professional practices, complies with Metro requirements, and reflects the community's vision for how development should look and function. The proposed amendments are intended to make the code more clear and easy to implement and to provide flexibility in the regulations to respond to unique situations.

See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). Planning Commission finds that this requirement is met.

- iii) Explanation of how the proposed code amendments are consistent with other provisions of this title.

The proposed code amendments are designed to ensure that they are consistent with the provisions of Title 19. The main focus of the proposed code amendments is to update the City's off-street parking regulations. The updates make the off-street parking regulations more consistent with other provisions of the title by making the parking quantity table easier to apply to the multiple uses listed in Chapter 19.300, clarifying the relationship between required accessory parking and parking facilities as a separate land use, and tying the applicability of the off-street parking regulations to terms that are already defined in the Zoning Ordinance. The updates are intended to ensure that all internal code references are consistent and accurate, all new and existing terms are clearly defined, and all affected code sections are appropriately located. See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). Planning Commission finds that this requirement is met.

- iv) The approval criteria of MMC Section 19.905.

The applicable approval criteria of MMC Section 19.905 are addressed below.

- D. MMC Section 19.905 contains the approval criteria for zoning ordinance text amendments.

- i) The proposed code amendments must conform to applicable comprehensive plan goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan (Functional Plan), and applicable regional policies.

Compliance with Milwaukie Comp Plan

The proposed code amendments conform to the following applicable Comp Plan goals, policies, and objectives.

Chapter 3 – Environment and Natural Resources; Air, Water and Land Resources Quality Element; Objective #2; Policy 2: “Milwaukie will encourage the reduction of vehicle emissions by improving local flow and seeking ways to increase transit ridership.” The proposed code amendments seek increased use of transit by providing parking reductions for sites near transit lines and for the provision of transit facilities on a site.

Chapter 3 – Environment and Natural Resources; Air, Water and Land Resources Quality Element; Objective #3; Policy 7: “The City will encourage, through its building code enforcement program, adequate noise protection be provided between adjoining attached or multi-family residential structures. Noise from inside adjacent living units should not reasonably interfere with normal domestic activities.” The proposed code amendments require increased buffering for parking areas that are adjacent to residential uses, which will provide noise protection from parking areas.

Chapter 4 – Commercial Land Use Element; Objective #9; Policy 3: “The City will ensure that future improvements and land use changes provide adequate visual buffers to adjacent residential areas, including such devices as landscaping and fencing.” The proposed code amendments require landscape buffers on the perimeters of parking areas and visual screening of parking areas that are adjacent to residential uses.

Chapter 4 – Neighborhood Element; Neighborhood Area 1; Guideline #2: “Projects should have adequate off-street parking.” The proposed code amendments are aimed at ensuring that an adequate but not excessive amount of off-street parking is provided. The parking ratios in the proposed code have been revised based on regional requirements to be consistent with what is required by other jurisdictions in the region.

Environmental quality (multiple sections) – The proposed code amendments support goals and policies of reducing the environmental impacts of development. The amendments include allowances for the use of pervious parking areas and allow for parking area landscaping to serve as stormwater management facilities.

Encouragement of Transit, Bicycle, and Pedestrian modes of transportation (multiple sections) - The proposed code amendments support goals and policies of encouraging modes of transportation aside from vehicles. The amendments include parking reduction incentives for the provision of transit, bicycle, and carpool facilities on site. The amendments also support pedestrian travel by providing standards for safe pedestrian walkways through off-street parking areas.

Land Use (multiple sections) - The proposed code amendments support goals and policies of efficient use of existing land by not requiring more land than necessary to be used for off-street parking. The amendments include multiple by-right reductions to required parking, allowance for uses to study their parking demand and build the appropriate amount of parking, and large reductions in required parking for small commercial areas within neighborhoods. The amendments also increase the potential for shared parking areas to be used, which can minimize the amount of parking constructed.

Compliance with City Ordinances

These findings demonstrate compliance with all applicable City ordinances.

Compliance with Functional Plan

City staff will submit a report that demonstrates compliance with the applicable titles of the Metro Functional Plan at least 15 days prior to the City Council hearing on the proposed amendments. The proposed amendments bring the parking regulations closer into conformance with Title 2 of the Functional Plan that addresses regional parking policy.

In processing the proposed amendments, the City followed its own requirements for citizen involvement. The proposed amendments were referred to the City's Neighborhood District Associations for review and were discussed at several neighborhood, Planning Commission, and City Council meetings.

The Planning Commission finds that this criterion is met.

- ii) The anticipated development must meet the intent of the proposed zone.

The proposed code amendments are legislative in nature and do not involve a specific development proposal in a particular zone. The Planning Commission finds that this criterion is not applicable.

- iii) The proposed code amendments will meet or can be determined to reasonably meet applicable regional, state, and federal regulations.

The proposed amendments will comply with all applicable regional regulations. The only applicable regulation related to the proposed amendments is the Metro Functional Plan. Conformance to this plan will be demonstrated in the Functional Plan Compliance Report that will be submitted to Metro and included with the proposed amendments when they are heard by City Council. The Planning Commission finds that this criterion is met.

3. MMC Subsection 19.1011.5 outlines the procedures for processing legislative land use policies and plans. Specifically, it requires the City to do the following:

- A. Public Notification. Publish a notice of a hearing once each week for two consecutive weeks in a newspaper of general circulation in the city. The second publication shall not be less than five days prior to the date of the hearing.

The City provided the required published notice. The Planning Commission finds that this requirement is met.

- B. Decision. The Planning Commission shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The Planning Commission shall prepare a recommendation to the City Council. If the Commission approves the proposal, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing.

The Planning Commission held a public hearing on March 23, 2010. The recommendation of approval of the proposed amendments will be forwarded to City Council in advance of the Council's hearing of the proposed amendments. The Planning Commission finds that this requirement is met.

4. The application was referred to various City departments, governmental agencies, neighborhood district associations, and stakeholders. The proposed amendments, commentary on the amendments, materials from public meetings regarding the amendments, and summaries of the key issues within the amendments were posted on the City's website starting on February 10, 2010. All verbal and written comments made on the proposed amendments were summarized and made available to the Planning Commission in advance of the public hearings.

Off-Street Parking and Loading

Sections:

19.501	Purpose
19.502	Applicability
19.503	Review Process and Submission Requirements
19.504	General Parking Standards
19.505	Vehicle Parking Quantity Requirements
19.506	Parking Area Design and Landscaping
19.507	Off-Street Parking Standards for Residential Areas
19.508	Loading
19.509	Bicycle Parking
19.510	Carpool and Vanpool Parking
19.511	Parking Structures

19.501 PURPOSE

Chapter 19.500 regulates off-street parking and loading areas on private property outside the public right of way. The purpose of Chapter 19.500 is to: provide adequate, but not excessive, space for off-street parking; avoid parking-related congestion on the streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas, and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of way are contained in Chapter 19.1400 and the Milwaukie Downtown and Riverfront Plan Public Area Requirements, which is an ancillary document to the Comprehensive Plan. The management of on-street parking is governed by Chapter 10.20. Chapter 19.500 does not enforce compliance with the American's with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official.

19.502 APPLICABILITY

19.502.1 General Applicability

The regulations of Chapter 19.500 apply to all off-street parking areas and off-street loading areas, whether required by the City as part of development or a change in use, per Subsection 19.502.3, or voluntarily installed for the convenience of users, per Subsection 19.502.4. Activity that is not described by Subsections 19.502.3 or 19.502.4 is exempt from compliance with the provisions of Chapter 19.500. Changes to nonconforming off-street parking and loading are addressed through Chapter 19.500 and not through the provisions of Chapter 19.800.

19.502.2 Maintenance Applicability

Property owners shall comply with the regulations of Chapter 19.500 by ensuring conformance with the standards of Chapter 19.500 related to ongoing maintenance, operations, and use of off-street parking and loading areas. Changes to existing off-street parking or loading areas that bring the area out of conformance with Chapter 19.500, or further out of conformance if already nonconforming, are prohibited.

Exhibit B: Chapter 19.500 (new)

19.502.3 Applicability for Development and Change in use Activity

The provisions of Chapter 19.500 apply to development and changes of use as described in Subsection 19.502.3.

- A. Development of a vacant site shall have off-street parking and off-street loading areas that conform to the requirements of Chapter 19.500. Development of a site that results in an increase of 100% or more of the existing floor area and/or structure footprint on a site shall also conform to the requirements of Chapter 19.500. The floor area and/or footprint of structures demolished prior to development or redevelopment on the site shall not be considered when calculating the increase in floor area and/or structural footprints.
- B. Existing off-street parking and loading areas shall be brought closer into conformance with the standards of Chapter 19.500, per Subsection 19.502.5, when the following types of development or change in use occur.
 - 1. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint.
 - 2. Changes of use, as defined in Section 19.103.

19.502.4 Applicability not Associated With Development or Change in Use

- A. Any parking or loading area developed to serve an existing use(s) that is not associated with development activity or a change in use described in Subsection 19.502.3 shall conform to the requirements of Sections 19.504 and 19.506-19.511. The total number of spaces in the existing parking area and new parking area shall not exceed the maximum allowed quantity of parking as established in Section 19.505.
- B. Any parking or loading area that is not developed to serve an existing use and is not associated with development activity or a change in use as described in Subsection 19.502.3 shall conform to the requirements Sections 19.504 and 19.506-19.511. The requirements of Section 19.505 do not apply to parking areas described under Subsection 19.502.4.

19.502.5 Improvements to Existing Off-Street Parking and Loading Areas**A. Purpose**

The purpose of Subsection 19.502.5 is to improve nonconforming off-street parking and loading areas as redevelopment occurs. These improvements should occur in conjunction with a development or change in use.

B. Limitations on Required Improvements

The cost of materials for any required improvements shall not exceed 10% of the development permit value of the associated development, redevelopment, and/or tenant improvements associated with a change in use. The cost of capital equipment such as manufacturing or operational equipment is exempt from the building permit value for purposes of this regulation. This exemption does not include building infrastructure such as electrical, plumbing heating, venting, or air conditioning equipment.

C. Areas of Required Improvement

The Planning Director will evaluate the applicant's parking plan and use the prioritized list below when determining what improvements will be required.

- 1. Paving and striping of parking areas, per Subsection 19.506.3.A.

Exhibit B: Chapter 19.500 (new)

2. Minimum required vehicle parking spaces, per Section 19.505.
3. Minimum required bicycle parking spaces, per Section 19.509.
4. Landscaping of existing buffers, islands, and medians, per Subsection 19.506.2.D.
5. New perimeter landscape buffers, islands, and medians, as applicable, per Subsection 19.506.2.E.
6. Other applicable standards within Chapter 19.500, as determined by the Planning Director.

19.503 REVIEW PROCESS AND SUBMISSION REQUIREMENTS**19.503.1 Review Process**

The Planning Director shall apply the provisions of Chapter 19.500 in reviewing all land use and development permit applications, except when an application is subject to a quasi-judicial land use review or appeal, in which case the body reviewing the application or appeal has the authority to implement and interpret the provisions of Chapter 19.500.

19.503.2 Submission Requirements

Except for single family dwellings, a development or change in use subject to Chapter 19.500 as per Section 19.502 shall submit a parking plan, drawn to scale. The parking plan shall show that all applicable standards are met, and shall include but not be limited to the items listed below, unless waived by the Planning Director.

- A. Delineation of individual spaces and wheel stops.
- B. Drive aisles necessary to serve spaces.
- C. Access ways, including driveways and driveway approaches, to streets, alleys, and properties to be served.
- D. Pedestrian pathways and circulation.
- E. Bicycle parking areas and rack specifications.
- F. Fencing.
- G. Abutting land uses.
- H. Grading, drainage, surfacing, and subgrading details.
- I. Location and design of lighting fixtures and levels of illumination.
- J. Delineation of existing and proposed structures.
- K. Parking and loading area signage.
- L. Landscaping, including the following information.
 1. The location and area of existing and proposed trees, vegetation, and plant materials, including details about the number, size, and species of such items.
 2. Notation of the trees, plants, and vegetation to be removed, and protection measures for existing trees and plants to be preserved.

Exhibit B: Chapter 19.500 (new)

19.504 GENERAL PARKING STANDARDS**19.504.1 Parking Provided with Development Activity**

All required off-street parking areas shall be provided at the time the structure is built; at the time a structure or site is enlarged; or when there is change in use or an increase in density or intensity. All required off-street parking areas shall be provided in conformance with the standards of Chapter 19.500 prior to issuance of a certificate of occupancy, or final development permit approval, or as otherwise specified in any applicable land use decision.

19.504.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas.

- A. On the same site as the primary use for which the parking is accessory.
- B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.505.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the use zones in Chapter 19.300.
- C. Where shared parking is approved in conformance with Subsection 19.505.4.

19.504.3 Use of Parking Areas

All required off-street parking areas shall continually be available for the parking of operable vehicles of intended users of the site. Required parking shall not be rented, leased, sold, or otherwise used for parking that is unrelated to the primary or accessory use of the site, except where a shared parking agreement per 19.505.4 has been recorded. This subsection does not prohibit charging fees for parking when the parking serves the primary or accessory uses on site.

19.504.4 Storage Prohibited

No required off-street parking area shall be used for storage of equipment or materials, except as specifically authorized by Subsection 19.507.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking.

19.505 VEHICLE PARKING QUANTITY REQUIREMENTS

The purpose of Section 19.505 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.505.1 establishes parking ratios for common land uses, and Subsection 19.505.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.505.2.

The Downtown Storefront (DS) Zone and the portion of the Downtown Office (DO) Zone north of Washington Street and east of McLoughlin Boulevard are exempt from the requirements of Section 19.505.

19.505.1 Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.505.1. Modifications to the standards in Table 19.505.1 may be made as per Section 19.505. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.

Exhibit B: Chapter 19.500 (new)

- B. When a specific use has not been proposed or identified at the time of permit review, the Planning Director may elect to assign a use category from Table 19.505.1 to determine the minimum required and maximum allowed parking. Future tenants or property owners are responsible for compliance with Chapter 19.500 per the applicability provisions of Section 19.502.
- C. If a proposed use is not listed in Table 19.505.1, the Planning Director has the discretion to apply the quantity requirements of a similar use listed in the table upon finding that the listed use and unlisted use have similar parking demands. If a similar use is not listed, the quantity requirements will be determined per Subsection 19.505.2.
- D. Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall be rounded to the nearest whole number.
- E. Parking spaces for disabled persons, and other improvements related to parking, loading, and maneuvering for disabled persons, shall conform to the Americans with Disabilities Act and shall be subject to review and approval by the Building Official. Spaces reserved for disabled persons are included in the minimum required and maximum allowed number of off-street parking spaces.
- F. Uses that have legally established parking areas that exceed the maximum number of spaces allowed by Subsection 19.505 prior to the effective date of Ordinance #____ shall be considered nonconforming with respect to the quantity requirements. Such uses shall not be considered parking facilities as defined in Section 19.103.

Table 19.505.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single family dwellings, including manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing). a. Dwelling units with 800 sq ft of floor area or less. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory Dwelling Units (ADU) -Types I and II.	Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.

Exhibit B: Chapter 19.500 (new)

B. Community Service and Other Public Uses		
1. Religious institutions.	1 space per 4 seats.	1 space per 2 seats.
2. Day-care center ("family day-care" as defined in Section 19.103 has no parking requirements).	2 spaces per 1,000 sq ft of floor area.	3.5 spaces per 1,000 sq ft of floor area.
3. School—elementary or junior high.	1 space per classroom.	2 spaces per classroom.
4. School—senior high.	0.25 spaces per student, plus 1 space per staff.	0.33 spaces per student, plus 1 space per staff.
5. Meeting room, club, lodge, or association.	5 spaces per 1,000 sq ft of floor area, or 1 space per 4 seats if seats are permanently installed.	16.66 spaces per 1,000 sq ft of floor area, or 1 space per 3 seats if seats are permanently installed.
6. Library, museum, art gallery.	1 space per 1,000 sq ft of floor area.	1.2 spaces per 1,000 sq ft of floor area.
7. Nursing, convalescent, and extended-care facilities	1 space per 4 beds.	1 space per 3 beds.
C. Lodging Places		
1. Motel, hotel, boarding house.	1 space per lodging unit.	1.5 spaces per lodging unit.
2. Bed and breakfast establishments.	1 space per lodging unit, plus 1 space for the permanent residence.	1.5 spaces per lodging unit, plus 2 spaces for the permanent residence.
D. Commercial Uses—Recreational		
1. Indoor Recreation, such as a health club, gym, bowling alley, arcades, etc.	3 spaces for each 1,000 sq ft of floor area.	5.5 spaces per 1,000 sq ft of floor area.
2. Theater, auditorium, or stadium	1 space per 4 seats.	1 space per 3 seats.
E. Commercial Uses—Retail Goods		
1. Eating and drinking establishments	4 spaces per 1,000 sq ft floor area	15 spaces per 1,000 sq ft of floor area
2. General retail – grocery stores, convenience stores, specialty retail and shops	2 spaces per 1,000 sq ft of floor area.	5 spaces per 1,000 sq ft of floor area.
3. Bulk retail – furniture and home furnishing, appliances, vehicles, building materials, and similar large items	1 space per 1,000 sq ft of floor area.	3 spaces per 1,000 sq ft of floor area.
4. Gas stations	No minimum	1.25 spaces per 4 pumps.

Exhibit B: Chapter 19.500 (new)

F. Commercial Uses—Services		
1. General Office, including banks	2 spaces per 1,000 sq ft of floor area	3.4 spaces per 1,000 sq ft of floor area
2. Medical/ dental office (non-hospital), veterinary clinic	3.9 spaces per 1,000 sq ft of floor area.	4.9 spaces per 1,000 sq ft of floor area.
3. Personal services, such as a barber shop, beauty parlor, etc.	4 spaces per 1,000 square floor area.	5.4 spaces per 1,000 sq ft of floor area.
4. Commercial services, such as dry cleaners and repair shops (does not include vehicle repair).	2.8 spaces per 1,000 sq ft of floor area.	5.1 spaces per 1,000 sq ft of floor area.
5. Vehicle Repair	2 spaces per 1,000 sq ft of floor area	2.5 spaces per 1,000 sq ft of floor area
6. Quick vehicle repair and servicing, such as oil change and tire shops	2 spaces per service bay	3 spaces per service bay
7. Mortuary/Funeral Home	1 space per 5 chapel or parlor seats	1 space per 3 chapel or parlor seats
8. Car Wash	No minimum	2 spaces per wash bay for self-service washes, or 2 spaces per 1,000 sq ft of floor area for full service washes.
G. Industrial Uses		
1. Manufacturing	1 space per 1,000 sq ft of floor area.	2 spaces per 1,000 sq ft of floor area.
2. Storage, warehouse, wholesale establishment less than 150,000 sq ft	0.5 spaces per 1,000 sq ft of floor area	1 space per 1,000 sq ft of floor area.
3. Storage, warehouse, wholesale establishment 150,000 sq ft or greater	0.3 spaces per 1,000 sq ft of floor area	0.4 spaces per 1,000 sq ft of floor area.
4. Mini-warehouse; self-service storage.	1 space per 45 storage units, plus 1 space per employee of the largest shift.	1 space per 20 storage units, plus 1 space per employee of the largest shift.

19.505.2 Quantity Modifications and Required Parking Determinations

Subsection 19.505.2 allows for the modification of minimum and maximum parking ratios from Table 19.505.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.505.1 and for developments with large parking demands.

A. Applicability

The procedures of Subsection 19.505.2 shall apply in the following situations.

1. If the proposed use is not listed in Table 19.505.1 and the quantity requirements for a similar listed use cannot be applied.

Exhibit B: Chapter 19.500 (new)

2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.505.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Subsection 19.1011.2. The application for a determination must include the following.

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.505.2.B.3 to support the determination request. The Planning Director may waive requirements of Subsection 19.505.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
 - a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
 - b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
 - c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.505.2.C.

C. Approval Criteria

The Planning Director shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Director, based on the applicant's materials and other data the Planning Director deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

Exhibit B: Chapter 19.500 (new)

2. In addition to the criteria in Subsection 19.505.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria.
 - a. The use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.505.1.
 - b. The reduction of off-street parking will not adversely affect available on-street parking.
 - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.
3. In addition to the criteria in Subsection 19.505.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria.
 - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
 - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.505.3.A.
 - c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.505.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.505.2.

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.505 and not to the other requirements of Chapter 19.500. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.505.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.505.1. Applicants may not utilize the reduction in Subsection 19.505.3.B.1 in conjunction with any other reduction in Subsection 19.505.3.B.

1. Reductions for Neighborhood Commercial Areas

Exhibit B: Chapter 19.500 (new)

The minimum parking requirements of Table 19.505.1 shall be reduced by 50% for the properties described below.

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Commercial General (C-G) zone in the area bounded by 42nd Avenue, King Road, 40th Avenue and Jackson Street.
- d. Properties in the Commercial General (C-G) zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

- a. Parking for commercial and industrial uses may be reduced by up to 10% percent if the development is within 500 ft walking distance, as defined in Subsection 19.505.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- b. Parking for multifamily uses may be reduced by up to 20% if the development is within 500 ft walking distance, as defined in Subsection 19.505.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- c. Parking for all uses except single-family attached and detached dwellings may be reduced by 25% if the development is within 1,000 ft walking distance, as defined in Subsection 19.505.3.B.2.d, of a light rail transit stop.
- d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Director shall have the authority to determine when multiple uses exist on a site.

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.
- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10 percent. This reduction may be taken whether the carpool/vanpool space is required pursuant to Subsection 19.510 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for all non single family residential uses may be reduced by up to 10 percent for the provision of bicycle parking in addition to what is required by Section 19.509. A reduction of one vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all

other standards of Subsection 19.509. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Director, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% percent for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

19.505.4 Shared Parking

Some or all of a use's required parking spaces may be accommodated off-premises on the parking area of a different site through shared parking, pursuant to the standards of Subsection 19.505.4. The standards of Subsection 19.505.4 do not apply to voluntary shared parking agreements that are not created in order to conform to the quantity requirements of Section 19.505.

A. Review

The Planning Director shall determine in accordance with Subsection 19.1011.1 Type I Administrative Review whether the shared parking standards are met. The Planning Director may require a nonconforming parking area be brought into conformance, or closer to conformance as per Subsection 19.502.5, before it may be used for shared parking.

B. Standards

1. The applicant must demonstrate that the shared parking area has a sufficient quantity of spaces for the uses that will share the parking area. The Planning Director may require the applicant to provide data substantiating the claim that the proposed parking is sufficient for multiple uses during peak hours of demand for each use.
2. The nearest parking spaces shall be no further than 1,000 ft from the principal structure(s) or use(s). The measurement shall be along a route that is adequately illuminated; has vertical or horizontal separation from travel lanes within the right of way; uses legal crosswalks for right of way crossing; and has an asphalt, concrete or similar surface material. The applicant may propose to construct new facilities or modify existing facilities to comply with Subsection 19.505.4.B.2.
3. Legal documentation between the property owners that guarantees access to the shared parking shall be recorded with the County. The documentation shall be reviewed and approved by the Planning Director prior to being recorded. The agreement shall run with the land and not be tied to property ownership. The agreement shall not be terminated without City approval. The request for terminating the agreement must demonstrate that the properties in the agreement and their uses will comply with the quantity requirements of Section 19.505 after dissolution of the agreement. A copy of the recorded documentation shall be provided to the City prior to obtaining a building permit.

Exhibit B: Chapter 19.500 (new)**19.506 PARKING AREA DESIGN AND LANDSCAPING**

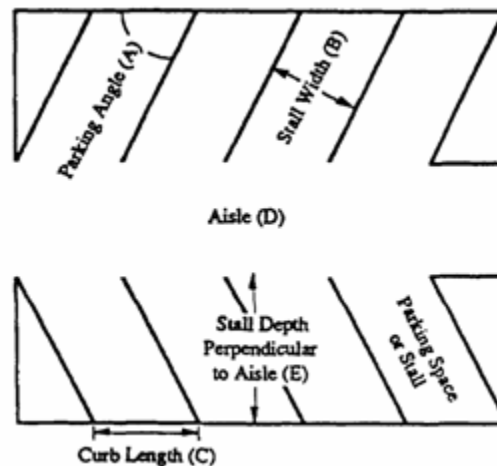
The purpose of Section 19.506 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for single-family attached dwellings, single-family detached dwellings, and residential homes.

19.506.1 Parking Space and Aisle Dimensions

- A. The dimensions for required off-street parking spaces and abutting drive aisles, where required, shall be no less than in Table 19.506.1.

Table 19.506.1 Minimum Parking Space And Aisle Dimensions					
Angle (A)	Width (B)	Curb Length (C)	1-Way Aisle Width (D)	2-Way Aisle Width (D)	Depth (E)
0° (Parallel)	8.5'	22'	12'	19'	8.5'
30°	9'	17'	12 ft	19'	16.5'
45°	9'	12'	13'	19'	18.5'
60°	9'	10'	17'	19'	19'
90°	9'	9'	22'	22'	18'

Figure 19.506.1-Parking Dimension Factors



- B. The dimension of vehicle parking spaces provided for disabled persons shall be according to federal and state requirements.
- C. Parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.

Exhibit B: Chapter 19.500 (new)

- D. Drive aisles shall be required in parking areas greater than 5 spaces. Drive aisles shall meet the minimum width standards of Subsection 19.506.1. Where a drive aisle or portion thereof does not abut a parking space(s), the minimum allowed width for a one way drive aisle shall be 8 ft and the minimum allowed width for a two way drive aisle shall be 16 ft.

19.506.2 Landscaping**A. Purpose**

The purpose of the off-street parking lot landscaping standards is to provide vertical and horizontal buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

B. General Provisions

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for single-family detached and single-family attached residences. Landscaping shall be based on the following standards in Subsections 19.506.2.C-19.506.2.H.
2. Landscaped areas required by Subsection 19.506.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
3. Parking areas with 10 or fewer spaces in the Downtown Storefront zone, and the portion of the Downtown Office zone located to the north of Washington Street and east of McLoughlin Boulevard are exempt from the requirements of Subsection 19.506.2.

C. Perimeter Landscaping

The perimeter landscaping of parking areas shall meet the following standards which are illustrated in Figure 19.506.2.C -1.

1. Dimensions

The minimum width of perimeter landscape areas are shown in Table 19.503.2.C.1. Where a curb provides the border for a perimeter landscape area, the dimension shall be measured from the inside of the curb(s). The Planning Director may reduce the required minimum width of a perimeter landscaping area where existing development or site constraints make it infeasible to provide drive aisles, parking spaces, and the perimeter landscaping buffer width listed in Table 19.503.2.C.1.

Table 19.506.2.C.1 Minimum Perimeter Landscape Strip Dimensions		
Location	Downtown Zones	All Other Zones
Lot line abutting a right of way	4 ft	8 ft
Lot line abutting another property, except for abutting properties that share a parking area	0 ft	6 ft

2. Planting Requirements

Landscaping requirements for perimeter buffer areas shall include 1 tree planted per 40 lineal feet of landscaped buffer area. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole

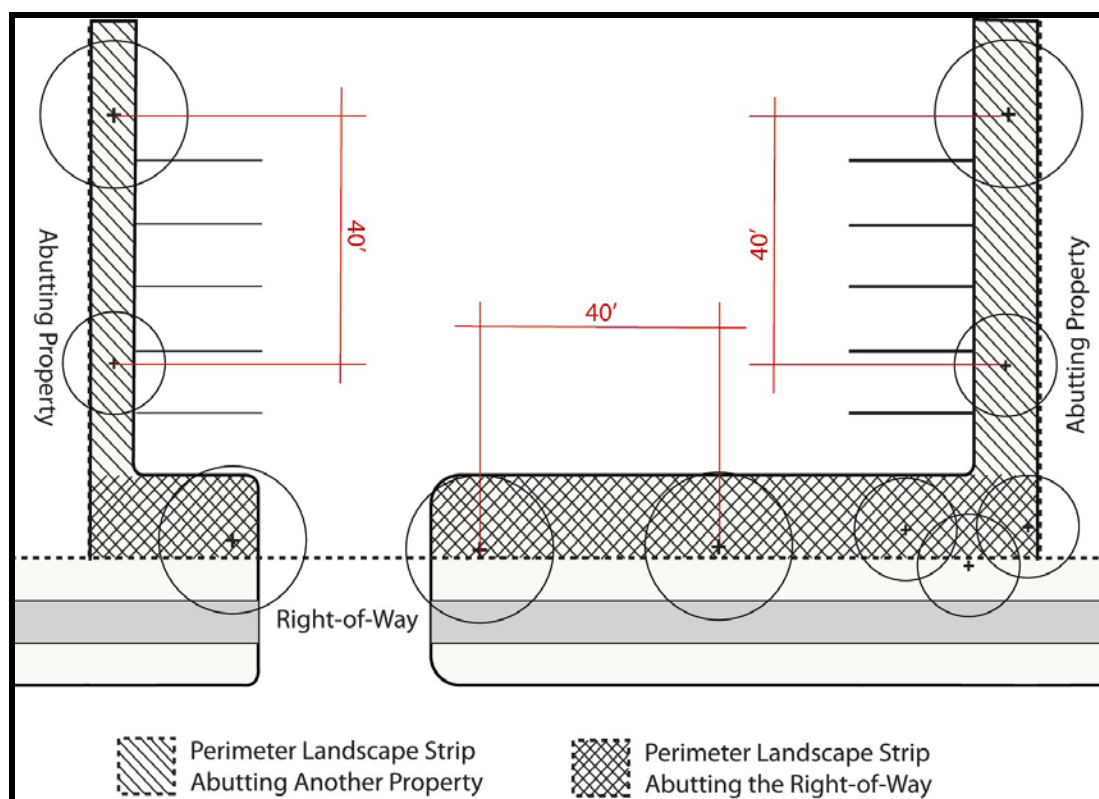
Exhibit B: Chapter 19.500 (new)

number. Trees shall be planted at evenly spaced intervals along the perimeter buffer to the greatest extent practicable. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

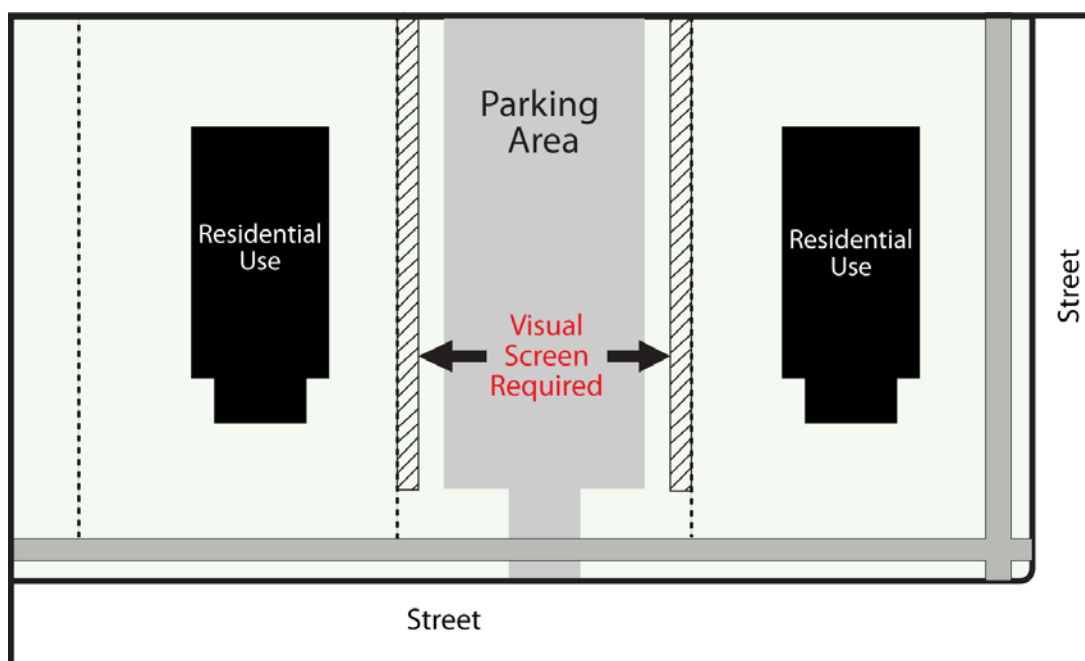
3. Additional Planting Requirements Adjacent to Residential Uses

In addition to the planting requirements of Subsection 19.506.2.D.2, all parking areas adjacent to a residential use shall have a continuous visual screen in the landscape perimeter area that abuts the residential use. The area of required screening is illustrated in Figure 19.506.2.C-2. The screen must be opaque throughout the year from 1 to 4 ft above ground to adequately screen vehicle lights. These standards must be met at the time of planting. Examples of acceptable visual screens are a fence or wall, an earth berm with plantings, and other plantings of trees and shrubs.

Figure 19.506.2.C-1: Perimeter Landscaping Areas



19.506.2.C-2: Additional Planting Requirements Adjacent to Residential Uses



D. Interior landscaping

The interior landscaping of parking areas shall meet the following standards which are illustrated in Figure 19.506.2.D-1.

1. General Requirements

Interior landscaping of parking areas shall be provided for sites where there are more than 10 parking spaces on the entire site. Landscaping that is contiguous to a perimeter landscaping area and exceeds the minimum width required by Subsection 19.506.2.C.1 will be counted as interior landscaping if it meets all other requirements of Subsection 19.506.2.D.

2. Required Amount of Interior Landscaped Area

At least 25 sq ft of interior landscaped area must be provided for each parking space. Planting areas must be at least 120 sq ft in area and dispersed throughout the parking area.

3. Location and Dimensions of Interior Landscaped Areas

- a. Interior landscaped area shall be either a divider median between opposing rows of parking, or a landscape island in the middle or at the end of a parking row.
- b. Interior landscaped areas must be a minimum of 6 ft in width. Where a curb provides the border for an interior landscape area, the dimension shall be measured from the inside of the curb(s).

4. Planting Requirements for Interior Landscaped Areas

- a. For divider medians, at least 1 shade or canopy tree must be planted for every 40 linear feet. Where the calculation of the number of trees does not result in a whole

Exhibit B: Chapter 19.500 (new)

- number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals to the greatest extent practicable.
- b. For landscape islands, at least 1 tree shall be planted per island. If 2 interior islands are located contiguously, they may be combined and counted as 2 islands with 2 trees planted.
 - c. The remainder of any divider median or landscape island shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.
5. Additional Landscaping for Large Parking Areas
- Parking areas with more than 100 spaces on a site shall not have more than 15 spaces in a row without providing an interior landscaped island. See Figure 19.506.2.D–2.

Figure 19.506.2.D-1: Location and Dimensions of Interior Landscaped Areas

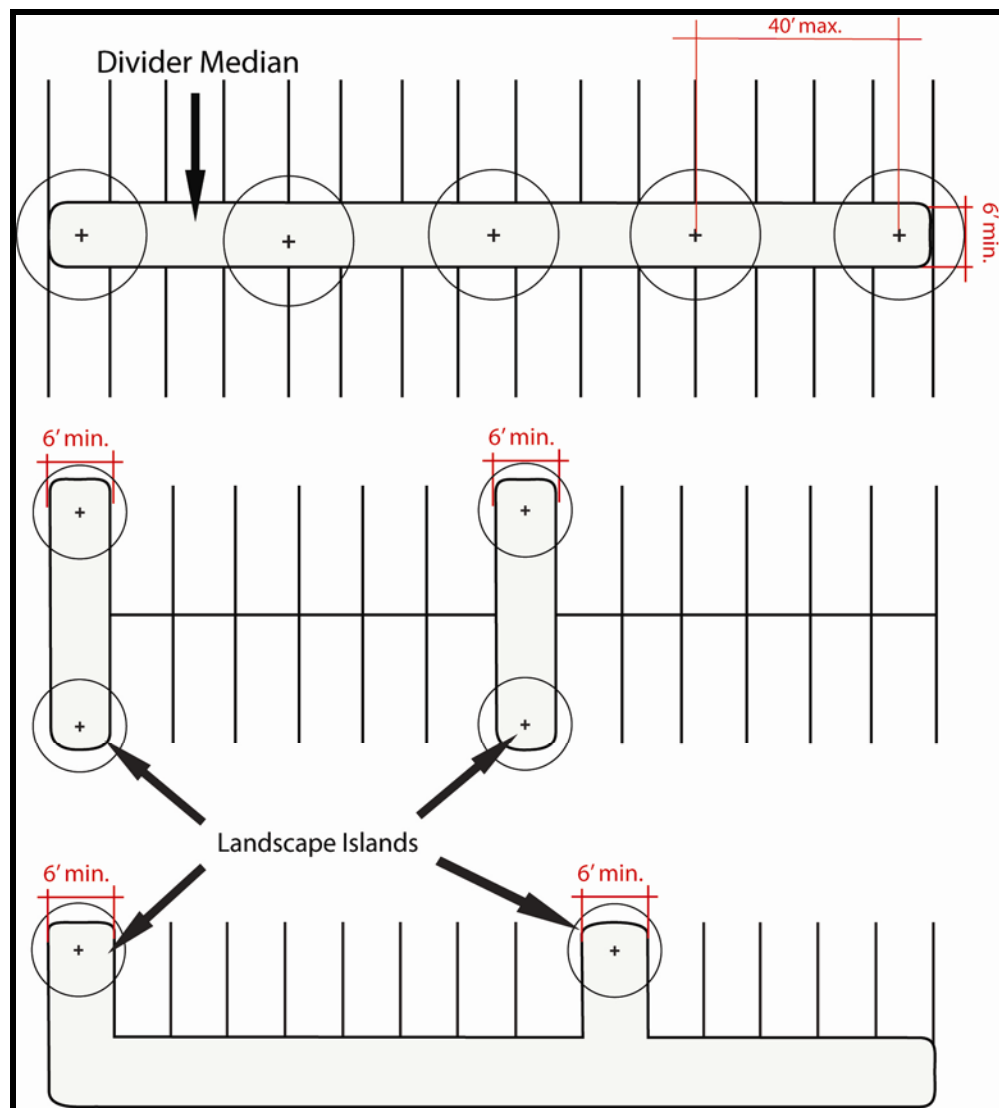
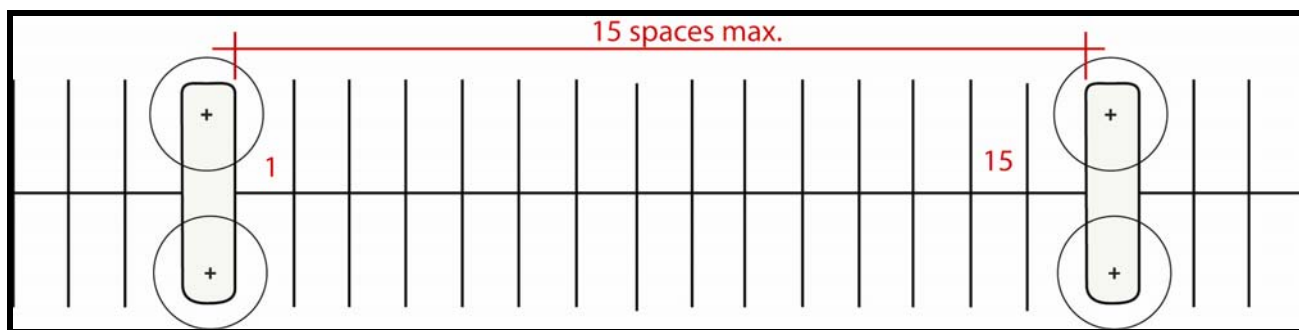


Figure 19.506.2.D-2: Additional Landscaping for Large Parking Areas

**E Other Parking Area Landscaping Provisions**

1. Preservation of existing trees is encouraged in the off-street parking area and may be credited toward the total number of trees required, based on staff's review.
2. Installation of parking area landscaping shall be required before a certificate of occupancy is issued, unless a performance bond is posted with the city. Then landscaping shall be installed within 6 months thereafter or else the bond will be foreclosed and plant materials installed by the city.
3. Parking area landscaping shall be maintained in good and healthy condition.
4. Required parking landscaping areas may serve as stormwater management facilities for the site. The Engineering Director has the authority to review and approve the design of such areas for conformance with the Public Works Standards. This allowance does not exempt the off-street parking landscape area from meeting the design or planting standards of Subsection 19.506.2.
5. Pedestrian walkways are allowed within perimeter and interior landscape buffer if the landscape buffer is at least 2 ft wider than required in Subsections 19.506.2.C.1 and 19.506.2.D.3.b.

19.506.3 Additional Design Standards**A. Paving and Striping**

Paving and striping are required for all required maneuvering and standing areas. Off-street parking areas shall have a durable and dust-free hard surface, shall be maintained for all-weather use, and shall be striped to show delineation of parking spaces and directional markings for driveways and access ways. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.

B. Wheel Stops

Parking bumpers or wheel stops, of a minimum of 4 in. in height, shall be provided at parking spaces to prevent vehicles from encroaching on the street right-of-way, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas.

C. Site Access and Drive Aisles

Exhibit B: Chapter 19.500 (new)

1. Accessways to parking areas shall be the minimum number necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveway approaches shall comply with the access spacing standards of Chapter 12.16.
2. Drive aisles shall meet the dimensional requirements in Subsection 19.506.1.
3. Parking drive aisles shall align with the approved driveway access and shall not be wider than the approved driveway access within 10 ft of the right of way boundary.
4. Along collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk, or from the right of way boundary where no sidewalk exists.
5. Along collector and arterial streets, no gate shall be allowed across a driveway or portion of a driveway that provides ingress to the site unless it is located at least 30 ft from the back of the sidewalk, or from the right of way boundary if no sidewalk exists.
6. Driveways and on-site circulation shall be designed so that vehicles enter the right of way in a forward motion.

D. Pedestrian Access and Circulation

Subsection 19.403.12 establishes standards that are applicable to an entire property for on-site walkways and circulation. The purpose of Subsection 19.506.3.D is to provide safe and convenient pedestrian access routes specifically through off-street parking areas.

Walkways required by Subsection 19.506.3.D are considered part of the on-site walkway and circulation system required by Subsection 19.403.12.

1. Pedestrian access shall be provided for off-street parking areas so that no parking space is further than 100 ft away, measured along vehicle drive aisles, from a building entrance, or a walkway that meets the standards of this Subsection 19.506.3.D.2.
2. Walkways through off-street parking areas must be continuous, must lead to a building entrance, and meet the design standards of Subsection 19.403.12.E.

E. Internal Circulation**1. General Circulation**

The Planning Director has the authority to review the pedestrian, bicycle, and vehicular circulation of the site and impose conditions to ensure safe and efficient on-site circulation. Such conditions may include, but are not limited to, on-site signage, pavement markings, addition or modification of curbs, and modifying drive aisle dimensions.

2. Connections to Adjacent Parking Areas

Where feasible, parking areas shall be designed to connect with parking areas on adjacent sites to eliminate the use of the street for cross movements.

3. Drive-Through Uses and Queuing Areas

The following standards apply to uses with drive-through services and uses such as gas stations and quick vehicle service facilities where vehicles queue rather than park on the site. The Planning Director has the authority to determine when the standards apply to a proposed use.

Exhibit B: Chapter 19.500 (new)

- a. The drive-up/drive-through facility shall be along a building face that is oriented to an alley, driveway, or interior parking area, and shall not be on a building face oriented toward a street.
- b. None of the drive-up, drive-in, or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within 20 ft of the right-of-way.
- c. Queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way. Applicants may be required to submit additional information regarding the expected frequency and length of queues for a proposed use.

F. Lighting

Lighting is required for parking areas with more than 10 spaces. The Planning Director may require lighting for parking areas of less than 10 spaces if the parking area would not be safe due to the lack of lighting. Lighting shall be designed to enhance safe access for vehicles and pedestrians on the site, and shall meet the following standards:

1. Lighting luminaires shall have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.
2. Parking area lighting shall not cause a light trespass of more than 0.5 foot candles measured vertically at the boundaries of the site.
3. Pedestrian walkways and bicycle parking areas in off-street parking areas shall have a minimum illumination level of 0.5 foot candles, measured horizontally at the ground level.

19.507 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS**19.507.1 Residential Driveways and Vehicle Parking Areas**

This section is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.507.1 apply to passenger vehicles and off-street parking areas for single family attached dwellings, single family detached dwellings, and residential homes in all zones.

A. Dimensions

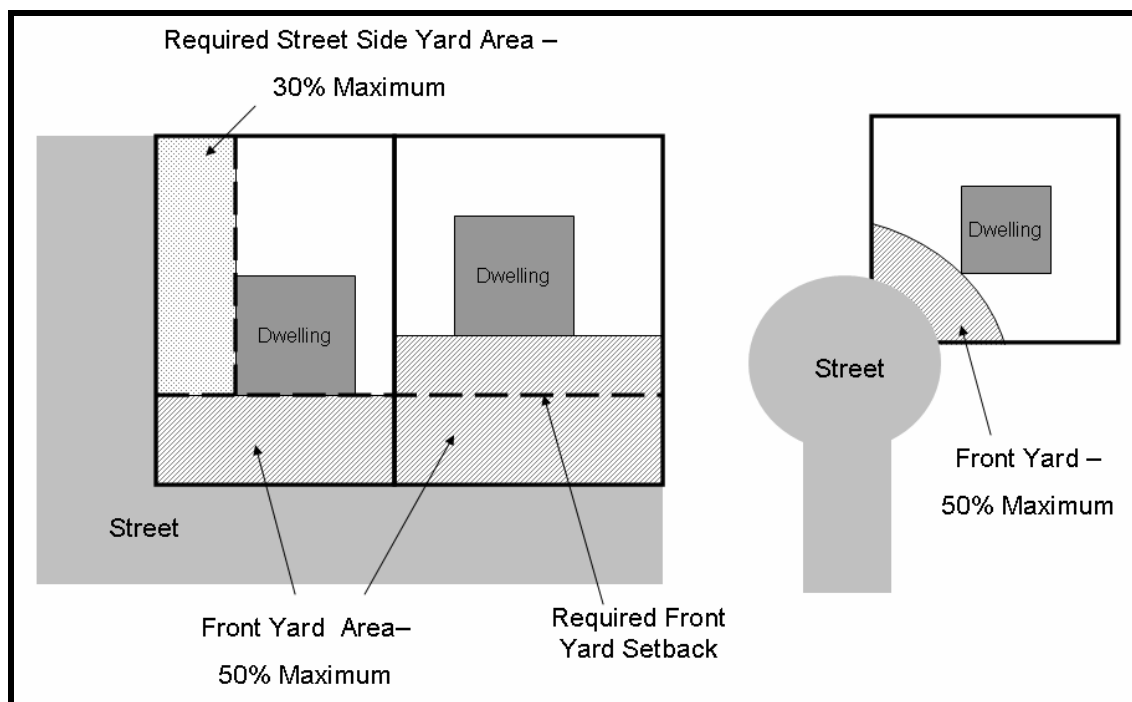
Off-street parking space dimensions for required parking spaces are 9 ft wide by 18 ft deep.

B. Location

1. Off-street parking for vehicles in residential zones shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.505.4.
2. Uncovered standing and maneuvering areas for vehicles, and for Recreational Vehicles and Pleasure Craft as described in Subsection 19.507.2.B, have the following area limitations. See Figure 19.507.1.D - 1. The pole portion of a flag lot is not included in these area limitations.
 - a. Uncovered standing and maneuvering areas cannot exceed 50% of the front yard area.
 - b. Uncovered standing and maneuvering areas cannot exceed 30% of the required street side yard area.

Exhibit B: Chapter 19.500 (new)

Figure 19.507.1.D-2: Front and Street Side Yard Parking Area Limits

**C. Covered Parking Areas**

Off-street parking areas may be located in fully or partially enclosed areas that are attached to or detached from the primary structures. Such structures are subject to the development standards of the Zoning Ordinance. Covered off-street parking spaces must have access to the right of way over a durable, hard surfaced path at least 9 ft in width and that meets the materials standards of Subsection 19.507.1.D.1.

D. Uncovered Parking Areas

Uncovered parking of vehicles on residential properties shall be permitted only on the surfaces described below.

1. Off-street parking areas shall have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff. Driveway strips are permitted so long as the wheels of a standard width vehicle remain on the driveway strips while parked or maneuvering on site.
2. For single family attached and detached dwellings, gravel is a permitted surface for vehicle parking spaces that are in excess of the minimum amount of spaces required by Chapter 19.500. Gravel is also acceptable for maneuvering areas created to reach excess standing areas. Graveled parking or maneuvering areas are not allowed within any required front yard or side yard.
3. For residential homes, gravel is not an acceptable standing or maneuvering surface.

E. Additional Driveway Standards

Exhibit B: Chapter 19.500 (new)

1. Parking areas and driveways on the property shall align with the approved driveway access and shall not be wider than the approved driveway access within 10 ft of the right of way boundary.
2. Except for driveways along streets classified as local, no gate shall be allowed across a driveway or portion of a driveway that provides ingress to the site unless it is located at least 20 ft from the back of the sidewalk, or from the right of way boundary if no sidewalk exists.
3. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right of way in a forward motion.

19.507.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

This section is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.507.2 apply to passenger vehicles and off-street parking areas for single family attached dwellings and single family detached dwellings in all zones.

- A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on single-family attached or single-family detached properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in one day if the vehicle is engaged in loading or unloading materials for a residence(s).
- B. Recreational vehicles and pleasure crafts on single-family attached or detached properties must comply with the following regulations.
 1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft in length shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.
 2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a single family attached or detached dwelling.
 3. A recreational vehicle or pleasure craft may be parked anywhere on a residential lot for up to 24 hours for the purposes of loading or unloading the vehicle.
 4. A recreational vehicle or pleasure craft is encouraged to be parked or stored in the side or rear yard area of a residential lot.
 5. Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsection 19.507.1.C.1 or 19.507.1.C.2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.507.1.C.2. The prohibitions in Subsection 19.507.1.C.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked.

Exhibit B: Chapter 19.500 (new)

19.508 LOADING**19.508.1 General Provisions**

- A. The purpose of off-street loading areas is to contain loading activity of goods on-site and avoid conflicts with travel in the public right of way; provide for safe and efficient traffic circulation on the site; and minimize the impacts of loading areas to surrounding properties.
- B. Off-street loading areas may be required for commercial, industrial, public, and semipublic uses for the receipt or distribution of merchandise, goods, or materials by vehicles. Off-street loading is not required in the Downtown Storefront and Downtown Office zones.

19.508.2. Number of Loading Spaces

The Planning Director shall determine whether to require off-street loading for commercial, industrial, public, and semipublic uses. The ratios listed below should be the minimum required unless the Planning Director finds that a different number of loading spaces are needed upon reviewing the loading needs of a proposed use.

A. Residential Buildings

Buildings where all of the floor area is in residential use should meet the following standards.

- 1. Fewer than 50 dwelling units on a site that abuts a local street: No loading spaces are required.
- 2. All other buildings: 1 loading space.

B. Nonresidential and Mixed Use Buildings

Buildings where any floor area is in nonresidential uses should meet the following standards.

- 1. Less than 20,000 sq ft total floor area: No loading spaces required.
- 2. 20,000 to 50,000 sq ft of total floor area: 1 loading space.
- 3. More than 50,000 sq ft of total floor area: 2 loading spaces.

19.508.3 Loading Space Standards

- A. Loading spaces shall be at least 35 ft long and 10 ft wide, and shall have a height clearance of at least 13 ft
- B. Loading areas shall be provided on the site and be separate from parking spaces.
- C. Off-street loading areas shall have a durable and dust-free hard surface. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.
- D. Lighting of loading areas shall conform to the standards of Subsection 19.506.3.F.
- E. Off-street loading areas for materials and merchandise shall be located outside of the minimum front and side yard requirements for structures.
- F. Off-street loading areas shall be located where not a hindrance to drive aisles, walkways, public or private streets, or adjacent properties.

19.509 BICYCLE PARKING

19.509.1 Applicability

Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development. Temporary and seasonal uses (e.g., fireworks and Christmas tree stands) and storage units are exempt from Section 19.509. Bicycle parking shall be provided in the downtown zones and at transit centers.

19.509.2 Quantity of Spaces

- A. The number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use. In no case shall less than 2 spaces be provided. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.
- B. Covered or Enclosed Bicycle Parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (lockers) in either of the following situations.
 - 1. When 10% or more of vehicle parking is covered.
 - 2. If more than 10 bicycle parking spaces are required.

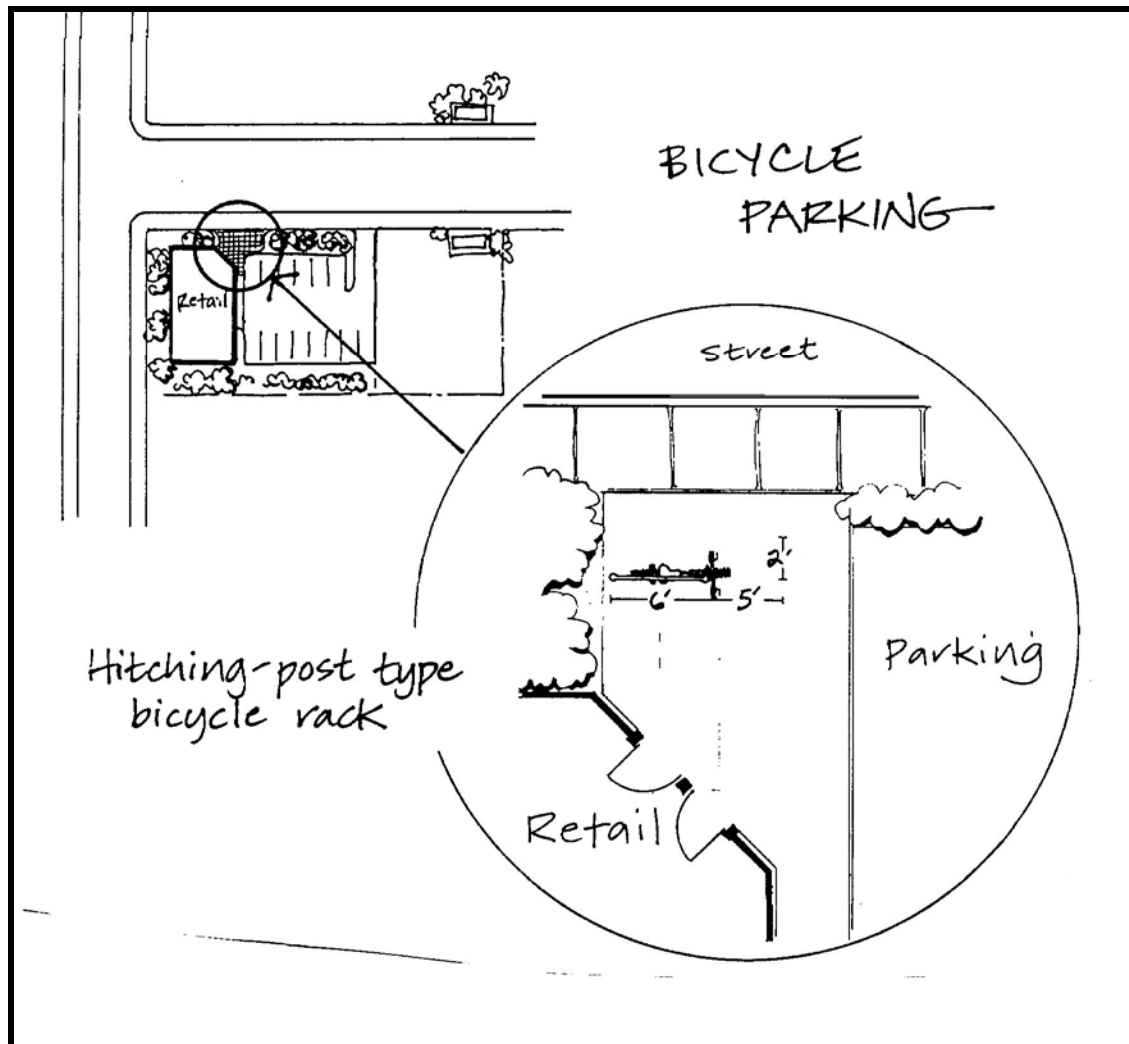
19.509.3 Space Standards and Racks

- A. The dimension of each bicycle parking space shall be a minimum of 2 ft by 6 ft. A 5 foot wide access aisle must be provided. If spaces are covered, 7 ft of overhead clearance must be provided. Bicycle racks must be securely anchored and designed to allow the frame and 1 wheel to be locked to a rack using a high security, U-shaped, shackle lock.
- B. Lighting shall conform to the standards of Subsection 19.506.3.F.

19.509.4 Location

- A. Bicycle parking facilities shall meet the following requirements.
 - 1. Located within 50 ft of the main building entrance.
 - 2. Closer to the entrance than the nearest non-ADA designated vehicle parking space.
 - 3. Designed to provide direct access to a public right-of-way.
 - 4. Dispersed for multiple entrances.
 - 5. In a location that is visible to building occupants or from the main parking lot.
 - 6. Designed not to impede pedestrians along sidewalks or public rights-of-way.
 - 7. Separated from vehicle parking areas by curbing or other similar physical barriers.
- B. The public right-of-way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's front entrance. The bicycle parking area in the right-of-way must leave a clear, unobstructed width of sidewalk that meets the Engineering Department's Public Works Standards for sidewalk passage. See Figure 19.509 for illustration of space and locational standards. A Right-of-Way permit is required.

Figure 19.509: Bicycle Parking

**19.510 CARPOOL AND VANPOOL PARKING****19.510.1 Applicability**

New industrial, institutional, and commercial development with 20 or more required parking spaces shall provide carpool/vanpool parking.

19.510.2 Number of Spaces

The number of carpool/vanpool parking spaces shall be at least 10% of the minimum amount of required parking spaces. The minimum amount of required parking spaces shall take into account the reduction allowed by Subsection 19.505.3.B.4.

19.510.3 Location

Parking for carpools/vanpools shall be located closer to the main entrances of the building than other employee or student parking, except ADA spaces.

19.510.4 Standards

Carpool/vanpool spaces shall be clearly designated with signs or pavement markings for use only by carpools/vanpools.

19.511 PARKING STRUCTURES

The purpose of Section 19.511 is to regulate the design and location of structured parking, and to provide appropriate incentives for the provision of structured parking. Structured parking is allowed to accommodate parking that is required for a specific use, or as a parking facility that is a use by itself.

19.511.1 Permitted Zones and Review Procedures

- A. Parking structures, including underground parking, are allowed in all zoning districts except the R-10, R-7, R-5, and Downtown Open Space zones. A parking structure can be permitted through approval of a Community Service Use application in all zones except the Downtown Open Space zone.
- B. Applications for parking structures with fewer than 20 spaces are subject to Type II review, per the procedures of Subsection 19.1011.2. Applications for parking structures with 20 spaces or more shall be reviewed by the planning commission at a public hearing per Subsection 19.1011.3 Minor Quasi-Judicial Review. The Planning Commission may impose conditions on the proposed structure to make it compatible with surrounding properties.

19.511.2 Compliance with Other Sections of Chapter 19.500

- A. Spaces in parking structures can be used to satisfy the minimum quantity requirements of Section 19.505. Spaces in parking structures are exempt from counting against maximum parking allowances if the spaces are utilized for types of parking listed in Subsection 19.505.3.A.
- B. The space and drive aisle dimensions required in Subsection 19.506.1 shall apply to structured parking unless the applicant requests that the dimensions be reduced. Dimensions may be reduced if the applicant can demonstrate that the reduced dimensions can safely accommodate parking and maneuvering for standard passenger vehicles.
- C. In addition to the standards in Subsection 19.511.3, parking structures shall comply with the development standards, design standards, and design guidelines for the base zone(s) in which the structure will be located.

19.511.3 Standards and Design Criteria for Structured Parking

- A. A minimum of 75% of the length of any façade of a parking structure that faces a street shall provide ground-floor windows or wall openings. Blank walls are prohibited.
- B. The structure shall be compatible with related structures on the lot in terms of appearance, size, scale, and bulk.
- C. The required yard setbacks between the property line and the structure shall be landscaped per the requirements of Subsection 19.506.2.D.3.
- D. The structure shall provide safe pedestrian connections between parking structure and the public sidewalk or principal building.

Exhibit B: Chapter 19.500 (new)

- E. The structure shall provide adequate lighting to ensure motorist and pedestrian safety within the structured parking facility and connecting pedestrian ways to the principal building.

19.511.5 Incentives for Provision of Structured Parking.

- A. An applicant shall be allowed an additional 0.5 sq ft of floor area above the maximum allowed floor area ratio for every 1 square foot of structured parking provided. The applicant shall meet the other requirements of the development standards for the base zone in which it is located.
- B. If structured parking is underground, the applicant shall be relieved from Subsection 19.511.3.C and can locate the underground structure within any part of the setback and yard area.

**Underline/Strikeout Amendments to
Chapters 19.100, 19.300, 19.400, 19.600, 19.700, and 19.1500**

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.103 DEFINITIONS

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including accessory parking. ~~any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.~~

“Accessory parking” means off-street parking that serves the parking demand of a specific use(s). Accessory parking is distinct from a “parking facility,” as defined in Section 19.103.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; ~~but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops. The keeping or raising of pigs, furbearing animals, or fowl, excluding roosters, is allowed only if the keeping or raising of such animals is clearly incidental to the principal use of the property for the raising of crops.~~

“~~Commercial p~~Parking facility” means any off-street parking area ~~a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking. Accessory parking areas that occasionally charge the public to park for nearby events are not considered parking facilities.~~

“Commercial vehicle” means a vehicle designed or used primarily for commercial purposes, and which is either 9 ft tall or taller as measured from ground height, or has an enclosed storage area greater than 6 ft in height and 9 ft in length. Recreational vehicles that are not used for profit are not considered commercial vehicles.

“New construction” means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction can also occur on sites with existing structures. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

“Parking space” means an area available for the parking of a standard ~~American~~ automobile. ~~or compact size.~~

“Story” means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than 6 ft ~~feet~~ above grade for more than 50% of the total perimeter or is more than 10 ft ~~feet~~ above grade at any point, such basement or unused under-floor space shall be considered as a story.

“Half-story” means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 ft ~~feet~~ above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 ft ~~feet~~ above grade, for more than 50% of the total perimeter ~~or~~ and is not more than 10 ft ~~feet~~ above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

Exhibit C: Underline/Strikeout Amendments

“Structured parking” means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, is entirely covered, and has a parking surface at least 8 ft below grade. Structured parking does not include garages or carports.

CHAPTER 19.300 USE ZONES**19.312 DOWNTOWN ZONES****19.312.4 Development Standards****B. Explanation of Development Standards****10. Off-Street Parking**

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.505. the sections of Chapter 19.500 listed below .Off-Street Parking Requirements. All other standards and provisions of Chapter 19.500 are applicable.

(1) The maximum and minimum quantity requirements for vehicle parking in Section 19.505.

(2) Parking areas with ten or fewer spaces are exempt from the landscaping requirements of Subsection 19.506.2.

- b. With the exception of the two areas identified in Subsection 19.312.4.B.10.a above, the minimum and maximum parking standards specified in standards and provisions of Chapter 19.500 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 feet of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 feet of the Main Street right-of-way only on the finding in a public hearing that:
 - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
 - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
 - (3) The community need for the off-street parking area or curb cut within 50 feet of Main Street outweighs the need to provide a continuous façade of buildings in that area.

19.314 MANUFACTURING ZONE M**19.314.1 Permitted Uses**

Permitted uses are limited to industrial uses meeting the following criteria:

Exhibit C: Underline/Strikeout Amendments

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.314.1.B ~~19.314.2.B~~ below. The combined uses shall provide at least 10 employees per net acre.

19.318 MIXED USE OVERLAY ZONE MU

19.318.7 Application Materials

An application for a mixed use overlay review shall include the following:

- J. ~~12 copies of d~~Detailed and dimensioned plans, drawn to scale for the specific project, including, but not limited to, the site development plan, building elevations, floor plans, landscaping plan, and parking plan. These plans shall show lot dimensions based on a survey of the property; existing and proposed property boundaries; the distance from structures to property lines and between structures; the building footprint with all projections; and location of driveways, walkways, paved areas, and disabled access and parking. Parking shall address all requirements of Chapters 19.500 and 19.1400 of the Zoning Ordinance;

19.320 WILLAMETTE GREENWAY ZONE

19.320.5 Procedures

The following procedures shall govern the application of WG Zones:

- E. Submittal Requirements

A vegetation/buffer plan must be submitted for each application for a greenway conditional use permit. A buffer plan is required only if the proposed development impacts the vegetation buffer defined in Subsection 19.320.8.

19.320.6 Criteria

The following shall be taken into account in the consideration of a conditional use:

- H. Protection of the natural environment according to regulations in Section 19.322 ~~the Natural Resource overlay Zone~~;

19.321 COMMUNITY SERVICE USE CSU

19.321.4 Notice Requirements

Except as provided in Subsections ~~19.321.5.C~~ 19.321.6.C and 19.321.14, Wireless Communication Facilities, the Planning Commission shall hold a public hearing for a community service use request per the procedures outlined in Subsection 19.1011.3.C Minor Quasi-Judicial Review, Community Service Use.

19.321.9 ~~Review of Application~~ (Repealed by Ord. _____)

~~Upon receipt of an application, the Director shall:~~

- A. ~~Review the application for completeness and shall either accept the application or return it to the applicant with a written list of omissions within 7 calendar days of the date of submittal. Date of acceptance shall be noted.~~
- B. ~~A preapplication conference may be scheduled at the request of either the applicant or staff.~~

Exhibit C: Underline/Strikeout Amendments

- C. ~~As soon as an application is accepted as complete, notice will be sent if required by Section 19.1011.~~
- D. ~~A field visit to the site will be required prior to preparation of the staff report.~~

19.321.12 Specific Standards for Institutions – Public, Private, Religious, and Other Facilities not Covered by Other Standards

- J. Park-and-ride facilities may be encouraged for institutions along transit routes that do not have days and hours in conflict with weekday uses (e.g., religious institutions or fraternal organizations). Such uses may be encouraged to allow portions of their parking areas to be used for park-and-ride lots. Park-and-ride facilities may be encouraged for institutions along transit routes. These uses have days and hours not in conflict with weekday uses (e.g., churches or fraternal organizations) and may be encouraged to allow portions of their parking areas to be used for park-and-ride lots.

CHAPTER 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.402 ACCESSORY STRUCTURES AND USES

19.402.3 Accessory Uses, General Provisions

- C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number. ~~and shall require the written consent of all owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept. The keeping of roosters is prohibited.~~

19.403 SITE AND BUILDING DESIGN PROVISIONS

19.403.1 ~~Storage in front yard. (Repealed by Ord. _____)~~

~~Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.~~

CHAPTER 19.600 CONDITIONAL USES

19.602 STANDARDS GOVERNING CONDITIONAL USES

19.602.10 Type 2 Accessory Dwelling Unit.

A Type 2 accessory dwelling unit may be allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition.

- A. Requirements for conversion of existing space or addition:
2. Off-street parking shall be provided in accordance with Chapter 19.500 ~~One 1 off-street parking space is provided for the accessory unit in addition to the required parking for the primary dwelling;~~

CHAPTER 19.700 VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT EXCEPTIONS

19.708 CIRCUMSTANCES FOR GRANTING HOME IMPROVEMENT EXCEPTIONS

- A. There are conditions applicable to the property, or the existing structure has a design, such that the proposed project would result in only minor exterior changes.
- B. The home improvement exception sustains the integrity of or enhances an existing design concept or the neighborhood character.
- C. The granting of the application will not be detrimental or injurious to the property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.
- D. The home improvement exception only authorizes uses or activities that are permitted by the zoning district.
- E. The home improvement exception is consistent with the objectives of the Comprehensive Plan and Zoning Ordinance.

In determining whether to approve or deny exceptions pursuant to Section 19.708 ~~this section~~, the Planning Director shall consider such applicable residential design guidelines as may be adopted for the neighborhood district in which the site is located.

A home improvement exception can be used to legalize a situation that is in violation of the Building Code or Zoning Ordinance. However, a home improvement exception shall not be granted for a structure if a Building Code or Zoning Ordinance violation other than the violation being addressed by the home improvement exception exists at the site. A Building Code violation cannot be used to justify the integrity of an existing design concept, and a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected.

CHAPTER 19.1500 BOUNDARY CHANGES

19.1502 ANNEXATIONS

19.1502.2 The Petition

- C. An annexation petition shall include the completed petition form and the following information ~~13 copies of each of the following, except for each drawing submitted there shall be 12 at the original scale and 1 copy reduced to an 8½ by 11 inch paper size.~~

**Clean Copy Amendments to
Chapters 19.100, 19.300, 19.400, 19.600, 19.700, and 19.1500**

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.103 DEFINITIONS

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including accessory parking.

“Accessory parking” means off-street parking that serves the parking demand of a specific use(s). Accessory parking is distinct from a “parking facility,” as defined in Section 19.103.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry. The keeping or raising of pigs, furbearing animals, or fowl, excluding roosters, is allowed only if the keeping or raising of such animals is clearly incidental to the principal use of the property for the raising of crops.

“Parking facility” means any off-street parking area that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking. Accessory parking areas that occasionally charge the public to park for nearby events are not considered parking facilities.

“Commercial vehicle” means a vehicle designed or used primarily for commercial purposes, and which is either 9 ft tall or taller as measured from ground height, or has an enclosed storage area greater than 6 ft in height and 9 ft in length. Recreational vehicles that are not used for profit are not considered commercial vehicles.

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“Parking space” means an area available for the parking of a standard automobile.

“Story” means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than 6 ft above grade for more than 50% of the total perimeter or is more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a story.

“Half-story” means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 ft above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 ft above grade, for more than 50% of the total perimeter and is not more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

“Structured parking” means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, is entirely covered, and has a parking surface at least 8 ft below grade. Structured parking does not include garages or carports.

Exhibit D: Clean Copy Amendments

CHAPTER 19.300 USE ZONES

19.312 DOWNTOWN ZONES

19.312.4 Development Standards

B. Explanation of Development Standards

10. Off-Street Parking

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.505
- b. With the exception of the two areas identified in Subsection 19.312.4.B.10.a above, standards and provisions of Chapter 19.500 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 feet of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 feet of the Main Street right-of-way only on the finding in a public hearing that:
 - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
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19.314 MANUFACTURING ZONE M

19.314.1 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.314.1.B below. The combined uses shall provide at least 10 employees per net acre.

19.318 MIXED USE OVERLAY ZONE MU

19.318.7 Application Materials

An application for a mixed use overlay review shall include the following:

- J. Detailed and dimensioned plans, drawn to scale for the specific project, including, but not limited to, the site development plan, building elevations, floor plans, landscaping plan, and parking plan. These plans shall show lot dimensions based on a survey of the property; existing and proposed property boundaries; the distance from structures to property lines

Exhibit D: Clean Copy Amendments

and between structures; the building footprint with all projections; and location of driveways, walkways, paved areas, and disabled access and parking. Parking shall address all requirements of Chapters 19.500 and 19.1400 of the Zoning Ordinance;

19.320 WILLAMETTE GREENWAY ZONE

19.320.5 Procedures

The following procedures shall govern the application of WG Zones:

E. Submittal Requirements

A vegetation/buffer plan must be submitted for each application for a greenway conditional use permit. A buffer plan is required only if the proposed development impacts the vegetation buffer defined in Subsection 19.320.8.

19.320.6 Criteria

The following shall be taken into account in the consideration of a conditional use:

H. Protection of the natural environment according to regulations in Section 19.322;

19.321 COMMUNITY SERVICE USE CSU

19.321.4 Notice Requirements

Except as provided in Subsections 19.321.6.C and 19.321.14, Wireless Communication Facilities, the Planning Commission shall hold a public hearing for a community service use request per the procedures outlined in Subsection 19.1011.3.C Minor Quasi-Judicial Review, Community Service Use.

19.321.9 (Repealed by Ord. _____)

19.321.12 Specific Standards for Institutions – Public, Private, Religious, and Other Facilities not Covered by Other Standards

- J. Park-and-ride facilities may be encouraged for institutions along transit routes that do not have days and hours in conflict with weekday uses (e.g., religious institutions or fraternal organizations). Such uses may be encouraged to allow portions of their parking areas to be used for park-and-ride lots.

CHAPTER 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.402 ACCESSORY STRUCTURES AND USES

19.402.3 Accessory Uses, General Provisions

- C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number. The keeping of roosters is prohibited.

19.403 SITE AND BUILDING DESIGN PROVISIONS

19.403.1 (Repealed by Ord. _____)

CHAPTER 19.600 CONDITIONAL USES

19.602 STANDARDS GOVERNING CONDITIONAL USES

19.602.10 Type 2 Accessory Dwelling Unit.

A Type 2 accessory dwelling unit may be allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition.

- A. Requirements for conversion of existing space or addition:
 - 2. Off-street parking shall be provided in accordance with Chapter 19.500;

CHAPTER 19.700 VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT EXCEPTIONS

19.708 CIRCUMSTANCES FOR GRANTING HOME IMPROVEMENT EXCEPTIONS

- A. There are conditions applicable to the property, or the existing structure has a design, such that the proposed project would result in only minor exterior changes.
- B. The home improvement exception sustains the integrity of or enhances an existing design concept or the neighborhood character.
- C. The granting of the application will not be detrimental or injurious to the property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.
- D. The home improvement exception only authorizes uses or activities that are permitted by the zoning district.
- E. The home improvement exception is consistent with the objectives of the Comprehensive Plan and Zoning Ordinance.

In determining whether to approve or deny exceptions pursuant to Section 19.708, the Planning Director shall consider such applicable residential design guidelines as may be adopted for the neighborhood district in which the site is located.

A home improvement exception can be used to legalize a situation that is in violation of the Building Code or Zoning Ordinance. However, a home improvement exception shall not be granted for a structure if a Building Code or Zoning Ordinance violation other than the violation being addressed by the home improvement exception exists at the site. A Building Code violation cannot be used to justify the integrity of an existing design concept, and a final building permit inspection for a home improvement exception may not occur until all building violations have been corrected.

CHAPTER 19.1500 BOUNDARY CHANGES

19.1502 ANNEXATIONS

19.1502.2 The Petition

- C. An annexation petition shall include the completed petition form and the following information:



Milwaukie Municipal Code Proposed Code Amendments

April 19, 2010

File No. ZA-10-01

Please contact Ryan Marquardt, Associate Planner with the City of Milwaukie Planning Department, at 503-786-7658 or marquardtr@ci.milwaukie.or.us with questions or comments about the proposed code amendments and/or the code adoption process.

Proposed Code Amendment with Commentary

Underline/strikeout changes shown in this document for sections of Chapter 19.500 indicate changes from the proposed code presented in Attachment 2 of the March 23, 2010 staff report for ZA-10-01.

The commentary indicates the rationale for these changes. The proposed code pages in this document indicate the pages from Attachment 2 to the March 23, 2010 staff report are being replaced.

19.502.4

B. Typographical error.

Replaces Page 5 of 98**19.502 APPLICABILITY****19.502.1 General Applicability**

The regulations of Chapter 19.500 apply to all off-street parking areas and off-street loading areas, whether required by the City as part of development or a change in use, per Subsection 19.502.3, or voluntarily installed for the convenience of users, per Subsection 19.502.4. Activity that is not described by Subsections 19.502.3 or 19.502.4 is exempt from compliance with the provisions of Chapter 19.500. Changes to nonconforming off-street parking and loading are addressed through Chapter 19.500 and not through the provisions of Chapter 19.800.

19.502.2 Maintenance Applicability

Property owners shall comply with the regulations of Chapter 19.500 by ensuring conformance with the standards of Chapter 19.500 related to ongoing maintenance, operations, and use of off-street parking and loading areas. Changes to existing off-street parking or loading areas that bring the area out of conformance with Chapter 19.500, or further out of conformance if already nonconforming, are prohibited.

19.502.3 Applicability for Development and Change in use Activity

The provisions of Chapter 19.500 apply to development and changes of use as described in Subsection 19.502.3.

- A. Development of a vacant site shall have off-street parking and off-street loading areas that conform to the requirements of Chapter 19.500. Development of a site that results in an increase of 100% or more of the existing floor area and/or structure footprint on a site shall also conform to the requirements of Chapter 19.500. The floor area and/or footprint of structures demolished prior to development or redevelopment on the site shall not be considered when calculating the increase in floor area and/or structural footprints.
- B. Existing off-street parking and loading areas shall be brought closer into conformance with the standards of Chapter 19.500, per Subsection 19.502.5, when the following types of development or change in use occur.
 - 1. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint.
 - 2. Changes of use, as defined in Section 19.103.

19.502.4 Applicability not Associated With Development or Change in Use

- A. Any parking or loading area developed to serve an existing use(s) that is not associated with development activity or a change in use described in Subsection 19.502.3 shall conform to the requirements of Sections 19.504 and 19.506-19.511. The total number of spaces in the existing parking area and new parking area shall not exceed the maximum allowed quantity of parking as established in Section 19.505.
- B. Any parking or loading area that is not developed to serve an existing ~~existing~~ use and is not associated with development activity or a change in use as described in Subsection 19.502.3 shall conform to the requirements Sections 19.504 and 19.506-19.511. The requirements of Section 19.505 do not apply to parking areas described under Subsection 19.502.4.

Proposed Code Amendment with Commentary

Table 19.505.1

There are two areas of change to the table that was presented to the Planning Commission on March 23, 2010.

The first is to change the minimum required ratio for single family dwellings (A.1) and Residential homes (A.3) from 2 spaces per dwelling unit to 1 space per dwelling unit.

The second change concerns the floor area used for calculation of parking ratios. In some instances, the proposed code did not indicate that a square foot measurement applied to floor area, and so the phrase "of floor area" was added. There was also inconsistency between the use of "floor area" and "gross floor area". The proposal has been changed to use only 'floor area'. Though not defined in Section 19.103, staff's research found that gross floor area typically has the same meaning as the existing definition for "floor area" in Section 19.103.

Proposed Code Amendment with Commentary

Table Replaces Pages 15-17 of 98

Table 19.505.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single family dwellings, including manufactured homes.	1 space 2 spaces per dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing). a. Dwelling units with 800 sq ft of floor area or less. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit 2 spaces per facility plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory Dwelling Units (ADU) -Types I and II.	Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.
B. Community Service and Other Public Uses		
1. Religious institutions.	1 space per 4 seats.	1 space per 2 seats.
2. Day-care center ("family day-care" as defined in Section 19.103 has no parking requirements).	2 spaces per 1,000 sq ft of floor area.	3.5 spaces per 1,000 sq ft of floor area.
3. School—elementary or junior high.	1 space per classroom.	2 spaces per classroom.
4. School—senior high.	0.25 spaces per student, plus 1 space per staff.	0.33 spaces per student, plus 1 space per staff.
5. Meeting room, club, lodge, or association.	5 spaces per 1,000 sq ft of floor area, or 1 space per 4 seats if seats are permanently installed.	16.66 spaces per 1,000 sq ft of floor area, or 1 space per 3 seats if seats are permanently installed.
6. Library, museum, art gallery.	1 space per 1,000 sq ft of gross floor area.	1.2 spaces per 1,000 sq ft of gross floor area.
7. Nursing, convalescent, and extended-care facilities	1 space per 4 beds.	1 space per 3 beds.
C. Lodging Places		

Proposed Code Amendment with Commentary

1. Motel, hotel, boarding house.	1 space per lodging unit.	1.5 spaces per lodging unit.
2. Bed and breakfast establishments.	1 space per lodging unit, plus 1 space for the permanent residence.	1.5 spaces per lodging unit, plus 2 spaces for the permanent residence.
D. Commercial Uses—Recreational		
1. Indoor Recreation, such as a health club, gym, bowling alley, arcades, etc.	3 spaces for each 1,000 sq ft of gross floor area.	5.5 spaces per 1,000 sq ft of gross floor area.
2. Theater, auditorium, or stadium	1 space per 4 seats.	1 space per 3 seats.
E. Commercial Uses—Retail Goods		
1. Eating and drinking establishments	4 spaces per 1,000 sq ft of <u>floor area</u> .	15 spaces per 1,000 sq ft of <u>floor area</u> .
2. General retail – grocery stores, convenience stores, specialty retail and shops	2 spaces per 1,000 sq ft of floor area.	5 spaces per 1,000 sq ft of gross floor area.
3. Bulk retail – furniture and home furnishing, appliances, vehicles, building materials, and similar large items	1 space per 1,000 sq ft of floor area.	3 spaces per 1,000 sq ft of gross floor area.
4. Gas stations	No minimum	1.25 spaces per 4 pumps.
F. Commercial Uses—Services		
1. General Office, including banks	2 spaces per 1,000 sq ft of <u>floor area</u> .	3.4 spaces per 1,000 sq ft of <u>floor area</u> .
2. Medical/ dental office (non-hospital), veterinary clinic	3.9 spaces per 1,000 sq ft of floor area.	4.9 spaces per 1,000 sq ft of floor area.
3. Personal services, such as a barber shop, beauty parlor, etc.	4 spaces per 1,000 square floor area.	5.4 spaces per 1,000 sq ft of floor area.
4. Commercial services, such as dry cleaners <u>cleans</u> and repair shops (does not include vehicle repair).	2.8 spaces per 1,000 sq ft of gross floor area.	5.1 spaces per 1,000 sq ft of gross floor area.
5. Vehicle Repair	2 spaces per 1,000 sq ft of floor area	2.5 spaces per 1,000 sq ft of floor area
6. Quick vehicle repair and servicing, such as oil change and tire shops	2 spaces per service bay	3 spaces per service bay
7. Mortuary/Funeral Home	1 space per 5 chapel or parlor seats	1 space per 3 chapel or parlor seats
8. Car Wash	No minimum	2 spaces per wash bay for self-service washes, or 2 spaces per 1,000 sq ft of floor area for full service washes.

Proposed Code Amendment with Commentary

G. Industrial Uses		
1. Manufacturing	1 space per 1,000 sq ft of gross floor area.	2 spaces per 1,000 sq ft of gross floor area.
2. Storage, warehouse, wholesale establishment less than 150,000 sq ft	0.5 spaces per 1,000 sq ft of gross floor area	1 space per 1,000 sq ft of gross floor area.
3. Storage, warehouse, wholesale establishment 150,000 sq ft or greater	0.3 spaces per 1,000 sq ft of gross floor area	0.4 spaces per 1,000 sq ft of gross floor area.
4. Mini-warehouse; self-service storage.	1 space per 45 storage units, plus 1 space per employee of the largest shift.	1 space per 20 storage units, plus 1 space per employee of the largest shift.

Proposed Code Amendment with Commentary

19.505.2 Quantity Modifications and Required Parking Determinations

C. Approval Criteria

Removes an incorrect word from the standard.

Proposed Code Amendment with Commentary

Replaces page 29 of 98

2. In addition to the criteria in Subsection 19.505.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria.
 - a. The use of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.505.1.
 - b. The reduction of off-street parking will not adversely affect available on-street parking.
 - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site.
3. In addition to the criteria in Subsection 19.505.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria.
 - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
 - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.505.3.A.
 - c. The requested increase ~~reduction~~ is the smallest increase needed based on the specific circumstances of the use and/or site.

19.505.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.505.2.

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.505 and not to the other requirements of Chapter 19.500. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.505.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.505.1. Applicants may not utilize the reduction in Subsection 19.505.3.B.1 in conjunction with any other reduction in Subsection 19.505.3.B.

Proposed Code Amendment with Commentary

1. Reductions for Neighborhood Commercial Areas

Proposed Code Amendment with Commentary

Proposed Code Amendment with Commentary

19.506.3 Additional Design Standards

- F. The added phrase would allow the Planning Director the discretion to require lighting for small parking areas. Small parking areas would typically be near street lights and could operate safely without on-site illumination. The addition would allow the Planning Director to require lighting if a small parking is not illuminated adequately by street lighting.

Replaces Page 55 of 98**F. Lighting**

Lighting is required for parking areas with more than 10 spaces. The Planning Director may require lighting for parking areas of less than 10 spaces if the parking area would not be safe due to the lack of lighting. Lighting shall be designed to enhance safe access for vehicles and pedestrians on the site, and shall meet the following standards:

1. Lighting luminaires shall have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.
2. Parking area lighting shall not cause a light trespass of more than 0.5 foot candles measured vertically at the boundaries of the site.
3. Pedestrian walkways and bicycle parking areas in off-street parking areas shall have a minimum illumination level of 0.5 foot candles, measured horizontally at the ground level.

19.507 Off-Street Parking Standards for Residential Areas**19.507.1 Residential Driveways and Vehicle Parking Areas**

The major change from what was presented in the March 23, 2010 staff report deals with regulation of large uncovered parking areas. The regulation proposed in that draft applied to areas of over 2,500 sq ft (see subsection D.4 in the strikeout text). The new proposal would limit the amount of a front yard and street side yard that could be used for parking. This limitation would apply to standard vehicles as well as boat and RV parking. The areas of limitation are shown in a new graphic within the section.

These area limitations would apply to typical single family dwellings as well as residential homes. For typical single family dwellings, the regulations act as regulation against properties having too much of their parking adjacent to the street. A regulation of 50% of a front yard area will still allow a standard 50 ft wide residential lot to have a two-car wide driveway in the front yard. Staff believes that a large majority of single family residences already comply with this standard.

For small residential homes, the requirement would be essentially the same as for a typical single family dwelling. For large residential homes, the regulation places some limit on where parking can be located. The 24-space parking lot originally proposed for the Balfour House would not have met this standard. The revised smaller parking area that was constructed does meet this standard.

Replaces Pages 57 of 98 and 58 of 98

19.507 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.507.1 Residential Driveways and Vehicle Parking Areas

This section is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.507.1 apply to passenger vehicles and off-street parking areas for single family attached dwellings, single family detached dwellings, and residential homes in all zones.

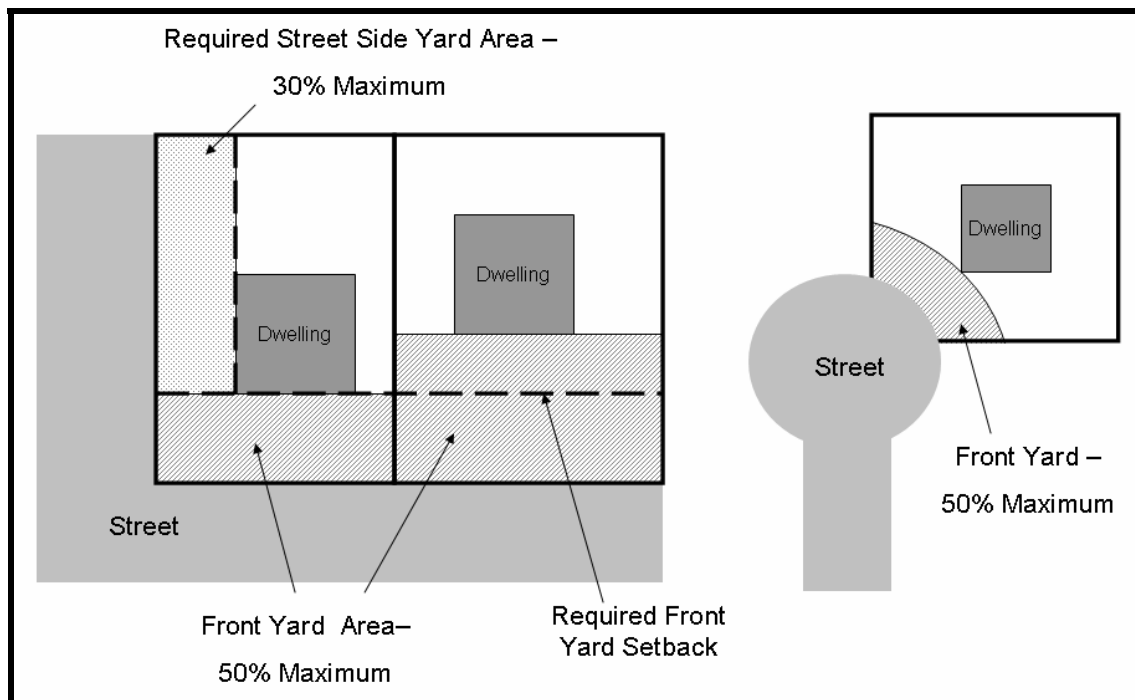
A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide by 18 ft deep.

B. Location

1. Off-street parking for vehicles in residential zones shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.505.4.
2. Uncovered standing and maneuvering areas for vehicles, and for Recreational Vehicles and Pleasure Craft as described in Subsection 19.507.2.B, have the following area limitations. See Figure 19.507.1.D - 1. The pole portion of a flag lot is not included in these area limitations. Uncovered off-street parking spaces are allowed within the required front yard and street side yard.
 - a. Uncovered standing and maneuvering areas cannot exceed 50% of the front yard area.
 - b. Uncovered standing and maneuvering areas cannot exceed 30% of the required street side yard area.

Figure 19.507.1.D-2: Front and Street Side Yard Parking Area Limits



Proposed Code Amendment with Commentary

- ~~3. No portion of an uncovered off-street parking space is allowed in a required side yard. An area shall be considered an off-street parking area if it measures at least 9 ft wide by 18 ft long and is connected to a driveway access by a durable, hard surfaced area.~~

C. Covered Parking Areas

Off-street parking areas may be located in fully or partially enclosed areas that are attached to or detached from the primary structures. Such structures are subject to the development standards of the Zoning Ordinance. Covered off-street parking spaces must have access to the right of way over a durable, hard surfaced path at least 9 ft in width and that meets the materials standards of Subsection 19.507.1.D.1. ~~The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff. Driveway strips are permitted so long as the wheels of a standard width vehicle remain on the driveway strips while parked or maneuvering on site.~~

D. Uncovered Parking Areas

Uncovered parking of vehicles on residential properties shall be permitted only on the surfaces described below.

1. Off-street parking areas shall have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff. Driveway strips are permitted so long as the wheels of a standard width vehicle remain on the driveway strips while parked or maneuvering on site.
2. For single family attached and detached dwellings, gravel is a permitted surface for vehicle parking spaces that are in excess of the minimum amount of spaces required by Chapter 19.500. Gravel is also acceptable for maneuvering areas created to reach excess standing areas. Graveled parking or maneuvering areas are not allowed within any required front yard or side yard.
3. For residential homes, gravel is not an acceptable standing or maneuvering surface.
- ~~4. Standards for large uncovered parking areas. The following standards apply to all large uncovered parking areas that have a contiguous standing and maneuvering area in excess of 2,500 sq ft. The portion of a driveway within a flag lot access pole does not count toward this threshold.~~
 - ~~a. No portion of a large uncovered parking area shall be located in a required front yard or side yard. A driveway that does not exceed 18 ft in width is allowed through the front yard setback to provide access to the parking area.~~
 - ~~b. A large uncovered parking area shall have perimeter landscaping that meets the standards of Subsection 19.506.2.C.~~

E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway access and shall not be wider than the approved driveway access within 10 ft of the right of way boundary.
2. Except for driveways along streets classified as local, no gate shall be allowed across a driveway or portion of a driveway that provides ingress to the site unless it is located at least 20 ft from the back of the sidewalk, or from the right of way boundary if no sidewalk exists.

Proposed Code Amendment with Commentary

3. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right of way in a forward motion.

Proposed Code Amendment with Commentary

19.507.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

The two changes to this subsection concern commercial vehicle storage and where RVs and boats are encouraged to be stored.

Per the Planning Commission's direction, the prohibition on parking a commercial vehicle on a residential property has been changed to a prohibition on parking a commercial vehicle in the front yard or required street side yard.

An existing code provision for the storage of boats and RVs that was proposed for deletion has been reinstated in this draft (see 19.507.2.B.4). The provision is only an encouragement, but does provide direction about where these should be stored. This phrase is bolstered by the proposed limitations on parking in a front yard and street side yard. Property owners that wish to add parking on their property have an incentive to add parking in a rear yard or side yard, if possible, since there are no limitations for parking and/or boat and RV storage in these areas.

Replaces page 61 of 98**19.507.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking**

This section is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.507.2 apply to passenger vehicles and off-street parking areas for single family attached dwellings and single family detached dwellings in all zones.

- A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on single-family attached or single-family detached properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in one day if the vehicle is engaged in loading or unloading materials for a residence(s).
~~Commercial vehicles shall not be permitted to be parked or stored on single-family attached or detached properties. Commercial vehicles may be present on these properties for up to 12 hours in one day if the vehicle is engaged in loading or unloading materials for a residence(s).~~
- B. Recreational vehicles and pleasure crafts on single-family attached or detached properties must comply with the following regulations.
 - 1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft in length shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.
 - 2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a single family attached or detached dwelling.
 - 3. A recreational vehicle or pleasure craft may be parked anywhere on a residential lot for up to 24 hours for the purposes of loading or unloading the vehicle.
 - 4. A recreational vehicle or pleasure craft is encouraged to be parked or stored in the side or rear yard area of a residential lot. Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsection 19.507.1.D.1 or 19.507.1.D.2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.507.1.D.2. The prohibitions in Subsection 19.507.1.D.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked. Recreational vehicles and pleasure crafts may access parking areas only through an approved driveway approach.
~~A recreational vehicle or pleasure craft is encouraged to be parked or stored in the side or rear yard area of a residential lot. Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsection 19.507.1.D.1 or 19.507.1.D.2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.507.1.D.2. The prohibitions in Subsection 19.507.1.D.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked. Recreational vehicles and pleasure crafts may access parking areas only through an approved driveway approach.~~
 - 5. Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsection 19.507.1.C.1 or 19.507.1.C.2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.507.1.C.2. The prohibitions in Subsection 19.507.1.C.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked.
~~Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsection 19.507.1.C.1 or 19.507.1.C.2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.507.1.C.2. The prohibitions in Subsection 19.507.1.C.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked.~~

Proposed Code Amendment with Commentary

19.508.2 Number of Loading Spaces

This edit clarifies that the space required is a loading space.

19.508.3 Loading Space Standards

The rewording makes the regulation clearer.

Replaces page 63 of 98

19.508 LOADING

19.508.1 General Provisions

- A. The purpose of off-street loading areas is to contain loading activity of goods on-site and avoid conflicts with travel in the public right of way; provide for safe and efficient traffic circulation on the site; and minimize the impacts of loading areas to surrounding properties.
- B. Off-street loading areas may be required for commercial, industrial, public, and semipublic uses for the receipt or distribution of merchandise, goods, or materials by vehicles. Off-street loading is not required in the DS and DO zones.

19.508.2 Number of Loading Spaces

The Planning Director shall determine whether to require off-street loading for commercial, industrial, public, and semipublic uses. The ratios listed below should be the minimum required unless the Planning Director finds that a different number of loading spaces are needed upon reviewing the loading needs of a proposed use.

A. Residential Buildings

Buildings where all of the floor area is in residential use should meet the following standards.

- 1. Fewer than 50 dwelling units on a site that abuts a local street: No loading spaces are required.
- 2. All other buildings: 1 loading space.

B. Nonresidential and Mixed Use Buildings

Buildings where any floor area is in nonresidential uses should meet the following standards.

- 1. Less than 20,000 sq ft total floor area: No loading spaces required.
- 2. 20,000 to 50,000 sq ft of total floor area: 1 loading space.
- 3. More than 50,000 sq ft of total floor area: 2 loading spaces.

19.508.3 Loading Space Standards

- A. Loading spaces shall be at least 35 ft long and 10 ft wide, and shall have a height clearance of at least 13 ft
- B. Loading areas shall be provided on the site and be separate from parking spaces.
- C. Off-street loading areas shall have a durable and dust-free hard surface. Permeable paving surfaces may be used to reduce surface water runoff and protect water quality.
- D. Lighting of loading areas shall conform to the standards of Subsection 19.506.3.F.
- E. Off-street loading areas for materials and merchandise shall be located outside of ~~observe~~ the minimum front and side yard requirements for structures.
- F. Off-street loading areas shall be located where not a hindrance to drive aisles, walkways, public or private streets, or adjacent properties.

Proposed Code Amendment with Commentary

19.511.2 Compliance with Other Sections of Chapter 19.500

The wording has been changed to clarify that spaces in structured parking are exempt from the maximum quantity requirements only if the spaces are used for parking that is exempted from maximum quantity requirements in an earlier section. For example, spaces in a parking structure would be exempt if they are used as a parking facility. Spaces would not be exempt if all spaces in a structure were reserved for use by visitors or tenants of the site.

Replaces Page 73 of 98**19.511 PARKING STRUCTURES**

The purpose of Section 19.511 is to regulate the design and location of structured parking, and to provide appropriate incentives for the provision of structured parking. Structured parking is allowed to accommodate parking that is required for a specific use, or as a parking facility that is a use by itself.

19.511.1 Permitted Zones and Review Procedures

- A. Parking structures, including underground parking, are allowed in all zoning districts except the R-10, R-7, R-5, and Downtown Open Space zones. A parking structure can be permitted through approval of a Community Service Use application in all zones except the Downtown Open Space zone.
- B. Applications for parking structures with fewer than 20 spaces are subject to Type II review, per the procedures of Subsection 19.1011.2. Applications for parking structures with 20 spaces or more shall be reviewed by the planning commission at a public hearing per Subsection 19.1011.3 Minor Quasi-Judicial Review. The Planning Commission may impose conditions on the proposed structure to make it compatible with surrounding properties.

19.511.2 Compliance with Other Sections of Chapter 19.500

- A. Spaces in parking structures can be used to satisfy the minimum quantity requirements of Section 19.505. Spaces in parking structures are exempt from counting against maximum parking allowances, ~~per~~ if the spaces are utilized for types of parking listed in Subsection 19.505.3.A.
- B. The space and drive aisle dimensions required in Subsection 19.506.1 shall apply to structured parking unless the applicant requests that the dimensions be reduced. Dimensions may be reduced if the applicant can demonstrate that the reduced dimensions can safely accommodate parking and maneuvering for standard passenger vehicles.
- C. In addition to the standards in Subsection 19.511.3, parking structures shall comply with the development standards, design standards, and design guidelines for the base zone(s) in which the structure will be located.

19.511.3 Standards and Design Criteria for Structured Parking

- A. A minimum of 75% of the length of any façade of a parking structure that faces a street shall provide ground-floor windows or wall openings. Blank walls are prohibited.
- B. The structure shall be compatible with related structures on the lot in terms of appearance, size, scale, and bulk.
- C. The required yard setbacks between the property line and the structure shall be landscaped per the requirements of Subsection 19.506.2.D.3.
- D. The structure shall provide safe pedestrian connections between parking structure and the public sidewalk or principal building.
- E. The structure shall provide adequate lighting to ensure motorist and pedestrian safety within the structured parking facility and connecting pedestrian ways to the principal building.

Proposed Code Amendment with Commentary

The following revisions are to sections that are being amended, rather than repealed and replaced like Chapter 19.500.

Underline/strikeout changes show changes from existing code sections that was originally proposed in the March 23, 2010 staff report.

Items in ~~underline and strikeout~~ are deletions from proposed new text in the March 23, 2010 staff report.

Items in *italic underlining* are proposed new text that was not proposed in the March 23, 2010 staff report.

Items in ~~italic strikeout~~ are deletions to existing code sections that were not proposed in the March 23, 2010 staff report.

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Agriculture - rewording of the definition to exclude roosters from being allowed as part of an agricultural use. Because of their noise, roosters are considered a nuisance animal that is not appropriate for an urban setting.

Parking space - removes an antiquated reference.

Replaces Page 77 of 98

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.103 DEFINITIONS

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including accessory parking. ~~any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.~~

“Accessory parking ~~Parking~~” means off-street parking that serves the parking demand of a specific use(s). Accessory parking is distinct from a “parking facility,” as defined in Section 19.103.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; ~~but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops. The keeping or raising of pigs, furbearing animals, or fowl, excluding roosters, is allowed only if the keeping or raising of such animals is clearly incidental to the principal use of the property for the raising of crops.~~

“~~Commercial p~~Parking facility” means any off-street parking area ~~a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking. Accessory parking areas that occasionally charge the public to park for nearby events are not considered parking facilities.~~

“~~Commercial vehicle~~ Vehicle” means a vehicle designed or used primarily for commercial purposes, and which is either 9 ft tall or taller as measured from ground height, or has an enclosed storage area greater than 6 ft in height and 9 ft in length. Recreational vehicles that are not used for profit are not considered commercial vehicles.

“New construction” means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction can also occur on sites with existing structures. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

“Parking space” means an area available for the parking of a standard ~~American~~ automobile ~~or compact size~~.

“Story” means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than 6 ~~ft~~ feet above grade for more than 50% of the total perimeter or is more than 10 ~~ft~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

“Half-story” means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 ~~ft~~ feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 ~~ft~~ feet above grade, for more than 50% of the total perimeter ~~or and~~ is not more than 10 ~~ft~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

Proposed Code Amendment with Commentary

“Structured ~~parking~~ ~~Parking~~” means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, is entirely covered, and has a parking surface at least 8 ft below grade. Structured parking does not include garages or carports.

19.312.4 Development Standards**B. Explanation of Development Standards****10. Off-Street Parking**

Minor changes were made from what was proposed in the March 23, 2010 staff report. The section referencing landscaping has been deleted since it is handled in Section 19.503.6.

The amendments retain the intent of exempting the downtown core only from the minimum and maximum quantity requirements of the parking chapter, and not making this area exempt for all regulations within the chapter.

Replaces Page 79 of 98

CHAPTER 19.300 USE ZONES**19.312 DOWNTOWN ZONES****19.312.4 Development Standards****B. Explanation of Development Standards****10. Off-Street Parking**

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.505. the sections of Chapter 19.500 listed below .Off-Street Parking Requirements. All other standards and provisions of Chapter 19.500 are applicable.

(1) The maximum and minimum quantity requirements for vehicle parking in Section 19.505.

(2) Parking areas with ten or fewer spaces are exempt from the landscaping requirements of Subsection 19.506.2.

- b. With the exception of the two areas identified in Subsection 19.312.4.B.10.a above, ~~the minimum and maximum parking standards specified in standards and provisions of~~ Chapter 19.500 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 feet of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 feet of the Main Street right-of-way only on the finding in a public hearing that:
 - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
 - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
 - (3) The community need for the off-street parking area or curb cut within 50 feet of Main Street outweighs the need to provide a continuous façade of buildings in that area.

19.314 MANUFACTURING ZONE M**19.314.1 Permitted Uses**

The change corrects a typo in the correction to an already incorrect section reference.

Proposed Code Amendment with Commentary

Replace page 81 of 98

19.314 MANUFACTURING ZONE M

19.314.1 Permitted Uses

Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection ~~19.314.1.B 19.312.1.B 19.314.2.B~~ below. The combined uses shall provide at least 10 employees per net acre.

19.321.12 Specific Standards for Institutions – Public, Private, Religious, and Other Facilities not Covered by Other Standards

This section has been rephrased to make the language more of a criterion for when a park and ride might be appropriate, rather than an generalized description of the hours of operation for these institutions. The word 'churches' has also been deleted in favor of 'religious institutions'.

Proposed Code Amendment with Commentary

Replaces page 87 of 98

19.321 COMMUNITY SERVICE USE CSU

19.321.4 Notice Requirements

Except as provided in Subsections ~~19.321.5.C~~ 19.321.6.C and 19.321.14, Wireless Communication Facilities, the Planning Commission shall hold a public hearing for a community service use request per the procedures outlined in Subsection 19.1011.3.C Minor Quasi-Judicial Review, Community Service Use.

19.321.9 ~~Review of Application~~ (Repealed by Ord. _____)

~~Upon receipt of an application, the Director shall:~~

- ~~A. Review the application for completeness and shall either accept the application or return it to the applicant with a written list of omissions within 7 calendar days of the date of submittal. Date of acceptance shall be noted.~~
- ~~B. A preapplication conference may be scheduled at the request of either the applicant or staff.~~
- ~~C. As soon as an application is accepted as complete, notice will be sent if required by Section 19.1011.~~
- ~~D. A field visit to the site will be required prior to preparation of the staff report.~~

19.321.12 Specific Standards for Institutions – Public, Private, Religious, and Other Facilities not Covered by Other Standards

- ~~J. Park-and-ride facilities may be encouraged for institutions along transit routes that do not have days and hours in conflict with weekday uses (e.g., religious institutions or fraternal organizations). Such uses may be encouraged to allow portions of their parking areas to be used for park-and-ride lots. Park-and-ride facilities may be encouraged for institutions along transit routes. These uses have days and hours not in conflict with weekday uses (e.g., churches or fraternal organizations) and may be encouraged to allow portions of their parking areas to be used for park-and-ride lots.~~

CHAPTER 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.402 ACCESSORY STRUCTURES AND USES

19.402.3 Accessory Uses, General Provisions

- C. A phrase has been added to specifically prohibit the keeping of roosters. This augments the proposed change to the definition of "agriculture" in Section 19.103.
- D. Staff has opted not to propose any amendments to the existing provisions of this section. Staff is aware that the requirement of consent of properties within 100 ft of the property is not enforceable as a requirement. In the future, staff would like to discuss the issue of what the appropriate review type and review criteria are for keeping bees.

Replaces page 89 of 98

CHAPTER 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.402 ACCESSORY STRUCTURES AND USES

19.402.3 Accessory Uses, General Provisions

- C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number and shall require the written consent of all owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept. The keeping of roosters is prohibited.
- D. ~~Keeping of colonies of bees shall be prohibited except that up to 2 colonies of bees are allowed on lots of 1/2 acres or more.~~ Keeping of colonies of bees shall be prohibited except that the Planning Commission may approve an application to keep not more than 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the bees are proposed to be kept.

19.403 SITE AND BUILDING DESIGN PROVISIONS

19.403.1 ~~Storage in front yard.~~ (Repealed by Ord. _____)

~~Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.~~



Prohibition of Roosters

Why are roosters a problem?

Roosters crow not just in the morning, but all day and can even crow at night. They crow to announce to the world that they are present and that the territory has been claimed. Smaller lots, like many in Milwaukie, make it so that a rooster can be heard in an entire neighborhood not just by adjacent neighbors. The majority of complaints dealing with roosters are the early morning “wake up” calls.

What does our City code say right now?

Our current code does not directly prohibit roosters. It does, however, require animals to be controlled by their owner to make sure they do not annoy any person.

How are we proposing to change our code?

Staff is proposing to prohibit roosters within the City of Milwaukie. The proposed language is planned to be inserted into Title 19 Zoning. Municipal codes addressing chickens and other livestock will be addressed at a later time.



What impact will the proposed language have on residents?

If somebody currently owns a rooster they would not be allowed to keep it. The Code Compliance staff has had 12 rooster cases since January 1, 2006. All cases ended with the removal of roosters by the owner, because they were unable to keep the rooster quiet.

What other jurisdictions have this prohibition?

Portland and Cannon Beach, Oregon and Ft. Collins, Colorado prohibit the ownership of a rooster within city limits. The City of Gresham, Oregon at the time of research was attempting to prohibit roosters through a code change. There are other municipalities in the region that prohibit both chickens and roosters in neighborhoods similar to Milwaukie's.

When will Planning Commission and City Council consider this?

Planning Commission is scheduled to consider this proposed code change at their April 27, 2010 hearing. City Council is scheduled to have a hearing soon thereafter.

Please forward any questions or comments you have on this proposed code change to Code Compliance Coordinator

Tim Salyers

Phone: 503-786-7409

Email: salyerst@ci.milwaukie.or.us

PROPOSED PARKING REGULATIONS FOR RESIDENTIAL PROPERTIES



The Milwaukie Planning Commission is considering adoption of regulations that would affect off-street parking areas on residential properties. Most proposed changes have already been presented to the NDA leadership; Topics 1 and 2 are new ideas that have not yet been reviewed by NDAs. The Commission has asked for written comment from the NDAs, and will consider this input on April 27, 2010. **Please contact Ryan Marquardt at 503-786-7658 or marquardtr@ci.milwaukie.or.us if you have questions or would like to submit comments.**

Topic 1: Minimum Required Parking Spaces

The Planning Commission is considering reducing the minimum number of required parking spaces per single family dwelling from 2 down to 1. Two options for implementing this change are outlined below.

Option A (staff recommendation)

The Regulation:

The minimum amount of parking required for a single family dwelling would be 1 space. There would be no limit to the number of parking spaces, or where they could be located. The space would not have to be covered.

Benefits:

- Requires only a 9' by 18' area to be used for parking, making more space available for landscaping or structures.
- An attached garage could be converted to living space if the driveway is at least 9' wide by 18' deep.
- Would not require too much parking for new houses in areas that are well served by transit that may be marketed toward single car households.
- The vast majority of existing residential properties in Milwaukie are already in compliance with this standard, and it would not affect new permits for additions and expansions.

Impacts/Restrictions:

- Having only 1 parking space on a property could result in more on-street parking.

Option B

The Regulation:

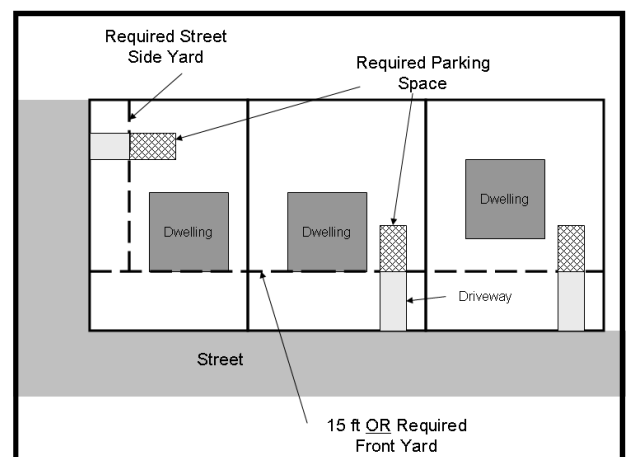
The minimum amount of required parking for a single family dwelling would be 1 space, **and** the space would have to be located 15-20' behind the front property line (see graphic). There would be no limit to the number of parking spaces a residential property can have. The space would not have to be covered.

Benefits:

- Requiring the required parking space to be set back requires a driveway; which can serve as an additional parking area on the property. This reduces the demand for on-street parking.
- Properties with an attached single car garage could convert the garage to living space if there is a 9' by 18' parking area outside of the front yard.

Impacts/Restrictions:

- Properties with a driveway wide enough to hold 2 cars in the front yard, but no other parking on site, would not comply with this standard. Any addition to a house on such a property may also require modification to the driveway to come closer to compliance.
- Converting a garage into living space would only be allowed if a parking space is available behind the setback. This may not be possible for some properties (see photo).



Topic 2: Limit Parking in Front Yards

The Planning Commission is considering the portion of a front yard that can be paved for parking.

The Regulation:

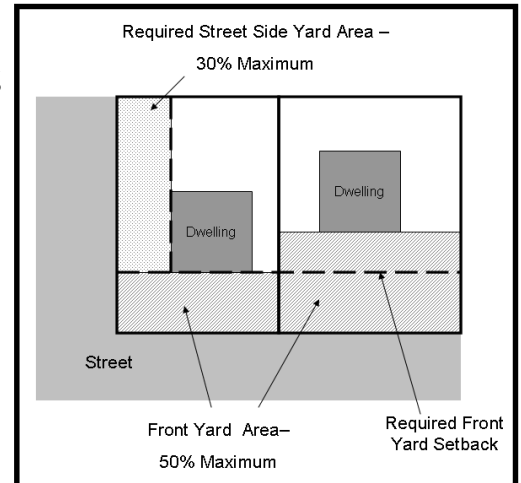
The amount of a front yard (and required street side yard) that could be used for parking would be limited to 50% and 30%, respectively. Parking includes areas where standard vehicles maneuver and park, as well as areas used for storing an RV or boat.

Benefits:

- Reinforces residential character by limiting the amount of vehicle parking in front of a house.
- Would limit overly large parking lots in front yards (potentially proposed for group foster homes, secure treatment facilities, and home occupations).
- Encourages some portion of required minimum vegetation to be in the front yard.
- For a typical 50'-wide property, up to 500 sf of the front yard could be used for parking. This could accommodate up to three 9' by 18' parking spaces.

Impacts/Restrictions:

- Any addition to a house on such a property may also require modification to the driveway to come closer to compliance with this standard.
- Property owners adding extra parking area, or a boat or RV pad, may unknowingly go out of conformance with this standard.



Other Proposed Changes

The following proposed policy changes that would affect residential properties have been presented to the NDAs and explained on the City's website.

- New requirement that gates across driveways on arterial and collector streets must be setback at least 20' from the front property line. Driveways onto neighborhood routes and local streets would be exempt .
- Commercial vehicles would not be allowed in the front yard (area between the front line of the house and the front lot line) of residential properties. Commercial vehicles are defined as a vehicle used for commercial purposes that is either over 9' in height at any point or that has an enclosed storage area greater than 6' in height and 9' in length. They would be allowed to be parked in side or rear yards.
- Clarify that non-required parking areas could be on gravel, as long as these areas are not in a front yard or side yard setback. An RV or boat would still be allowed to be stored on a graveled area, regardless of its location on the property.

For More Information

- The proposed amendments will be heard by the Planning Commission on April 27, 2010. Citizens are invited to submit comments on these issues for the Planning Commission's consideration.
- The changes to the parking regulations would be effective in June 2010 at the earliest.
- Additional project information is available at www.cityofmilwaukie.org under the Current Projects list.
- Please contact Ryan Marquardt at 503-786-7658 or marquardtr@ci.milwaukie.or.us with questions or comments.

From: Gary Michael [garymic@gmail.com]

Sent: Friday, April 02, 2010 4:45 PM

To: Marquardt, Ryan

Subject: Re: Parking Regulations for Residential Properties

I favor reducing the required parking and ,in general, like limiting parking in front yards. However, this may not be possible in properties which slope down from the street. You allow reduced front yard setbacks (averaging with neighbors). Any limits on front yard parking should take this situation into account.

Gary Michael, Island Station Land Use Committee Member

On Fri, Apr 2, 2010 at 4:07 PM, Marquardt, Ryan <MarquardtR@ci.milwaukie.or.us> wrote:

Greetings NDA Chairs and Land Use Committee members!

The Milwaukie Planning Commission is considering new regulations that would affect how parking areas on residential properties are regulated. Information about the specifics of the proposed regulations is provided at:

<http://www.ci.milwaukie.or.us/departments/planning/parkingstudy/resparkingflyer.pdf>

Because these policy changes are different from earlier drafts of the revised parking chapter, the Planning Commission has requested that City staff solicit input from the neighborhoods. Staff is distributing this information to the NDA Chairs and Land Use Committee members. We would appreciate if you would pass this information along to those in your neighborhood that may be interested in the proposed changes, and allow time, as you see fit, for discussion at upcoming NDA meetings in April.

Staff would appreciate any written comments on these changes by Friday, April 23, 2010. Comments can be from individual citizens or on behalf of the NDA. Written comments should be sent to me, and will be forwarded to the Planning Commission for consideration at their meeting on Tuesday, April 27, 2010.

Further information about the parking chapter revision project is online at <http://www.ci.milwaukie.or.us/departments/planning/parkingstudy/zoningamendment.html>. Please contact me at the address below if you have questions.

Sincerely,

Ryan Marquardt
Associate Planner
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
(p) 503.786.7658
(f) 503.774.8236
(e) marquadrtr@ci.milwaukie.or.us

From: dlasch@comcast.net
Sent: Friday, April 02, 2010 5:01 PM
To: Marquardt, Ryan
Subject: Re: Parking Regulations for Residential Properties

Ryan,

So how many vehicles can I park in my back yard or side yard if I have room to get them there? You use this line a lot and it sounds like it allows parking any where "There would be no limit to the number of parking spaces, or where they could be located."

ash

----- Original Message -----

From: "Ryan Marquardt" <MarquardtR@ci.milwaukie.or.us>
 To: donnartb@comcast.net, ray1bryan2@gmail.com, pemczum@comcast.net, mjh12014@hotmail.com, charlesbird@juno.com, garymic@gmail.com, "paul hawkins" <paul.hawkins@daimler.com>, dlasch@comcast.net, dollym-h@hotmail.com, wdrendel1@aol.com, sarah@thegardensmith.com, donnartb@comcast.net, ronanddebby@juno.com, LinwoodNA@msn.com, "dion shepard" <dion.shepard@sf.frb.org>, maryking@spiritone.com, ronanddebby@juno.com, mrinker@tibinc.com, jh6432@comcast.net, saltriversucker1@comcast.net, jeff@jkws.com
 Cc: "Katie Mangle" <MangleK@ci.milwaukie.or.us>
 Sent: Friday, April 2, 2010 4:07:23 PM GMT -08:00 US/Canada Pacific
 Subject: Parking Regulations for Residential Properties

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Further information about the parking chapter revision project is online at <http://www.ci.milwaukie.or.us/departments/planning/parkingstudy/zoningamendment.html>. Please contact me at the address below if you have questions.

Sincerely,

Ryan Marquardt
 Associate Planner
 City of Milwaukie

Sent: Tuesday, April 13, 2010 10:35 PM
To: Marquardt, Ryan
Cc: Mary Weaver
Subject: new parking regulations

Hector Campbell NDA has instructed me to enquire whether the new parking regulation changes could lead to a situation where the front yard of houses could end up being parking spots for vehicles, and lending the whole look of a house to that of a used car lot.

It appears to me, after having read materials on the parking regulation changes, that this is exactly what could happen. Allowing 50% of a front yard to be used for parking is unacceptable to many of our neighbors. Further, pushing cars into on-street parking because only single car driveways are required is also contrary to the way we would want our neighborhoods to go.

If I have misunderstood what i have read, please advise me. Otherwise, it is the HCNDA's official stance to oppose the suggested changes.

Linda M. Hedges
Secretary
HCNDA

From: Mary Weaver [saltriversucker1@comcast.net]

Sent: Wednesday, April 14, 2010 8:54 PM

To: Marquardt, Ryan

Cc: linda@hammy.org

Subject: Comments on the proposed parking regulations 4-14-10

Comments on the proposed parking regulations from Mary Weaver, Chair of Hector Campbell NDA. I agree with the comments sent by our secretary, Linda Hedges, on behalf of our neighborhood after discussion at our last meeting, but I also have some additional questions and comments.

Proposed Parking Regulations -

Option A: pro - Removing the requirement for having any covered parking may reduce the number of canvas covers that are popping up in many areas (and are not being well cared for) since many people already use them to make up for using the entire garage for storage or dwelling space. The original "covered" requirement probably did not foresee those being used to the extent they are. My objection to those is that they become dirty and ragged if not cared for.

con - Changing the required space from 2 parking spaces to 1 parking space without regulating the maximum # of vehicles allowed on the property could eventually increase the permanent on-street parking more than residents would like (clearly expressed at our NDA meeting), and probably more than the street sweepers care to work around.

The impact on flag lots isn't clear.

Other considerations for Option A - Changing the space required from 9' x 20' to 9' x 18' hardly seems to make much more space available for additional "landscaping or structures". It might reduce the cost of resurfacing one's driveway, especially if you cut your existing (2-car) driveway surface in half as well, since you only have to have space for 1 car. (Yes, this probably impacts the value of your house but in tight economic times it could still be considered.)

People who are using the garage for storage or workshop area may want to convert to habitable space. This probably wouldn't make much of a noticeable change to their current use since they aren't parking in the garage anyway. Obviously, having a covered parking space and being required to use it all the time are 2 different things.

Option B: If the parking space is to be 15' to 20' from the front property line, is it measured from the street as the drawings appear to show or from the right-of-way line which can vary from lot to lot?

There is still the concern, as in Option A, of having no maximum limit for vehicles on a residential property. Even though there are some constraints, the guidelines are very general and do not seem to fit many of the lots in Milwaukie which are deep and may not have the house as close to the front. And again, the impact of this option on flag lots isn't clear.

It appears that Topic 2 is designed to go with Option A, the staff recommended option. If Option B were chosen, it seems Topic 2 might be slightly revised.

"For a typical 50-wide property, up to 500 sf of the front yard could be used for parking. This could accommodate up to three 9' by 18' parking spaces." (The distance from street to house is not given in this example.)

Is 50' the typical width of a Milwaukie lot? It says 50% of the front yard can be used for parking - there are a lot of houses that are set back a lot farther on their lots than mine is. So if your lot is 50' wide but your front yard goes back 40' to the house, that's 2000 sq ft. 50% of that is 1000 sq ft, divided by 162 sq ft (9' x 18') per parking space so you could have as many as 6 parking spaces? One of those could be the required space that has to be at least 15' behind the front property line - it does NOT say that ALL parking spaces have to be 15' to 20' from the front property line, just one.

I don't know that there are any lots in Milwaukie that have a house 40' from the street - but I also don't know there aren't. And there are many lots, including mine, which are wider than 50' so if you are only looking at square feet and percentage, it could be quite different from the example given.

I think the impact of these regulations varies a great deal from lot to lot and I don't see how, if you bought the right (shaped) property, it "would limit overly large parking lots in front yards (potentially proposed for group foster homes, secure treatment facilities, and home occupations)." To me, anything over 2 in a residential area is overly large, but certainly 6 or 8 is beyond what people would expect to see.

Quote from Topic 2 Benefits: "Encourages some portion of required minimum vegetation to be in the front yard."

Quote from 19.302.3, R-7 Zone: "I. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., will be 30% of the total area of the lot."

I don't see anything in Topic 1 or 2 that encourages the minimum vegetation to be in the front yard other than it's implied that if you can't achieve 30% in the back and on the sides, you'd have to use the front, which is the case now it seems. (Most people I've talked to recently say they have never heard of the "minimum vegetation" requirement.)

If it is your intention to use the 50% parking area restriction and 30% minimum vegetation to keep the number of cars to an acceptable level in a residential neighborhood, I think the regulation needs to be written more clearly, proven, and explained more completely. In general, I don't see sufficient benefits to the public to justify the changes as presented to us.

Thank you.

Mary Weaver
11656 SE 48th Avenue
97222

From: Mary Weaver [saltriversucker1@comcast.net]
 Sent: Wednesday, April 14, 2010 9:04 PM
 To: Marquardt, Ryan; linda@hammy.org
 Subject: RE: new parking regulations

I sent some personal comments regarding this issue tonight before I received your email. I appreciate your quick response to our NDA.

Regarding the Metro requirement - does that also explain the change to eliminate having at least one covered space?

Thanks.

Mary Weaver

-----Original Message-----

From: Marquardt, Ryan [mailto:MarquardtR@ci.milwaukie.or.us]
 Sent: Wednesday, April 14, 2010 4:15 PM
 To: linda@hammy.org
 Cc: Mary Weaver
 Subject: RE: new parking regulations

Linda,

Thanks for your email and for the Hector-Campbell NDA taking time to comment on the proposed regulations. I have a few points in response to the concerns that you raise.

Regarding the 50% parking limitation in the front yard - You do understand the proposal correctly in that up to half of a front yard area could be used for parking. It is important to remember though that there is currently no limitation on how much of a front yard area could be used for parking. Currently, a property owner could pave their entire front yard and not be in violation of the zoning code so long as at least 30-35% of their lot area (side yards or rear yard) has vegetative cover.

The rationale for choosing 50% as the limit is based on the width of a driveway that is two cars wide (approx. 20 ft) and the minimum lot width in many of the residential zones (50 ft). Staff believes that this percentage is reasonable in that it allows some flexibility in parking area design for narrow lots while also placing a cap that would prevent egregiously large parking areas in a front yard.

Regarding the minimum parking requirement - The major reason this change is proposed is for compliance with regional requirements from Metro, which requires that jurisdictions cannot require more than 1 parking space per dwelling unit for single family dwellings.

While I understand your concern, I believe that changing the regulation would have little impact on most areas within Milwaukie. Most home buyers and home owners in a suburban setting like Milwaukie want to have more than one off-street parking space on their property. Staff does not expect that new homes would provide any less than 2 spaces, and that additions or remodels to existing homes will also retain at least two off-street spaces. We believe this regulation will have more of an impact for future development in areas that are close to good transit (bus and rail) service. Future (5-10 years out) development projects in these areas may include housing that is built and marketed for single car households. These houses may be occupied by one person or by families that have one car and rely on transit and/or bicycling for part of their transportation needs. Developers building for this market may take decide to meet the minimum requirement and build only one space on the site.

In closing, I believe that you and the NDA correctly understand what is being proposed, and I hope that this email provides a better context about these proposals. I'm happy to discuss these issues further with you or anyone else

from HCNDA. The NDA's final comments on these proposals will be forwarded to the Planning Commission for consideration at the April 27th meeting.

Ryan Marquardt
Associate Planner
(p) 503.786.7658
(e) marquardtr@ci.milwaukie.or.us

-----Original Message-----

From: [mailto:linda@hammy.org]
Sent: Tuesday, April 13, 2010 10:35 PM
To: Marquardt, Ryan
Cc: Mary Weaver
Subject: new parking regulations

Hector Campbell NDA has instructed me to enquire whether the new parking regulation changes could lead to a situation where the front yard of houses could end up being parking spots for vehicles, and lending the whole look of a house to that of a used car lot.

It appears to me, after having read materials on the parking regulation changes, that this is exactly what could happen. Allowing 50% of a front yard to be used for parking is unacceptable to many of our neighbors.

Further,
pushing cars into on-street parking because only single car driveways are required is also contrary to the way we would want our neighborhoods to go.

If I have misunderstood what i have read, please advise me. Otherwise, it is the HCNDA's official stance to oppose the suggested changes.

Linda M. Hedges
Secretary
HCNDA

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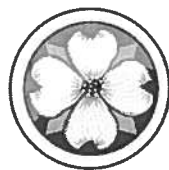


Hector Campbell NDA Leadership wish to enter the following comments (along with those written by Chair Mary Weaver in her email to Ryan Marquardt) into consideration of the parking regulations submitted at April 17th Planning Commission meeting:

- We are interested in commenting on these regulations as they apply to the entire city, not just HCNDA. We also believe it is important that the city look toward the future keeping in mind that the majority of the city does not now nor will it ever use light rail or bicycle transportation in lieu of cars and trucks. The city of Milwaukie will not suddenly become the Pearl District. Planning should keep in mind appropriate limitations for anticipated townhome development at the south downtown site, and possibly along the riverfront, but this kind of development represents a small proportion of any new development that would occur within the city. Elsewhere development will most likely be single-family homes on flag lots or replacement buildings on existing lots. Two-car garages will be the norm, with a requirement for perhaps additional side-yard parking for an RV, trailer or one additional vehicle. The majority of homeowners will want to be able to use their lots for parking in this manner. And we support t his.
- We advocate that parking in a front and side yard be limited to either 2 additional spaces other than a paved driveway, or 30% maximum of the total front yard space
- We prefer that a requirement should be made that a minimum of 10% of the front yard space should be given to vegetative cover, and that if additional parking spaces are placed in the front yard other than on the paved driveway that screening vegetation should be employed between the sidewalk or street and the additional parking spaces
- Consideration should be given in planning for future single-car small lots, such as those connected to townhomes or condos within a development, that if a single car driveway is planned, an additional 10% of the front garden should be given to vegetative cover and that the front yard may not be employed as additional parking space
- Parking regulations should include a prohibition on using the front yard for repairs on a vehicle for longer than a week at a time and at no time may a front or side yard be used as an automotive repair shop. We do not want to see cars up on blocks in someone's front yard, or front yards being used as automotive repair shops.
- Many existing households already have RVs, boats, trailers and several vehicles parked on them. We do not wish to create a hardship for people whose households require this

additional parking space. Nor do we want to encourage this proliferation of parking multiple vehicles. Some households already exceed good taste in the number of vehicles stored on their properties. We would encourage the city to come up with ideas for eliminating this kind of parking.

- Nor do we wish to create a situation where a loophole in these regulations would allow another Johnson Creek Facility to be built because 6 or 8 parking spaces can be built in a dwelling's front yard. This is a good way to ensure we have no repeat of this situation. In any case, except under exceptional circumstances, 6 vehicles parked in a front yard directly fights the concept of a neighborhood friendly front yard.
- We do not want to encourage any regulation that will force households to begin using on-street parking in replacement of on-lot parking because of a limitation on the amount of parking allowed in a front yard. This especially would apply in development areas where the planned parking limits a household's parking to one car. Developments that limit the total household parking should also calculate in sufficient parking for homeowner's guests.
- If code prohibits the use of canvas covered carports as a means to meet the requirements for parking on a lot, code compliance officers must more frequently and vigorously enforce this code. It seems to be the understanding of many that use of these coverings complies with city ordinance. If it does not, it should be made quite clear that this is not the case.



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Brett Kelter, Associate Planner

Date: April 20, 2010 for April 27, 2010 Worksession

Subject: Natural Resources Overlay Project Update

Action Requested

No action is requested at this time. This is a briefing on the status of the City's Natural Resources Overlay code amendment project.

Background Information

Purpose of the Project

With its variety of creeks and wetland areas in addition to its frontage on the Willamette River, Milwaukie is a city shaped by water and the natural environment. Conservation and enhancement of those resources are important for Milwaukie's local goals and identity. The Natural Resources Overlay project is a mapping and code amendment project designed to ensure that both water quality and wildlife habitat are well protected for the future. The effort will also fulfill our responsibilities to comply with regional, state, and federal regulations.

Since 2002, the City's municipal code has included provisions that protect water quality resources, including many of the streams, creeks, and wetlands in the community. Those regulations are based on a model ordinance prepared as part of Title 3 (Water Quality, Flood Management, and Fish & Wildlife Conservation) of the Metro Urban Growth Management Functional Plan. Title 3 is Metro's effort to help local jurisdictions comply with the requirements of Statewide Planning Goal 6 (Air, Water, and Land Resources Quality). The rules are designed to prevent disturbance of designated water quality resource (WQR) areas and to limit impacts and require mitigation when disturbance is inevitable.

In 2006, Metro adopted Title 13 (Nature in Neighborhoods) into the Functional Plan. Title 13 is a regional effort to help local jurisdictions comply with the requirements of Statewide Planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces). Goal 5 and Title 13 identify valuable riparian habitat, including areas alongside and upland from the community's streams and wetland areas, and extend protections similar to those provided by the water quality resource rules of Goal 6 and Title 3. Milwaukie is bound by regional and state law to

adopt regulations for these Title 13 habitat conservation areas (HCAs). The Natural Resources Overlay project is the City's effort to do just that.

Project Approach

In Milwaukie, the designated Goal 6 (WQR) and Goal 5 (HCA) resources that require protection are very similar. Given this overlap, Planning staff is proposing to replace the existing chapter of the code that deals with WQR areas (Milwaukie Municipal Code (MMC) Section 19.322) with a new, expanded chapter that also protects HCAs. The new rules aim to protect the most sensitive and important streamside and wetland areas and will affect over 700 property owners in Milwaukie. With this in mind, staff has incorporated a significant public outreach component into the project, in an effort to solicit the community's broad range of opinion and perspective on this issue.

Starting with its first meeting in September 2009, an Advisory Group—comprised of natural resource experts, representatives of various public agencies, and property owners who will be directly affected by the new rules—has been assisting staff with the project. Approximately 22 people have attended four meetings and participated in tours of local resources. They have reviewed the first public draft of the proposed code and maps and raised timely and important questions about specific issues.

Staff will continue to engage the Advisory Group to resolve the questions that have been raised and will convene a joint meeting with the Planning Commission for a discussion of key issues. In June 2010, the City will host a public Open House event aimed at presenting the proposed amendment to the larger community. Overall, staff's approach is to engage the public in meaningful discussion about the issue to identify, address, and resolve all critical concerns prior to starting the formal code amendment adoption process.

Key Concepts of the Natural Resources Overlay Project

Staff has designed the Natural Resource Overlay project to develop local regulations that implement federal, state, and regional requirements. Based on feedback from Council, the Commission, and the community, the local regulations are being developed based on the following four key concepts:

- 1. Continue to protect Water Quality Resource areas.** Through MMC 19.322, the City already protects land surrounding wetlands, creeks, and rivers. The proposed amendments should not reduce the high level of protection currently in place for those resources. Where WQR areas overlap with HCAs, the WQR designation will take precedence and the WQR level of protection will apply. The project will not change the current approach for identifying and mapping WQR areas.
- 2. Expand the swath of protected land to include designated HCAs.** The City will adopt Metro's HCA maps, resulting in a slightly larger "swath" of resource protection than is currently provided by the WQR designation alone. Metro's regional inventory of HCAs focuses on riparian habitat (tree canopy and significant vegetation near significant water features) instead of on a fixed distance from an actual water feature. As a result, the HCAs tend to extend farther from protected water features than the vegetated buffers of the WQR areas.
- 3. Adopt a local version of Metro's HCA maps.** Metro has provided the City with a regional inventory of High-, Moderate-, and Low-value HCAs as the basis for identifying the new areas that will be protected. However, the inventory was done at such a scale that there were inevitably some inaccuracies, such as where paved or otherwise developed areas are misidentified as HCAs. Staff proposes to rely on the Metro maps

but also to clean up some of those obvious errors. In addition, staff proposes to eliminate the Low-value HCAs from the local map and to combine the High- and Moderate-value HCAs for the purposes of streamlining the new regulations. (See Attachment 1, Draft Water Quality and Natural Resources Area Map 2-b.)

4. **Create one Natural Resources Overlay code to blend existing WQR regulations with new regulations for HCAs outside of the WQR areas.** Metro provided a model HCA code for local jurisdictions to use in enacting the new Title 13 regulations. Staff is proposing that the City draw on the model code as a resource but tailor it and blend its policies with the existing WQR regulations.

How the New Code Would Work

Based on the four key concepts described above, the City is focusing its efforts on drafting a new set of regulations that comply with regional, state, and federal requirements but do so in a locally meaningful way. To understand how the new code could work, it is useful to consider how different the proposed code amendment (See Attachment 2, Draft 2 of proposed MMC 19.322.) would be from the current code. Table 1, below, outlines some of the similarities and differences.

Table 1 – Comparison of current and proposed code

Topic	Current WQR code	Proposed WQR/HCA code
Allowances (Activities exempt from review)	Allows removal of invasive and nonnative vegetation; landscaping planting that does not involve invasive nonnative or noxious vegetation; normal maintenance and repair of existing structures; temporary emergency procedures.	For both WQR areas and HCAs: Allows removal of prohibited and nuisance vegetation; landscape planting that does not involve prohibited or nuisance vegetation; maintenance and repair of existing structures; emergency procedures. Within HCAs only: Allows alteration or expansion of existing structures not to exceed 500 sq ft into the HCA; new disturbances up to 120 sq ft of impervious surface; low-impact outdoor recreation facilities up to 500 sq ft (picnic areas, trails up to 5 ft wide).
Mitigation Requirements	Remove debris and noxious materials; vegetate bare and disturbed areas with native plants; remove nonnative species; revegetate with native species according to mitigation plan approved by Planning Commission. (Associated with minor quasi-judicial review—depends on existing condition of disturbed WQR area.)	For WQR areas: Same as current code (linked only to minor quasi-judicial review). For HCAs: Non-discretionary review provides specific mitigation standards; discretionary review allows for negotiated mitigation.
Limits of Disturbance	Few disturbance-related activities are allowed without Planning Commission review. New development in WQR requires Planning Commission review.	In WQR: No significant changes. In HCAs: Specific thresholds for disturbance that can be reviewed with non-discretionary (administrative) standards. Disturbance beyond those thresholds sends the project to discretionary (Planning

		Commission) review.
Restoration/Enhancement	Activities beyond planting native species and removing invasives are allowed in conjunction with a management plan that must first be approved by Planning Commission.	Planting natives and removing prohibited/nuisance plants are activities allowed outright. Projects involving minimal disturbance, limited tree removal, small structures can get Type I review. All other degrees of restoration get Type II review (can be bumped to PC for review if warranted).
Review Process	Most activities within WQR areas require Planning Commission (minor quasi-judicial) review. Type I = nuisance abatement; emergency tree removal; modifications to legal structures with no footprint change. Type II = improvements to existing public utility facilities; modifications to nonconforming situations. Minor Quasi-Judicial = other base-zone activities; walkways and bike paths; new utility facilities and stormwater facilities; partitions and subdivisions; alterations of existing structures w/ footprint change; other new development.	More distribution of activities across review type. Type I = construction management plans; boundary verification; limited tree removal; small-scale natural resource management plans; activities in HCA that can comply with non-discretionary standards. Type II = special uses including new public utility facilities and stormwater facilities, walkways and bike paths, and large-scale natural resource management plans; minor disturbances within the resource area; minor alterations/expansions of existing structures; limited partitions. Minor Quasi-Judicial = subdivisions; also, partitions and other development that cannot meet Type II criteria.

Review of Code and Map Drafts (version 2.0)

The Advisory Group has met four times to review drafts of the proposed code and maps and to identify and discuss key issues. Members of the Advisory Group have contributed to thoughtful, challenging discussions that are helping staff to refine the draft code. So far, the discussions have focused on the following issues:

1. Request for more exemptions for “normal” landscaping activities.
2. Modification of the City’s existing regulations for tree removal in WQR areas.
3. Concern about the accuracy of the proposed resource maps.
4. How to encourage, not restrict, restoration and enhancement activities.
5. Whether the mitigation standards for disturbance of natural resource areas are appropriate.
6. Process and fees for review of various activities.

As a result of the Advisory Group meetings, staff has identified list of specific issues that will be addressed in the next iteration (version 3) of the draft code and maps. Additional material on the changes staff is tracking will be provided prior to the meeting on April 27, as well as specific issues staff would like to discuss with the Planning Commission.

Next Steps

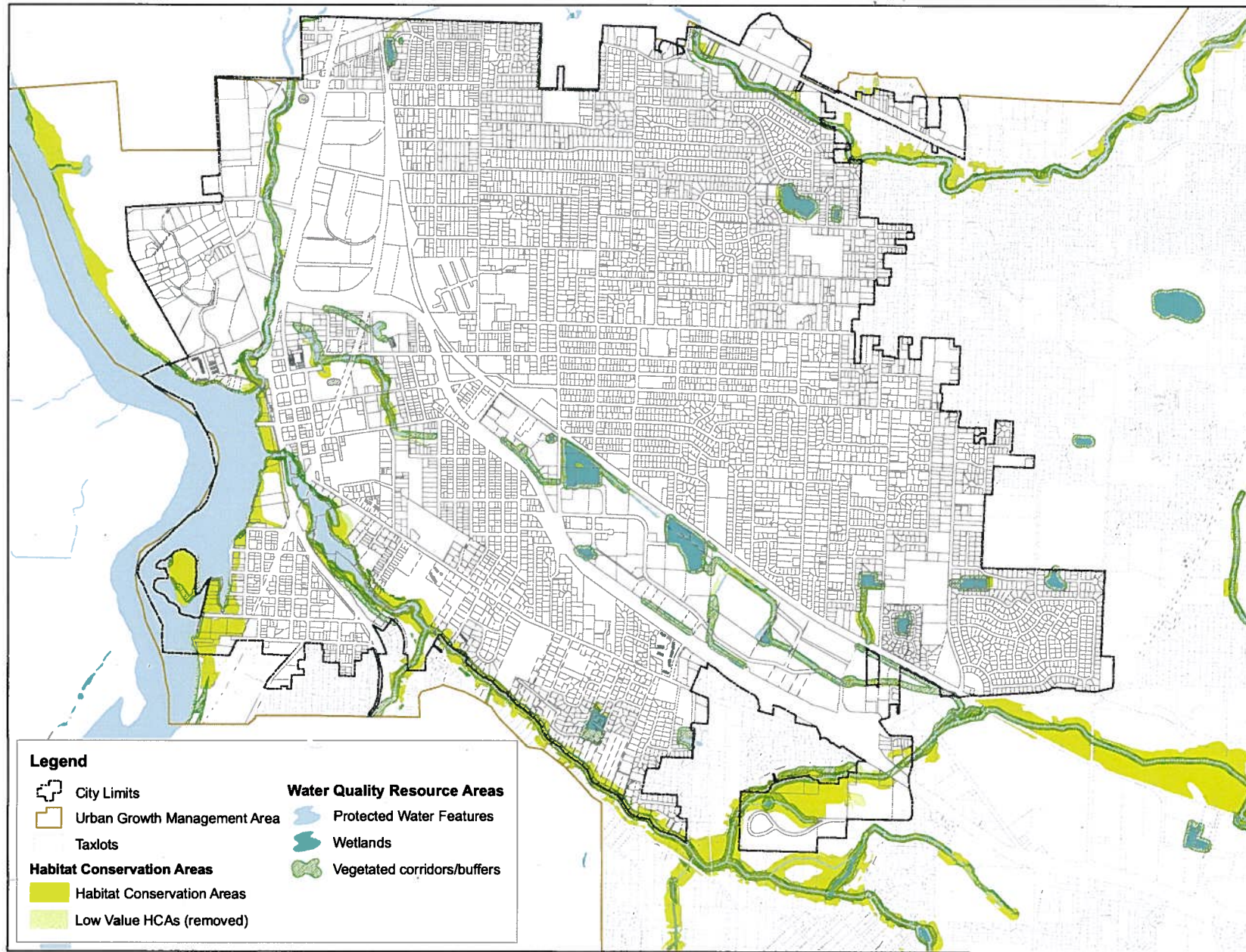
Staff is working to finish this project before the end of 2010. The City's contract with its consultant (Angelo Planning Group) ends on June 30, 2010, by which point staff expects to have the bulk of the code-drafting work completed. Staff's goal is to begin the hearing process for the code amendments in October 2010. Between now and then, there are several more meetings to be had with the Advisory Group and Planning Commission as well as an informational event designed for the broader public.

The following points highlight important upcoming dates for the project:

- o April 28, 2010 – Report-back meeting with Advisory Group
- o May 4, 2010 – Update to City Council
- o May 25, 2010 – Joint session of Advisory Group and PC (review Draft 3)
- o June 2010 – Public Open House event
- o July/August 2010 – Final revisions and preparation of land use application for code amendment
- o August/September 2010 – Target for application submittal

Attachments

1. Draft Water Quality and Natural Resource Area Map 2-b (showing Low-Value HCAs to be removed)
2. Draft 2 of proposed MMC 19.322



City of Milwaukee

Water Quality and Natural Resource Area Map

Map 2-b

(showing Low Value
HCAs to be removed
from new map)

Notes:
Data source: Metro's RLIS Lite CD
(November 2009) and Metro's Title
13 GIS data

Habitat Conservation Areas include
High and Moderate Value HCAs
from Metro's Title 13 data (Low
Value HCAs have been removed)

DRAFT 2/22/2010

TITLE 19 ZONING**CHAPTER 19.300 USE ZONES****Section 19.322 Water Quality and Natural Resource Regulations****Subsections**

- 322.1 Intent
- 322.2 Coordination with Other Regulations
- 322.3 Applicability
- 322.4 Exempt Activities
- 322.5 Prohibited Activities
- 322.6 Activities Permitted Under Type I Application Review
- 322.7 Activities Permitted Under Type II Review
- 322.8 Activities Permitted Under Minor Quasi-Judicial Review
- 322.9 Construction Management Plans
- 322.10 Submittal Requirements
- 322.11 Approval Criteria
- 322.12 Non-Discretionary Development Standards for HCAs
- 322.13 Special Use Standards
- 322.14 Standards for Partitions and Subdivisions
- 322.15 Discretionary Development Standards
- 322.16 Adjustments and Variances
- 322.17 Boundary Verification and Map Administration

19.322.1 Intent

- A. This section provides protection for water quality resources under Statewide Land Use Planning Goal 6 and Sections 1 - 4 of Title 3 of the Metro's Urban Growth Management Functional Plan (UGMFP). This section also provides protection for natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5 relating to significant natural riparian, wildlife, and wetland resources and Title 13 of the UGMFP
- B. Many of the city's original riparian, wildlife, and wetland resources have been adversely affected by development over time. These regulations seek to minimize additional adverse impacts and to restore and improve resources where possible while balancing property rights and development needs of the city.
- C. It is the intent of this section to:

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1. Establish water quality resource areas to protect the functions and values of water quality resource areas at the time of development.
 2. Protect and improve the functions and values that contribute to water quality and to fish and wildlife habitat in urban streamside areas. These functions and values include, but are not limited to:
 - a. Vegetated corridors to separate protected water features from development.
 - b. Microclimate and shade.
 - c. Stream flow moderation and water storage.
 - d. Water filtration, infiltration, and natural purification.
 - e. Bank stabilization and sediment and pollution control.
 - f. Large wood recruitment and retention and channel dynamics.
 - g. Organic material resources.
 3. Establish Habitat Conservation Areas (HCAs) to implement the performance standards of Title 13 of the UGMFP for riparian areas and fish and wildlife habitat and to protect significant local Goal 5 resources such as wetlands.
 4. Provide clear and objective standards and a discretionary review process, applicable to development in HCAs, in accordance with Goal 5.
 5. Allow and encourage habitat-friendly development while minimizing the impact on water quality and fish and wildlife habitat functions.
 6. Provide mitigation standards for the replacement of ecological functions and values lost through development in wetlands, water quality resources, and HCAs.
- D. It is not the intent of this section to:
1. Impose any obligation on property owners to restore existing developed sites to pre-development or natural condition when no new activity is proposed.
 2. Impose any hardship or limitation against the continued maintenance of existing legal site conditions.
 3. Restrict activities that do not constitute development or to apply to activities that do not affect water quality or natural resource areas.
 4. Prohibit normal lawn and yard landscape planting and maintenance. Normal lawn and yard planting and maintenance does not include planting of invasive non-native or noxious vegetation.
- This section is to be interpreted consistently with this intent.
- E. The Milwaukee Water Quality and Natural Resource Area Map (hereafter WQNR Map) is incorporated by reference as part of this section.
- F. The water quality and natural resource area regulations allow development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.
- G. Conditions legally existing as of December 17, 2002, with regard to water quality resource areas and as of *[insert new adoption date]* with regard to HCAs, that are inconsistent with this section are declared legal nonconforming situations.

- H. A document or other list used to identify native, noxious, and invasive plants shall be maintained by the Planning Director and shall be referred to as the “Milwaukie Native Plant List.”

19.322.2 Coordination with Other Regulations

- A. Implementation of this section is in addition to and shall be coordinated with Milwaukie Municipal Code Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control.
- B. For properties along the Willamette River, nothing in this section shall prohibit the maintenance of view windows authorized under Section 19.320 Willamette Greenway Zone.
- C. Except as provided for in Subsection 19.322.2.B, provisions of this section shall apply where they are more restrictive than Section 19.320 Willamette Greenway Zone.
- D. Development in or near wetlands and streams may require permits from the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Corps). If a federal permit is required, a water quality certification from the Oregon Department of Environmental Quality may also be required. The Planning Director shall notify DSL and the Corps when an application for development within streams and wetlands is submitted. Because these agencies may have more restrictive regulations than the City, applicants are encouraged to contact them before they prepare their development plans.
- E. The requirements of this section apply in addition to all applicable local, state, regional, and federal regulations, including those for wetlands and flood management areas.

19.322.3 Applicability

- A. The water quality and natural resource area regulations in this section apply to activities proposed within, or within 100 feet of, a water quality resource area and/or HCA (including any locally significant Goal 5 wetlands or habitat areas identified by the City of Milwaukie) as shown on the City's official WQNR Map.
- B. Proposed activities which are more than 100 feet from a water quality resource area or HCA do not require review under the provisions of this section.
- C. Natural resources are designated on the City's official WQNR Map as follows:
1. Water Quality Resource Areas – Water quality resource areas include protected water features and their associated vegetated corridors, as specified in Table 19.322.17-1. The vegetated corridor (buffer) is a facility required to prevent damage to the protected water feature that may be caused by development impacts. The width of the vegetated corridor varies depending on the type of protected water feature, upstream drainage area served, and slope adjacent to the protected water feature. The WQNR Map is a general indicator of the location of vegetated corridors; the specific location of vegetated corridors must be determined in accordance with Table 19.322.17-1.
 2. Habitat Conservation Areas (HCAs) – Habitat Conservation Areas include significant Goal 5 wetlands, riparian areas, and fish and wildlife habitat. HCA locations on the WQNR Map are assumed to be correct; verifications and corrections must be processed in accordance with Subsection 19.322.17.
- D. For development within, or within 100 feet of, a water quality resource and/or HCA, construction management plans prepared in accordance with Subsection 19.322.9 and

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boundary verifications prepared in accordance with Subsection 19.322.17 shall be required as follows:

1. Exempt activities pursuant to Subsection 19.322.4.A – No construction management plan or boundary verification are required.
2. Exempt activities pursuant to Subsection 19.322.4.B – A construction management plan and boundary verification are required only if the proposed activity is within, or within 100 feet of, a water quality resource area.
3. Non-exempt activities:
 - a. A construction management plan is required if the proposed activity is within, or within 100 feet of, a water quality resource area or HCA.
 - b. Boundary verification is required if the proposed activity is within, or within 100 feet of, a water quality resource area or within, or within 50 feet of, an HCA.
- E. Following completion of a construction management plan and boundary verification, an applicant may utilize the Adjustments to Use Zone Standards in Subsection 19.322.16.A in order to avoid impacts to a water quality resource area or HCA.
- F. The applicability of the requirements of this section is summarized in Table 19.322.3-1.

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Table 19.322.3-1 Applicability of Requirements of Section 19.322								
Proposed Activity	Code Requirements							
	Construction Management Plan w/in 100 ft of WQR/HCA	WQR Boundary Verification w/in 100 ft of WQR	HCA Boundary Verification w/in 50 ft of HCA	Tree Removal Criteria (Subsection 19.322.6.A)	Clear & objective standards (Subsection 19.322.12)	Special Use Standards (Subsection 19.322.13)	Partition and Subdivision standards (Subsection 19.322.14)	Discretionary Standards (Subsection 19.322.15)
Exempt activities per Subsection 19.322.4.A	No	No	No	No	No	No	No	No
Exempt activities within an HCA per Subsection 19.322.4.B	Yes, if w/in 100 ft of a WQR		No	No	No	No	No	No
Non-exempt activities entirely outside of a water quality resource area or HCA	Yes	Yes	Yes	No	No	No	No	No
Type I Tree Removal within a water quality resource area or HCA	Yes	Yes	Yes	Yes	No	No	No	No
Type I activities within an HCA	Yes	Yes	Yes	No	Yes	No	No	No
Non-emergency abatement of nuisances or violations per Subsection 19.322.6.D	Yes	Yes	Yes	No	No	No	No	No
Type II Special Uses within a water quality resource area or HCA	Yes	Yes	Yes	No	No	Yes	No	No
Type II Minor Modifications within a water quality resource area or HCA	Yes	Yes	Yes	No	No	No	No	Yes
Minor Quasi-Judicial – All other activities within a water quality resource area or HCA	Yes	Yes	Yes	No	No	No	No	Yes
Partitions and subdivisions on land including a water quality resource area or HCA	Yes*	Yes	Yes	No	No	No	Yes	No
* Per Subsection 19.322.14, construction management plans are not required for partitions and subdivisions where no grading, utility installation, or other physical improvements are being proposed within 100 feet of a water quality resource area or HCA.								

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19.322.4 Exempt Activities

A. The following activities are exempt from the provisions of this section:

1. A building permit for a phased development project for which the applicant has previously met the application requirements of this section, so long as the building site for new construction was identified on the original permit and no new portion of the water quality resource area and/or HCA will be disturbed.
2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a state or federal agency.
3. Landscape planting and maintenance that does not involve the planting of invasive or noxious vegetation or an increase in impervious area or other changes that could result in increased direct stormwater discharges to the water quality resource area.
4. Removal of plants identified by the City as invasive or noxious plants and the planting or propagation of plants identified as native plants. After removal of invasive or noxious plants, all open soil areas greater than 25 square feet must be replanted.
5. Farming practices or farm uses, excluding buildings and structures, except if such activities or uses increase direct stormwater discharges to water quality resource areas.
6. Maintenance, alteration, expansion, replacement, repair, and/or change of use of existing legal buildings or structures, provided that:
 - a. There is no change in the location of the existing area of disturbance within the water quality resource area or HCA.
 - b. There is no increase in building footprint or size, impervious surface, or outdoor storage area(s) within the water quality resource area or HCA.
 - c. There are no other site changes proposed that could result in increased direct stormwater discharges to the water quality resource area.
7. Maintenance, alteration, and repair of existing utilities, access, streets, driveways, and parking improvements, including asphalt overlays, provided there is no increase in impervious area, reduction in landscaped areas or tree cover, or other changes that could result in increased direct stormwater discharges to the water quality resource area.
8. Emergency procedures or activities undertaken which are necessary to remove or abate hazards or for the protection of public health, safety, and welfare; provided that such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of this section. After the emergency, the person or agency undertaking the action shall repair any impacts to the natural resources resulting from the emergency action (e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, replant disturbed areas with native vegetation).
9. Maintenance of public and private storm drainage facilities in accordance with a stormwater management plan approved by the City.
10. Activities and improvements in public rights-of-way.

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- B. In addition to the activities listed in Subsection A, above, within an HCA the following activities are exempt from the provisions of this section (except that activities within 100 feet of a water quality resource area require a construction management plan and water quality resource boundary verification for Type I review in accordance with Subsection 19.322.6):
1. The alteration, expansion, or replacement of existing structures, provided that both of the following standards are met:
 - a. The alteration, expansion, or replacement of a structure shall not intrude more than 500 square feet into the HCA, in addition to the area defined as the building footprint as of *[insert new adoption date]*.
 - b. No new intrusion into the HCA shall be closer to a protected water feature than the pre-existing structure or improvement.
 2. Minor encroachments not to exceed 120 square feet of impervious surface, such as accessory buildings, eave overhangs, exterior building improvements for access and exiting requirements, or other similar features.
 3. Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete.
 4. Low-impact outdoor recreation facilities for public use, including, but not limited to, multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture, provided that such a facility meets the following requirements:
 - a. It contains less than 500 square feet of new impervious surface.
 - b. Its trails shall be constructed using non-hazardous, pervious materials, with a maximum width of 5 feet.
 5. Facilities that infiltrate stormwater onsite, including the associated piping, may be placed within the HCA so long as the forest canopy and the areas within the driplines of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins. Only native vegetation may be planted in these facilities.

19.322.5 Prohibited Activities

Following adoption of this section, the following activities are prohibited within water quality resource areas and HCAs:

- A. New structures, development, or activity other than those allowed by this section.
- B. Uncontained areas of hazardous materials.
- C. The planting of any invasive or noxious vegetation.
- D. Outside storage of materials, unless such storage began before the *[insert new adoption date]*; or, unless such storage is approved according to the provisions of this section.

19.322.6 Activities Permitted Under Type I Application Review

- A. Construction management plans and boundary verifications, as outlined in Subsection 19.322.9, are subject to Type I review as per Subsection 19.1011.1.

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- B. Tree Removal. Within water quality resource areas and HCAs, tree removal is subject to Type I review as per Subsection 19.1011.1. The Planning Director shall approve an application if the following criteria are met:
 - 1. The tree removal is necessary to eliminate an imminent hazard to person or property;
 - 2. *[Tree removal criteria to be listed here.]*
- C. Activities within HCAs in Compliance with Clear and Objective Standards. Within HCAs, but outside of water quality resource areas, development that is in compliance with the non-discretionary standards of Subsection 19.322.12 is subject to Type I review as per Subsection 19.1011.1.
- D. Measures to remove or abate nuisances or any other violation of state statute, administrative agency rule, or city or county ordinance shall be subject to Type I review of a construction management plan, to be approved by the Planning Director prior to the abatement activity. The person or agency undertaking the action shall repair any impacts to the natural resources resulting from the nuisance or violation (e.g., restore disturbed soils, restore hydrologic connections, replant disturbed areas with native vegetation, etc.), unless subsequent development has been approved.

19.322.7 Activities Permitted Under Type II Review

Unless otherwise exempt or permitted as a Type I activity, the following activities are allowed within either water quality resource areas or HCAs subject to approval by the Planning Director under Subsection 19.1011.2, Type II Review:

- A. Special Uses. If in compliance with the Special Use standards in Subsection 19.322.13, the activities listed below shall be subject to Type II review:
 - 1. Improvement of existing public utility facilities.
 - 2. New stormwater pre-treatment facilities.
 - 3. Walkways and bike paths.
 - 4. New public or private utility facility construction.
 - 5. Natural resource management plans and stormwater management plans.

If the proposed activity is not in compliance with the standards in Subsection 19.322.13, it shall be subject to minor quasi-judicial review as per Subsection 19.1011.3 and the discretionary standards of 19.322.15.

- B. Minor Modifications. The activities listed below shall be subject to Type II review and the discretionary standards in Subsection 19.322.15:
 - 1. Farming practices or farm uses, excluding buildings and structures, which increase direct discharges to water quality resource areas.
 - 2. Landscape planting and maintenance that would increase impervious area within the water quality resource area by less than 100 square feet and/or result in increased direct stormwater discharges to the water quality resource area.
 - 3. Maintenance, alteration, expansion, replacement, repair, and/or change of use of existing legal buildings or structures, provided that the proposed alteration or expansion does not disturb more than 100 square feet within the water quality resource area and does not encroach closer to the protected water feature than the existing buildings or structures.

4. Maintenance, alteration, and repair of existing utilities, access, streets, driveways, and parking improvements, including asphalt overlays, provided that the proposed improvements do not disturb more than 100 square feet within the water quality resource area and do not encroach closer to the protected water feature than the existing improvements.

C. Partitions that meet the standards in Subsection 19.322.14.E.

19.322.8 Activities Permitted Under Minor Quasi-Judicial Review

Unless otherwise exempt or permitted as a Type I or Type II activity, the following activities are allowed within either water quality resource areas or HCAs, subject to approval by the Planning Commission under Subsection 19.1011.3 Minor Quasi-Judicial Review:

- A. The activities listed below shall be subject to the discretionary standards in Subsection 19.322.15:
 1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or Type II activity.
 2. Within HCAs, development that is not in compliance with the non-discretionary standards of Subsection 19.322.12.
 3. New roads to provide access to protected water features; necessary ingress and egress across water quality resource areas; or the widening an existing road.
 4. Improvement of existing public utility facilities that cannot meet the standards of Subsection 19.322.13.
 5. New stormwater pre-treatment facilities that cannot meet the standards of Subsection 19.322.13.
 6. New public or private utility facility construction that cannot meet the standards of Subsection 19.322.13.
 7. Walkways and bike paths that cannot meet the standards of Subsection 19.322.13.
 8. Tree removal in excess of that permitted under Subsections 19.322.4 or 19.322.6.
 9. Landscape planting and maintenance that would increase impervious area by more than 100 square feet.
 10. Maintenance, alteration, expansion, replacement, repair, and/or change of use of existing legal buildings or structures that would disturb more than 100 square feet within the water quality resource area or would encroach closer to the protected water feature than the existing buildings or structures.
 11. Maintenance, alteration, and repair of existing utilities, access, streets, driveways, and parking improvements, including asphalt overlays, that would disturb more than 100 square feet within the water quality resource area or would encroach closer to the protected water feature than the existing improvements.
- B. The activities listed below shall be subject to the discretionary standards in Subsection 19.322.14:
 1. The partitioning of land containing a water quality resource area or HCA that cannot meet the standards in Subsection 19.322.14.E.
 2. The subdividing of land containing a water quality resource area or HCA.

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19.322.9 Construction Management Plans

- A. Construction management plans shall provide the following information:
1. Description of work to be done.
 2. Location of site access and egress that construction equipment will use.
 3. Equipment and material staging and stockpile areas.
 4. Erosion and sediment control measures.
 5. Measures to protect trees and other vegetation located within the water quality resource area and/or HCA, but outside of the approved disturbance.
- B. To ensure that trees and vegetation are not damaged during construction, construction management plans shall ensure that:
1. Prior to construction, the water quality resource area and/or HCA shall be flagged, fenced, or otherwise marked and shall remain undisturbed except as may be allowed by this section. Such markings shall be maintained until construction is complete.
 2. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent water quality resource area.
 3. Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed pre-development flows.
 4. The construction phase of the development will be done in such a manner to safeguard the resource portions of the site that have not been approved for development.
- C. Construction management plans are subject to Type I review. If the construction management plan, together with a boundary verification prepared in accordance with Subsection 19.322.17, shows that the proposed non-exempt development and construction activities will not occur within a water quality resource area and/or an HCA, the development standards of this section shall not apply.

19.322.10 Submittal Requirements

Except for boundary verifications and construction management plans, all Type I, Type II, and minor quasi-judicial applications shall include the following information:

- A. For that portion of the subject property within, or within 100 feet of, a water quality resource area or HCA, applicants must submit a scale map of the property that includes:
1. Location of any wetlands or water bodies on the property and the boundary of all water quality resource areas and HCAs on the property. The boundary shall be verified in accordance with the requirements of Subsection 19.322.17.
 2. Location of 100-year floodplain and floodway boundary as defined by the Federal Emergency Management Agency and the area of the 1996 flood inundation.
 3. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges.
 4. Topography shown by two-foot vertical contours in areas of slopes less than 15%, and at 5-foot vertical contours of slopes 15% or greater. On properties that are 2 acres or

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larger, such a contour map is required only for the portion of the property to be developed.

- B. A site plan of the proposed development outlining the total disturbance area, including proposed building footprints, site property improvements, utilities and landscaping. The types, sizes, and intensities of lights must be placed so that they do not shine directly into the water quality resource area or HCA.
- C. If grading will occur within a water quality resource area or HCA, a grading plan showing the proposed alteration of the ground at 2-foot vertical contours in areas of slopes less than 15%, and at 5-foot vertical contours of slopes 15% or greater.
- D. Additional information as necessary to demonstrate compliance with the applicable standards.
- E. All information contained in the submission requirements and site plan checklist forms prescribed by the Planning Director.
- F. The application fee as adopted by the City Council.
- G. Applications for Type II (other than for special uses identified in Subsection 19.322.7.A) and minor quasi-judicial review shall provide the following additional information:
 - 1. The location of all existing natural features including, but not limited to, all trees of a caliper greater than 6 inches in diameter at breast height (DBH), natural drainages on the site, springs, seeps, and outcroppings of rocks or boulders within the water quality resource area or HCA.
 - 2. Where wetlands are identified, the applicant shall follow the DSL wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist and will be accepted only after approval by DSL.
 - 3. An inventory and location of existing debris and noxious materials within the water quality resource area or HCA.
 - 4. An inventory of vegetation, including the percentage of ground and canopy coverage materials within the water quality resource area or HCA.

19.322.11 Approval Criteria

Applications for Type I, Type II, and minor quasi-judicial review within a water quality resource area or HCA shall demonstrate compliance with the applicable approval criteria as outlined in Table 19.322.11-1.

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Table 19.322.11-1 Approval Criteria for Various Activities			
Activity	Subsection outlining Applicable Criteria		
	Type of Review		
	Type I	Type II	Minor Quasi-Judicial
Construction management plan (19.322.9)	19.322.9		
Boundary verification (19.322.17)	19.322.17		
Tree removal under 19.322.6.B	19.322.6.B		
Activities allowed under 19.322.6.C	19.322.12		
Non-emergency abatement of nuisances or violations as per 19.322.6.D	19.322.9		
Activities allowed under 19.322.7.A (Special Uses)		19.322.13	
Activities allowed under 19.322.7.B (Minor modifications)		19.322.15	
Partitions allowed under 19.322.7.C		19.322.14	
Activities allowed under 19.322.8			19.322.15

19.322.12 Non-Discretionary Development Standards for HCAs

Non-Discretionary Development Standards for HCAs. The clear and objective standards can be applied to developments within HCAs subject to Type I review. These standards do not apply to projects within water quality resource areas.

A. Disturbance area limitations to minimize impact to HCA.

1. Detached and attached single-family residential uses. The amount of disturbance allowed within an HCA is determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated as described in Figure 19.322.12-1. Such disturbance is subject to the mitigation requirements described in Subsection C, below.

Figure 19.322.12-1 Method for Calculating Allowable Disturbance within an HCA
X = The net amount of disturbance area allowed within the HCA ($X = Y - Z$) Y = The maximum potential disturbance area is 50% of the total HCA, up to a maximum of 5,000 square feet. Z = The area of the lot or parcel outside the HCA. If the area of the lot or parcel outside the HCA (Z) is greater than the maximum potential disturbance area (Y), then development shall not be permitted within the HCA; otherwise the applicant may disturb up to the net amount of disturbance area allowed (X).

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Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5000 sq ft outside of HCA

$Y = 1500 \text{ sq ft (50\% of HCA)}$

$Z = 5000 \text{ sq ft outside of HCA}$

$X = - 3500 \text{ sq ft (1500 sq ft – 5000 sq ft)}$

Conclusion: Z is greater than Y ; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2000 sq ft outside of HCA

$Y = 3000 \text{ sq ft (50\% of HCA)}$

$Z = 2000 \text{ sq ft outside of HCA}$

$X = 1000 \text{ sq ft (3000 sq ft – 2000 sq ft)}$

Conclusion: Z is not greater than Y ; therefore, the applicant may disturb up to the value of X (1000 sq ft) within the HCA).

2. All other uses. A net amount of disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection C, below.
 3. Development within an HCA in accordance with these provisions shall not result in a change of the HCA status of such developed areas on a property. In the case of a later development request seeking to develop within previously undisturbed HCAs on a property where a prior development request was subject to these provisions, the calculation of the MDA allowed on the property shall be based on the location of the HCA, notwithstanding the location of any authorized development within the HCA.
 4. In accordance with Subsection 19.322.8, proposed development that would disturb more HCA than allowed by Subsections 1 and 2, above, shall be subject to minor quasi-judicial review.
- B. Protection of habitat during site development. During development of any site containing a HCA, the following standards shall apply:
1. Work areas shall be marked to reduce potential damage to the HCA.
 2. Trees in HCAs shall not be used as anchors for stabilizing construction equipment.
 3. Native soils disturbed during development shall be conserved on the property.
 4. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Public Works Standards.
 5. Prior to construction, the HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed.
 6. All work on the property shall conform to a construction management plan prepared according to Subsection 19.322.9.
- C. Mitigation requirements for disturbance in HCAs. In order to achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.322.1, tree replacement and vegetation planting are required when

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development intrudes into a HCA according to the following standards, except for wetlands mitigation requirements imposed by state and federal law:

1. Required plants and plant densities. All trees, shrubs and ground cover must be native plants as identified by the City. An applicant must meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2:
 - a. Mitigation Option 1. This mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 19.322.12-1. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 19.322.12-1 Tree Replacement	
Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- b. Mitigation Option 2. This mitigation requirement is calculated based on the size of the disturbance area within a HCA. Native trees and shrubs are required to be planted at a rate of 5 trees and 25 shrubs per 500 square feet of disturbance area. This is calculated by dividing the number of square feet of disturbance area by 500, multiplying that result times 5 trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs. For example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times 5 equals 3.3, so 3 trees must be planted, and 0.66 times 25 equals 16.5, so 17 shrubs must be planted. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
2. Plant size. Replacement trees must be at least 1/2 inch in caliper, measured at 6 inches above the ground level for field-grown trees or above the soil line for container-grown trees (the 1/2-inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone, which may be 1-gallon size. Shrubs must be in at least a 1-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.
3. Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.
4. Plant diversity. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

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5. Location of mitigation area. All vegetation must be planted on the applicant's site within the HCA or in an area contiguous to the HCA; provided, however, that if the vegetation is planted outside of the HCA then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant.
6. Invasive vegetation. Invasive non-native or noxious vegetation must be removed within the mitigation area prior to planting.
7. Tree and shrub survival. A minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.
8. Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die must be replaced in kind. The developer shall submit a two-year maintenance bond covering the continued health and survival of all plantings.
9. To enhance survival of the mitigation plantings, the following practices are required:
 - a. Mulching. Mulch new plantings a minimum of 3 inches in depth and 18 inches in diameter to retain moisture and discourage weed growth.
 - b. Irrigation. Water new plantings 1 inch per week between June 15th and October 15th for the three years following planting.
 - c. Weed control. Remove or control non-native or noxious vegetation throughout the maintenance period.
10. To enhance survival of tree replacement and vegetation plantings, the following practices are recommended:
 - a. Planting season. Plant bare root trees between December 1st and February 28th, and potted plants between October 15th and April 30th.
 - b. Wildlife protection. Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and resulting damage to plants.

19.322.13 Special Use Standards

- A. Except for natural resource management plans and stormwater management plans, all Type II Special Uses listed in Subsections B through E, below, shall comply with the following standards:
 1. A mitigation plan shall be submitted as per Subsections 19.322.12.C or 19.322.15.A for HCAs, as applicable, or as per Subsection 19.322.15.B.2.e for water quality resource areas. Water quality resource areas and HCAs shall be restored and maintained in accordance with the approved mitigation plan.
 2. Existing vegetation outside of approved work areas shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to water quality resource areas and HCAs. Trees in the water quality resource areas or HCAs shall not be used as anchors for stabilizing construction equipment.
 3. Where existing vegetation has been removed or the original land contours disturbed, the site shall be revegetated and the vegetation shall be established as soon as practicable. Nuisance plants, as identified by the City, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on

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bare areas. Nuisance plants shall be replaced with native plants by the next growing season.

- B. New stormwater pre-treatment facilities. In addition to the requirements of Subsection A, above, new stormwater pre-treatment facilities shall comply with the following standards:
1. The stormwater pre-treatment facility shall encroach no more than 25 feet into the outside boundary of the water quality resource area of a primary water feature.
 2. The area of encroachment into the water quality resource area shall be replaced by adding an equal area to the water quality resource area on the property.
- C. Improved pedestrian and bike paths. In addition to the requirements of Subsection A, above, pedestrian and bike paths, which are proposed to be constructed or improved with gravel, pavement, pavers, wood or other materials, shall comply with the following standards:
1. Pedestrian and bike paths within HCAs or water quality resource areas shall not exceed 10 feet in width.
 2. If the proposed path will be located within a water quality resource area and will be paved, then, for the purposes of evaluating the proposed project, the vegetated corridor shall be widened by the width of the path.
 3. The path shall be designed to avoid water quality resource areas and HCAs where possible and shall be constructed so as to minimize disturbance to existing vegetation and slope stability.
 4. The path shall be a minimum of 10 feet from the boundary of the protected water feature.
- D. New public or private utility facility construction. In addition to the requirements of Subsection A, above, the following disturbance area limitations apply to new utilities, private connections to existing or new utility lines, and upgrades:
1. The disturbance area for connections to utility facilities shall be no greater than 10 feet wide.
 2. The disturbance area for the upgrade of existing utility facilities shall be no greater than 15 feet wide.
 3. The disturbance area for new underground utility facilities shall be no greater than 25 feet wide and shall disturb no more than 200 linear feet of water quality resource area within any 1,000-linear-foot stretch of water quality resource area; provided that this disturbance area shall be restored with the exception of necessary access points to the utility facility.
 4. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the U.S. Army Corps of Engineers through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.
- E. Natural resource management plans and stormwater management plans that authorize disturbance within the water quality resource area or HCA may be approved subject to the following standards:
1. The plan has been approved by the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Oregon Department of Fish and Wildlife (ODFW), Oregon Division of State Lands (DSL), Oregon Watershed Enhancement Board (OWEB), Clackamas County Water Environmental Services, or other natural resource agency. Or, the plan has

been prepared in accordance with particular standards and guidelines promulgated by a natural resource agency, such as OWEB's Oregon Aquatic Habitat Restoration and Enhancement Guide, ODFW's Western Oregon Stream Restoration Program, or DSL's Hydrogeomorphic (HGM) approach of assessment for wetland and riparian functions.

2. The plan encourages restoration and stormwater management activities that have any of the following effects:
 - a. Change the trend of habitat function from one of a diminishing ability to support salmonids and other organisms to one that supports a complex, self-sustaining system.
 - b. Correct or improve conditions caused by past management and/or disturbance events.
 - c. Maximize beneficial habitat in the short term where watershed degradation has been extensive and natural processes will need substantial time to restore habitat.
 - d. Create beneficial habitat and restore stream function and hydrology to the fullest extent possible within developed areas where no reasonable expectation of returning to natural conditions exists.

19.322.14 Standards for Partitions and Subdivisions

These standards apply in addition to the other land division requirements of the City's municipal code, as provided in Title 17 Land Division and Title 19 Zoning.

- A. Boundary Verification. The applicant shall verify the boundaries of the HCA and water quality resources on the property according to Subsection 19.322.17.
- B. Construction Management Plans. Subdivision and partition applications that will require physical improvements (e.g., grading and/or the construction of structures, streets, or utilities) within, or within 100 feet of, a water quality resource or HCA shall include a construction management plan in accordance with Subsection 19.322.9. Applicants who are partitioning or subdividing land but are not grading or constructing structures, streets, or utilities or making other physical improvements to the site do not have to submit a construction management plan.
- C. Impacts from site improvements. Subdivision and partition applications that will require site improvements (e.g., grading and/or the construction of streets, sidewalks, culverts, bridges, or utilities) within a water quality resource or HCA shall comply with the applicable standards in Subsections 19.322.12, 19.322.13, and 19.322.15.
- D. Mitigation for future structures. Applicants who are partitioning or subdividing land where future construction may impact water quality resource areas or HCAs may choose either of the following options:
 1. Complete the mitigation requirements for any impacts to water quality resources or HCAs in accordance with the requirements of this section and thereby exempt all subsequent development on lots containing HCA and/or water quality resources from further review.
 2. Not complete the mitigation requirements, thus requiring that any subsequent development be subject to review under this section.
- E. Type II Partitions. Applications for partitions that are in compliance with the standards below are subject to Type II review:

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1. For properties that do not contain any water quality resource areas, when partitioning a property into parcels there shall be no more than a 30% point difference in the percentage of HCA on each of the parcels. For example, a two-lot partition that produces one parcel that is 55% HCA and the other that is 35% HCA is permissible; whereas a two-lot partition that produces one parcel that is 75% HCA and the other that is 30% HCA is not permissible. However, an applicant may partition a property such that at least 90% of the original property's HCA is on a separate unbuildable parcel, protected by a conservation restriction.
 2. For properties that contain water quality resource areas, the applicant must place 100% of the water quality resource area in a separate tract.
 3. For properties that contain both water quality resource areas and HCAs, the applicant must comply with both of the above standards.
- F. All other partitions. Applications for partitions that cannot comply with Subsection E, above, are subject to minor quasi-judicial review and the following standards:
1. For properties that do not contain any water quality resource areas but for which it is not practicable to comply with the partition standards in Subsection E-1, above, the following standards shall be met:
 - a. The applicant's partition plan shall result in the smallest practicable percentage point difference in the percentage of HCA on the parcels created by the partition.
 - b. To the extent possible, the parcel configuration shall mitigate the potential future impacts to the HCA from access and development.
 2. For properties that contain water quality resource areas but cannot comply with Subsection E-2, above, or that contain both water quality resource areas and HCAs but cannot comply with Subsection E-3, above, the following standards shall be met:
 - a. To the extent possible, the parcel configuration shall mitigate the potential future impacts to the water quality resource from access and development.
 - b. An Impact Evaluation and Alternatives Analysis shall be prepared in accordance with Subsection 19.322.15.
- G. Subdivisions. Applications for subdivisions are subject to minor quasi-judicial review and the following standards:
1. The applicant shall place at least 90% of the property's HCA and 100% of the property's water quality resource area in a separate tract.
 2. For subdivisions that cannot comply with standard in Subsection G-1, above, the following standards shall be met:
 - a. All parcels being created shall have adequate buildable area outside of the water quality resource area and HCA.
 - b. To the extent possible, the parcel configuration shall mitigate the potential future impacts to the water quality resource area and HCA from access and development.
 - c. An Impact Evaluation and Alternatives Analysis shall be prepared in accordance with Subsection 19.322.15.

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- H. Where required by this section, the new subdivision or partition plat shall delineate and show all water quality resource areas and HCAs as a separate unbuildable tract(s) according to the following process:
1. For residences, if the separate tract is adjacent to the rear yard, the minimum rear yard requirement is reduced to 10 feet.
 2. Prior to preliminary plat approval, the designated natural resource area (whether water quality resource area or HCA, or both) shall be shown as a separate tract(s), which shall not be a part of any lot used for construction of any structures.
 3. Prior to final plat approval, ownership of the separate natural resource tract(s) shall be identified to distinguish it from lots intended for sale. The tract(s) may be identified as any one of the following:
 - a. Private natural area held by the owner or homeowners association by a restrictive covenant and/or conservation easement.
 - b. For residential subdivisions, private natural area subject to an easement conveying storm and surface water management rights to the City of Milwaukie, Clackamas County Water Environment Services, and/or any other relevant jurisdiction, and preventing the owner of the tract from activities and uses inconsistent with the purpose of this section.
 - c. Public natural area where the tract has been dedicated to the City of Milwaukie or a private non-profit with the mission of land conservation.

19.322.15 Discretionary Development Standards

Except for the minor modifications listed in Subsection 19.322.7.B, which are subject to Type II review, all applications for discretionary review are subject to minor quasi-judicial review.

- A. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA. An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.322.12 (for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs) but who will comply with all other provisions of Subsection 19.322.12 may seek review under this subsection if the all of the following standards are met:
1. The applicant has provided all of the following information:
 - a. A calculation of the number of trees and shrubs the applicant would be required to plant under Subsection 19.322.12.
 - b. The numbers and sizes of trees and shrubs that the applicant proposes to plant.
 - c. An explanation of why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 19.322.12. Such explanation shall be prepared and signed by a knowledgeable and qualified natural resources professional or a certified landscape architect and shall include discussion of site preparation including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control.

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- d. A mitigation site-monitoring and -reporting plan.
- 2. The proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of Subsection 19.322.12.
- 3. The proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices in Subsection 19.322.12.
- B. General Discretionary Review. This subsection provides a discretionary process by which the City analyzes the impacts of development on water quality resource areas and HCAs, as well as measures to prevent negative impacts, and also provides mitigation and enhancement requirements.
 - 1. Professional Consultation. The Planning Director may consult with a professional with appropriate expertise to evaluate an applicant's application prepared under this section or may rely on appropriate staff expertise in order to properly evaluate the report's conclusions.
 - 2. Impact Evaluation and Alternatives Analysis. An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property. The alternatives must be evaluated on the basis of their impact on water quality resource areas and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The evaluation and analysis shall include the following:
 - a. Identification of the ecological functions of riparian habitat found on the property as described in Subsection 19.322.1.C.2.
 - b. An assessment of the water quality impacts related to the development, including sediments, temperature and nutrients, sediment control, and temperature control, or addressing any other condition with the potential to cause the Protected Water Feature to be listed on DEQ's 303(d) list.
 - c. An Alternatives Analysis demonstrating that:
 - (1) No practicable alternatives to the requested development exist that will not disturb the water quality resource area or HCA.
 - (2) Development in the water quality resource area and/or HCA has been limited to the area necessary to allow for the proposed use.
 - (3) The water quality resource area can be restored to an equal or better condition in accordance with Table 19.322.15-1.
 - (4) Road crossings will be minimized as much as possible.

The analysis shall provide an explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.
- d. For applications seeking an alteration, addition, rehabilitation, or replacement of existing structures located within the water quality resource area, the applicant shall do the following:
 - (1) Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the water quality resource area than the one proposed. If no such reasonably practicable

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alternative design or method of development exists, the project shall be conditioned to limit its disturbance and impact on the water quality resource area to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement, or rehabilitation.

- (2) Provide mitigation to ensure that impacts to the functions and values of the water quality resource area will be mitigated or restored to the extent practicable.
- e. A water quality resource area mitigation plan that contains the following information:
- (1) A description of adverse impacts that will be caused as a result of development.
 - (2) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 19.322.15-1.
 - (3) A description of how the following standards will be achieved:
 - (a) Where existing vegetation has been removed, the site shall be revegetated as soon as practicable.
 - (b) Where practicable, the types, sizes, and intensities of lights shall be placed so that they do not shine directly into the water quality resource area and/or HCA locations.
 - (c) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource and to provide opportunity for food, water, and cover for animals located within the water quality resource area.
 - (4) A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.
 - (5) A map showing where the specific mitigation activities will occur. Offsite mitigation related to water quality resource areas shall not be used to meet mitigation requirements of this section.
 - (6) An implementation schedule, including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting, as well as a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

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Table 19.322.15-1 Restoration and Mitigation Requirements for Water Quality Resource Areas	
Existing Condition of Water Quality Resource Area	Requirements Applicable to Portions of the Water Quality Resource Area Disturbed During Development or Land Disturbance
Good Existing Corridor	
Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.	• Submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including: sediments, temperature and nutrients, sediment control, and temperature control, or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list. • Inventory and remove debris and noxious materials.
Marginal Existing Vegetated Corridor	
Combination of trees, shrubs and groundcover are 80% present, and 25 - 50% canopy coverage in the vegetated corridor.	• Vegetate disturbed and bare areas with non-nuisance plantings from the Milwaukie Native Plant List. • Revegetate with native species using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site. • Restore and mitigate according to approved plan using non-nuisance plantings from the Milwaukie Native Plant List. • Inventory and remove debris and noxious materials.
Degraded Existing Vegetated Corridor	
Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any non-native species.	• Vegetate disturbed and bare areas with non-nuisance plantings from the Milwaukie Native Plant List. • Remove non-native species and revegetate with non-nuisance plantings from the Milwaukie Native Plant List. • Plant and seed to provide 100% surface coverage. • Restore and mitigate according to a City-approved plan using non-nuisance plantings from the Milwaukie Native Plant List. • Inventory and remove debris and noxious materials.

19.322.16 Adjustments and Variances

- A. Adjustments to Use Zone Standards. To avoid or minimize impacts to water quality resource areas and HCAs, the following adjustments to the standards of the underlying use zone shall be allowed for development on parcels that include a water quality resource area or HCA. These adjustments may not be used to avoid the requirement to submit a construction management plan or boundary verification but may be used with a Type I, Type II, or minor quasi-judicial application:
1. The required building setback of the base zone may be reduced the minimum amount necessary to any distance between the base-zone minimum and zero, unless this reduction conflicts with applicable fire or life safety requirements.

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2. Landscaping requirements, apart from those required for parking lots, may be met by preserving the water quality resource area and/or HCA.
 3. To accommodate the allowable residential density, dimensional standards and lot sizes may be adjusted by up to 30 percent.
 4. All area within a water quality resource area or HCA, or any portion of it, may be subtracted from the calculations of net acreage for purposes of determining the minimum number of units that must be built on the property, provided that such area is protected, such as by making a public dedication or executing a restrictive covenant.
- B. Variance. A variance to avoid the unreasonable loss of economically viable use of a lot that contains water quality resource areas and/or HCAs may be granted by the Planning Commission through minor quasi-judicial review. Such a variance request is not subject to the requirements of Chapter 19.700. Applicants must demonstrate that without the proposed variance, the reasonable economic use of the property would be denied. The applicant must show that no other development proposal could result in permission for an economically viable use of the property.
- C. Variance Conditions. In granting a variance request, the Planning Commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting relief from provisions of this section.

If a variance is granted to allow an encroachment into a water quality resource area, it may be subject to conditions that could include but are not limited to the following:

1. The minimum width of the vegetated corridor shall be 25 feet on each side of a primary protected water feature.
2. No more than 25% of the length of the water quality resource area for a primary protected water feature within a development site shall be less than 25 feet in width on each side of the water feature.

19.322.17 Boundary Verification and Map Administration

- A. Water quality resource areas – boundary verification. In order to verify the boundary of a water quality resource area, the applicant shall provide a topographic map of the site at contour intervals of 5 feet or less, showing a delineation of the water quality resource area, which includes areas shown on the WQNR map and areas that meet the definition of water quality resource areas in Table 19.322.17-1.

Table 19.322.17-1 Vegetated Corridor Measurement by Protected Water Feature Type			
Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor²
Primary Protected Water Features ¹	< 25%	- Edge of bankful flow or 2-year storm level - Delineated edge of Title 3 wetland	50 ft
Primary Protected Water Features ¹	> 25% for 150 ft or more ³	- Edge of bankful flow or 2-year storm level - Delineated edge of Title 3 wetland	200 ft

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Primary Protected Water Features ¹	> 25% for less than 150 ft ³	- Edge of bankful flow or 2-year storm level - Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in > 25% slope) ⁴ , plus 50 ft. ⁵
Secondary Protected Water Features ⁶	< 25%	- Edge of bankful flow or 2-year storm level - Delineated edge of Title 3 wetland	15 ft
Secondary Protected Water Features ⁶	> 25% ³	- Edge of bankful flow or 2-year storm level - Delineated edge of Title 3 wetland	50 ft
¹ Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, and natural lakes and springs. ² Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse. ³ Vegetated corridors in excess of 50 feet for primary protected features, or in excess of 15 feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature. ⁴ Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope. ⁵ A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine). ⁶ Secondary Protected Water Features include intermittent streams draining 50 to 100 acres.			

B. HCA – Boundary verification and correction. The boundary verification approaches described below are available for applicants who believe: (1) that the WQNR map is accurate, (2) that there is a simple incongruity between the WQNR map and the lot-line boundaries of a property, (3) that the property was developed prior to [insert new adoption date]; or (4) that the WQNR map is inaccurate for a reason other than as described in points 2 and 3, above.

1. Applicant Believes WQNR Map is Accurate. An applicant who believes that the WQNR map is accurate shall submit the following information regarding the real property lot or parcel:
 - a. A detailed property description.
 - b. A copy of the applicable WQNR map.
 - c. A summer 2005 aerial photograph of the property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of one map inch equal to 100 feet for larger lots.
 - d. The information required to be submitted under Subsections 19.322.12 through 19.322.15, as appropriate, if the applicant proposes development within any HCA under those provisions.
 - e. Any other factual information that the applicant wishes to provide to support map verification.

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2. Obvious Misalignment Between Mapped Habitat and Property Lot Lines or Existing Development. In some cases, the mapped vegetative cover data might not align precisely with the tax lot layer that shows property lines or with the location of existing legally established development. An applicant who believes that the WQNR map is inaccurate based on such an obvious misalignment shall submit the following information regarding the real property lot or parcel:
 - a. The information described in Subsection 1, above.
 - b. A documented demonstration of the misalignment between the WQNR map and the property's tax lot boundary lines and/or the location of existing legally established development. In order to demonstrate misalignment with a property boundary, for example, an applicant could compare the boundary lot lines shown for roads within 500 feet of a property with the location of such roads as viewed on the aerial photograph of the area surrounding a property to provide evidence of the scale and amount of incongruity between the WQNR map and the property lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the property. In order to demonstrate misalignment with existing development, an applicant could provide information such as aerial photographs, site photographs, and approved building permits and site plans, which show that the area in question was legally developed as of *[insert new adoption date]* and therefore does not provide any vegetative cover and is more than 50 feet from a protected water feature.
3. Property Developed Between Summer 2002 and *[insert new adoption date]*. Where a property was developed between the summer of 2002 (when the aerial photo used to determine the regional habitat inventory was taken) and *[insert new adoption date]*, the applicant shall submit the following information regarding the real property lot or parcel:
 - a. The information described in subsection 1, above.
 - b. A summer 2002 aerial photograph of the property, with lot lines shown, at a scale of at least one map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of one map inch equal to 100 feet for larger lots.
 - c. Any approved building permits or other development plans and drawings related to the development of the property that took place between summer 2002 and *[insert new adoption date]*.
 - d. A clear explanation and documentation, such as supporting maps or drawings or an more recent aerial photograph, indicating the new development that has occurred and where previously identified habitat no longer exists because it is now part of a developed area.
4. WQNR Map is Inaccurate for Other Reasons. The applicant shall submit a report prepared and signed by either: (1) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist; or (2) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, storm water facilities, or other similar facilities. The report shall include:
 - a. A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed.
 - b. The information described in Subsection 1, above.

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- c. The information described in Subsections 2-b and/or 3-b through 3-d, if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel.
 - d. Additional aerial photographs if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide.
 - e. A map showing the topography of the property shown by two-foot vertical contours in areas of slopes less than 15%, and at 5-foot vertical contours of slopes 15% or greater.
 - f. Any additional information necessary to address each of the verification criteria in Subsection 5, below, a description of where any HCAs are located on the property based on the application of the verification criteria, and factual documentation to support the analysis.
5. Verification Criteria. The verification of the location of HCAs shall be according to the three-step process described below. A verification application shall not be considered complete and shall not be granted unless all the information required to be submitted with the verification application has been received.
- a. Step 1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:
 - (1) Locate the water feature that is the basis for identifying riparian habitat.
 - (a) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
 - (b) Locate all flood areas within 100 feet of the property.
 - (c) Locate all wetlands within 150 feet of the property based on the WQNR Map. Identified wetlands shall be further delineated consistent with methods currently accepted by DSL and the Corps.
 - (2) Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas.
 - (a) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map, available from the City and/or the Metro Data Resource Center.
 - (b) The vegetative cover status of a property may be adjusted only if: (1) the property was legally developed prior to the time this section was adopted (see Subsection 19.322.17.B.3, above), or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types identified in Table 19.322.17-2.
 - (3) Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25 percent using the methodology outlined in Table 19.322.17-1.

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- (4) Identify the riparian habitat classes applicable to all areas on the property using Table 19.322.17-2 and the data identified in Subsections 19.322.17.B.5.a(1) through a(3), above.

Table 19.322.17-2			
Method for Determining Classification of Riparian Areas			
Distance from Protected Water Feature	Development/Vegetation Status¹		
	Low structure vegetation or open soils²	Woody vegetation (shrub and scattered forest canopy)³	Forest Canopy (closed to open forest canopy)⁴
(a) Surface Streams			
0 to 50 ft	Class I ⁵	Class I	Class I
50 to 100 ft	Class II ⁶	Class I	Class I
100 to 150 ft	Class II ⁶ if slope>25%	Class II ⁶ if slope>25%	Class II ⁶
150 to 200 ft	Class II ⁶ if slope>25%	Class II ⁶ if slope>25%	Class II ⁶ if slope>25%
(b) Wetlands (Wetland feature itself is a Class I Riparian Area)			
0 to 100 ft	Class II ⁶	Class I	Class I
100 to 150 ft			Class II ⁵
(c) Flood Areas			
Within 300 ft of river or surface stream	Class I	Class I	Class I
More than 300 ft from river or surface stream	Class II ⁶	Class II ⁶	Class I
0 to 100 ft from edge of flood area		Class II ^{6, 7}	Class II ⁶
¹ The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. ² "Low structure vegetation or open soils" means areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream. Low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger. ³ "Woody vegetation" means areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream. ⁴ "Forest canopy" means areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature. ⁵ Except that areas within 50 feet of surface streams shall be Class II riparian areas if their vegetation status is "Low structure vegetation or open soils," and if they are high gradient streams. High gradient streams are identified on the Metro Vegetative Cover Map. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C. ⁶ Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors. ⁷ Only if within 300 feet of a river or surface stream.			

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- b. Step 2. Urban Development Value of the Property. The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center).
- (1) A property's urban development value designation shall be adjusted upward if the Metro 2040 Design Type designation for the property lot or parcel has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center).
 - (2) Properties in areas designated on the 2040 Applied Concept Map as the Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value.
 - (3) As designated in Title 13 of Metro's Urban Growth Management Functional Plan, properties owned by a regionally significant educational or medical facility are designated as high urban development value.
- c. Step 3. Cross-Reference Habitat Class with Urban Development Value. City verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Table 19.322.17-3.

Table 19.322.17-3 Method for Identifying Habitat Conservation Areas (HCAs)				
Fish & wildlife habitat classification	High Urban development value¹	Medium Urban development value²	Low Urban development value³	Other areas: Parks and Open Spaces, no design types outside UGB
Class I Riparian	HCA	HCA	HCA	HCA / HCA+ ⁴
Class II Riparian	No HCA	No HCA	HCA	HCA / HCA+ ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	No HCA / HCA ⁵ / HCA+ ⁴
Class B Upland Wildlife	No HCA	No HCA	No HCA	No HCA / HCA ⁵ / HCA+ ⁴

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NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an HCA adjustment.

- ¹ Primary 2040 design type: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas
- ² Secondary 2040 design type: Main Streets, Station Communities, Other Industrial areas, and Employment Centers
- ³ Tertiary 2040 design type: Inner and outer neighborhoods, Corridors
- ⁴ Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas.
- ⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, shall be considered High HCAs.

C. Water Quality and Natural Resource Area Map Corrections: Deletions.

1. Improperly mapped water features shown on the WQNR Map may be deleted by administrative review in accordance with Subsection 19.1011.2, subject to the following criteria:
 - a. In the case of wetlands, submission of a wetland delineation prepared by a professional wetland scientist in accordance with the 1996 Oregon Freshwater Wetland Assessment Methodology, demonstrating that the site does not contain wetlands.
 - b. In the case of drainages, submission of a hydrology report prepared by a professional engineer, demonstrating that the drainage does not meet the definition of a protected resource.
2. The Planning Director shall confer with DSL and Metro to confirm delineation and hydrology reports as may be needed prior to issuing a notice of decision on a requested map deletion.
3. The city shall amend the WQNR Map if the wetland or hydrology report demonstrates any of the following:
 - a. That a primary protected water feature no longer exists because the area has been legally filled, culverted, or developed prior to the adoption of this section.
 - b. That the boundaries of the water quality resource area have changed since adoption of the WQNR Map.
 - c. An error in the original mapping.

D. Water Quality and Natural Resource Area Map Corrections: Additions and Modifications.

1. Map corrections that require the addition of a protected water feature to the WQNR map shall be made in accordance with Chapter 19.900 Amendments.
2. To modify the water quality resource area, the applicant shall demonstrate that the modification will offer the same or better protection of the protected water feature, water quality resource area, and flood management area by doing all of the following:
 - a. Preserving a vegetated corridor that will separate the protected water feature from proposed development.
 - b. Preserving existing vegetated cover or enhancing the water quality resource area sufficient to assist in maintaining or reducing water temperatures in the adjacent protected water feature.

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- c. Enhancing the water quality resource area sufficient to minimize erosion, nutrient and pollutant loading into the adjacent protected water feature.
- d. Protecting the vegetated corridor sufficient to provide filtration, infiltration, and natural water purification for the adjacent protected water feature.
- e. Stabilizing slopes adjacent to the protected water feature.

CHAPTER 19.100 INTRODUCTORY PROVISIONS

Section 19.103 Definitions

Definitions to be amended (related to natural resources):

“Bankful stage” means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year ~~recurrent~~ recurrence interval flood elevation may be used to approximate the bankful stage. Also referred to as “top of bank.”

“Native vegetation or native plant” means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List, provided that it is not listed as a nuisance plant or a prohibited plant on the Milwaukie Native Plant List.

“Protected water features”:

“Primary protected water features” means and includes any of the following:

- a. Title 3 wetlands, which means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to City-adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3 of Metro’s Urban Growth Management Functional Plan, Section 3.07.340(E)(3). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.
- b. Rivers, streams and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow).
- c. Streams carrying year-round flow.
- d. Springs which feed streams and wetlands and have year-round flow.
- e. Natural lakes.

“Secondary protected water features” means and includes intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

“Vegetated corridor” means the area of setback between the top of the bank of a protected water feature or the edge of a delineated wetland and the ~~delineated~~ edge of the water quality resource area as defined in Table 19.322.17-1 ~~Table 4~~.

“Water quality resource areas” means the protected water feature and the adjacent vegetated corridors and the adjacent water feature as established in Chapter Section 19.322. The following definitions relate to water quality resource areas and habitat conservation areas in particular:

“Mitigation” means the reduction of adverse effects of a proposed project on the natural environment by considering, in this order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; ~~(42)~~ minimizing impacts by limiting the degree or magnitude of the action and its implementation; ~~(23)~~ rectifying the impact by repairing, rehabilitating, or restoring the affected environment; ~~(34)~~ reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and/or ~~(45)~~

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compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.

“Significant negative impact” means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area and/or habitat conservation area, to the point where the existing water quality functions and values of water quality and/or fish and wildlife habitat are degraded.

“Wetlands” means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

Other Definitions related to natural resources (no proposed changes):

“Restoration” means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

“Water quality and floodplain management area” means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

“Watershed” means a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.



MILWAUKIE

Dogwood City of the West

To: Planning Commission

From: Katie Mangle, Planning Director *KM*

Date: April 15, 2010, for April 20, 2010, Worksession

Subject: Planning Department Fee Review and Proposed Update

ACTION REQUESTED

None. This is a briefing for discussion only.

BACKGROUND INFORMATION

The Planning Department collects fees to support the City's land use and development permitting responsibilities. These fees are set by City Council each year as it adopts the City budget. During this budget cycle, the department is making a quick evaluation of how these fees are assessed, and how they relate to the cost and value of the services provided. This memo summarizes each of these and also some proposed changes to how fees are set and collected for development review services.

Though Council sets the fees and is responsible for setting the Planning Department budget, staff feels it is important for the Planning Commission to understand the fees that support development review work. As the Commission discusses changes to the City's review procedures over the next year, it will be important to understand the costs of development review (for both the City and applicants) and the City's approach to collecting fees for these services.

A. History of Prior Actions and Discussions

- **None.** Staff is not aware of previous Planning Commission discussions about the City's fee structure.

B. Summary of Current Fee Structure

The City collects fees for development review for each land use application required by Titles 14, 17, and 19 of the Municipal Code, and also for site plan review, site inspections, and pre-application conferences. The City conducted an in-depth cost of services study in the early

1990s to set the current fee structure. Modest changes have been made since then, but no major increases have been made nor new cost analysis completed in some time.

The current fee schedule (see Attachment 1) assigns a fee to each application required by the Municipal Code (e.g., for Community Service Use, Variance, and Design Review). Some application fees do not cover the City's actual costs; none completely cover the cost of staff time. Since fees are collected by application type (not process type), there are approximately 45 fee categories. A review of fees collected over the past five years clearly shows that this high number of fee types has made processing payments more complex and led to a high number of errors due to mis-assignment of fees. Though tracking fees by application type may once have been a useful tracking tool, it is no longer necessary since applications are tracked by other means.

Over at least the past 10 years, there has been no expectation by City Council that permitting fees would pay for staff time to conduct land use review. To the contrary, the clear expectation set by Council, the Planning Commission, and the community has been for a high level of customer service, diligent analysis, and protecting the decision-makers from bumping up against legal deadlines.

Revenue collected during the development review process is collected in one of three General Fund accounts. There is a set fee for each application, but no limit to the level of service provided by staff. Specifically, there are no fees intended to curb abuse of staff time or reduce City expenses. Discounts currently offered include:

- First (and most expensive) application is full price, 50% discount on each additional concurrent application. Most project proposals heard by the Planning Commission include several concurrent applications.
- 25% discount for seniors and low income citizens
- No charge for NDA-sponsored application related to parks
- No charge for applications submitted by City General Fund departments
- No charge for appeals sponsored by NDAs

Milwaukie's fees are generally much lower than many other jurisdictions'. For example:

Application Fee Comparison with Other Jurisdictions					
Service Type	Milwaukie	Canby	West Linn	Clackamas Co.	Happy Valley
Conditional Use permit (Planning Commission decision)	\$1500	\$2040	\$3650	\$3630	\$2800
Pre-application Conference	\$125-325		\$1000	\$280	\$500-1000
Appeal PC decision to Council	\$505	\$1920	\$400		\$500 + attorney fees

C. Estimate of Cost of Services

The cost of processing a land use application includes not only the review of the application itself, but also staff time (from Planning, Engineering, and Community Development), materials, public hearing notification and preparation, consultation with the City Attorney, and public hearing costs.

The table below summarizes of the cost of processing an individual land use application through each type of process: Type I (Administrative); Type II (Administrative with public comment); Minor Quasi-Judicial (public hearing by the Planning Commission); Major Quasi-Judicial or Legislative (public hearing by Planning Commission and City Council); Non-expedited Annexation; or Expedited Annexation. The estimates include actual costs (mailing, printing, advertising, and preparing meeting minutes) and staff time. They estimate an “average” application; many applications cost the City more to process, some cost less. The detailed estimate for an average Minor Quasi-Judicial application is included as Attachment 2.

Estimated Typical Cost	Type I		Type II	MNQJ	MJQJ	Legislative	Non-Expedited Annexation	Expedited Annexation
	staff only	staff + PD						
City expenses	\$5	\$5	\$65	\$645	\$985	\$985	\$1,220	\$300
Staff time cost	\$122	\$191	\$1,292	\$3,690	\$4,696	\$4,696	\$4,734	\$1,341
TOTAL	\$127	\$196	\$1,357	\$4,335	\$5,681	\$5,681	\$5,954	\$1,641
Current Ave. Standard Fee	\$114	\$150	\$800	\$1,500	\$3,200	\$3,200	\$100- \$3200	\$100
All estimates reflect adopted hourly rates, average application, with no extra site visits, hearing dates, or extra research performed by assumptions: staff.								

D. Proposed Updates to Planning Fee Schedule

Staff is updating the City's fee schedule for the Council adopt with the FY 10-11 budget in June. The Planning Department's fees are proposed to change in the following ways:

- Simplify fee structure by orienting fees around the review *process* (e.g., Type I, Major Quasi-Judicial), not the application *type* (Community Service Use, Willamette Greenway).
- Generally charge the same amount for all reviews required to fall into a particular process, with deliberate exceptions made for:
 - Encouraging certain applications with discounts
 - Expecting certain applications to pay closer to actual costs
- Small increase in review fees to cover City's expenses and more of typical staff time for processing applications.
- Charge a fee for all requests that require staff research and Director approval (e.g., DMV-required land use conformance form).
- Add new fees that may be charged when applicants require extra staff time due to repeated changes to the proposal during the decision-making process or lack of preparation for a site inspection.
- Reduce the standard discounts provided for multiple concurrent applications. Though there is some savings to the City when applications are made concurrently (only one newspaper advertisement is made, for example), staff time spent on an application increases

proportionally. Often, the number of applications required is directly related to the complexity of the project and the amount of time staff and the Planning Commission spend making the decision.

Staff has prepared a draft proposal to update the fees charged for processing applications. The proposed changes are described in Attachment 3 - Proposed Planning Department Fee Narrative, and Attachment 4 - Proposed Planning Department Fee Schedule. To explain exactly how a fee for a given application is proposed to change (or not), see Attachment 5 - Proposed changes to fees by application type.

ATTACHMENTS

All material is available for viewing upon request.

1. Current Planning Department fee schedule
2. Estimated cost for processing an average Minor Quasi-Judicial application
3. Draft Proposed Planning Department Fee Narrative
4. Draft Proposed Planning Department Fee Schedule
5. Proposed changes to fees by application type

Fees and Charges - PLANNING

Adopted June 16, 2009—Resolution #37-2009 (except as noted)

Land Use Applications

Title 19 Zoning

Chapter 19.300 Use Zones

CSC Community Shopping Commercial Review	\$1,500
CSU Community Service Use	\$1,500 (max.) or Actual Cost *
CSU Community Service Use—Wireless Communication Facility (Type II review)	\$750
CSU Community Service Use—Wireless Comm. Facility (Minor Quasi-Judicial rev.)	\$1,500 (min.) or Actual Cost *
Reserve deposit	\$1,000
DR Design Review (Type I review, without Building Permit).....	\$130
DR Design Review (Type I review, with Building Permit).....	Incl. w/cost of Major Building Permit Review
DR Design Review (Type II review)	\$800
DR Design Review (Minor Quasi-Judicial review)	\$1,500
HR Historic Resource Alteration (Type I review).....	\$500
HR Historic Resource Alteration (Minor Quasi-Judicial review)	\$1,500
HR Historic Resource Deletion.....	\$2,035
HR Historic Resource Demolition.....	\$2,035
HR Historic Resource Designation.....	\$0
MU Mixed Use Overlay Review.....	\$1,500
PD Planned Development (Preliminary Plan Review)	\$2,615
PD Planned Development (Final Plan Review).....	\$3,245
WG Willamette Greenway Review	\$1,500
WQR Water Quality Resource (Type I review, without Building Permit).....	\$130 **
WQR Water Quality Resource (Type I review, w/Building Permit)	Incl. w/cost of Major Bldg. Permit Review **
WQR Water Quality Resource (Type II review)	\$750 **
WQR Water Quality Resource (Minor Quasi-Judicial review).....	\$1,500 **

Chapter 19.400 Supplementary Regulations

ADU Accessory Dwelling Unit, Type 1	\$860
TAR Transition Area Review	\$1,500
TS Temporary Structure (Type I review).....	\$50
TS Temporary Structure (Minor Quasi-Judicial review)	\$1,010

Chapter 19.600 Conditional Uses

ADU Accessory Dwelling Unit, Type 2	\$1,770
CU Conditional Use	\$1,500

Chapter 19.700 Variances, Exceptions, and Home Improvement Exceptions

E Use Exception	\$1,500
HIE Home Improvement Exception	\$800
VR Variance (Type II review).....	\$800
Additional reserve deposit.....	\$700
VR Variance (Minor Quasi-Judicial review).....	\$1,500

Chapter 19.800 Nonconforming Uses

DD Director's Determination of Nonconforming Situation.....	\$100
NCU Nonconforming Use/Structure (Type II review)	\$800
NCU Nonconforming Use/Structure (Minor Quasi-Judicial review)	\$1,500

City of Milwaukee Fees & Charges

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Chapter 19.900 Amendments

CPA Comprehensive Plan/Map Amendment	\$3,210
ZA Zoning Ordinance Amendment	\$3,210
ZC Zoning Map Amendment (aka "Zone Change")	\$3,210
Ballot Measure 56 Notice (for Zone Amendment or Zone Change).....	Actual Cost (\$1 per affected property, \$35 minimum)
Reserve deposit	\$500

Chapter 19.1000 Administrative Provisions

AP Appeal to City Planning Commission/City Council	\$505
(Fees waived for NDA-sponsored appeals, pursuant to Resolution #26-1999)	
(rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)	
DI Planning Director Interpretation	\$100

Chapter 19.1400 Transportation Planning, Design Standards, and Procedures

(rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)

TFR Transportation Facilities Review	\$750 **
Additional reserve deposit.....	\$750 **

Chapter 19.1500 Boundary Changes (Annexations)

A Annexation (Expedited).....	\$100
A Annexation (Nonexpedited with no Zone Change or Comp Plan Amendment)	\$100
A Annexation (Nonexpedited: Zone Change only).....	\$100
A Annexation (Nonexpedited: Zone Change and Comp Plan Amendment).....	\$3,210

Title 17 Land Division

DD Director's Determination of Legal Lot Status	\$100
ELD Expedited Land Division	\$4,125
FP Minor Land Partition (Final Plat)	\$150
FP Subdivision (Final Plat)	\$150
LC Lot Consolidation	\$250
Additional reserve deposit.....	\$250
MLP Minor Land Partition (rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09).....	\$1,125
Additional reserve deposit.....	\$1,000
PLA Property Line Adjustment.....	\$640
R Partition Replat (rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)	\$875
Additional reserve deposit.....	\$500
R Subdivision Replat (rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)	\$875
Additional reserve deposit.....	\$1,000
S Subdivision (Preliminary Plat) (rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)	\$3,005
SV Street or Plat Vacation	\$1,905
Extension of Planning Commission Approval.....	\$40

Title 14 Signs (rev. Res. #34-2009, adopted 6/2/09, effective 7/16/09)**SR** Sign Review (Land Use Application):

- Adjustment (Type II review)
- Adjustment (Minor Quasi-Judicial review).....
- Community Service or Conditional Use Sign Review (Minor Quasi-Judicial review)

Sign Permit (Building Permit Application):

- See **Reviews, Inspections, and Preapplication Conferences** below

City of Milwaukie Fees & Charges

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Other fees

M-37 Property Value Reduction Claims (pertaining to Ballot Measures 37 or 49)	\$1,515
(Fee will be refunded if applicant prevails. If claim is denied, additional money may be required to cover contract-attorney or appraiser costs, as determined by City Manager.)	
TP Tree Permit (major pruning or removal of trees in the public right-of-way)	\$35
Tree Removal Appeal Hearing	\$505
Technical Report Review (Traffic, Wetlands, Geotechnical, Hydrology, etc):	
• Scope of Work Preparation	Actual Cost *
Additional reserve deposit	\$1,000
• Review of Technical Report	Actual Cost *
Reserve deposit:	
• Traffic	\$2,500
• Water Quality Resources	\$1,500
• All others	\$1,000
Variance from Clear Vision Standards	\$1,500
Zoning Confirmation Letter	\$50

Discounts for Land Use Applications

Two or more applications	No discount for most expensive application—50% discount for all others ***
Senior citizens and low income citizens	25% discount (50% for appeals) ****
NDA-sponsored land use applications related to parks	Fees waived

Deposit Information

In some cases, reserve deposits are collected to ensure that the City's actual costs are covered. Deposits used for consultant review of technical reports will be refunded relative to actual costs, and additional money may be required if actual costs exceed the deposit amount. Deposits collected as part of Type II land division applications (such as Minor Land Partitions, Lot Consolidations, and Replats) are refunded if the application is not elevated to the level of Minor Quasi-Judicial review. This applies only to reserve deposits—base fees are nonrefundable.

Notes

- * Actual cost to be determined by Planning Director or Engineering Director by estimating the cost of City staff time and resources dedicated to the project.
- ** Water Quality Resource and Transportation Plan Review applications may also require additional Technical Report Review.
- *** Applies to applications which relate to the same parcel of land and which will be considered at the same Planning Commission meeting.
- **** Seniors must be at least 62 years of age. Low-income citizens may qualify for reduced fees by filing the same application used to apply for reduced sewer and water rates.

Reviews, Inspections, and Preapplication Conferences

Building Permit Review (Short).....	\$25
Building Permit Review (Minor)	\$95
Building Permit Review (Major)	\$130
Planning Inspection Fee	\$50
Preapplication Conference	\$125
Preapplication Conference with Transportation Review	\$200
Sign Permit Review	\$95/sign type
Sign Permit Review (Daily Display or "sandwich board" sign)	\$50

City of Milwaukee Fees & Charges

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MaterialsMany materials are available online for free at www.ci.milwaukee.or.us/departments/planning/planning.html.

Contact Planning staff for additional information.

Zoning Ordinance	\$13
Comprehensive Plan	\$15

Comprehensive Plan or Zoning Ordinance Map:

- 11x17 handout (Black & White/Color)..... No charge/\$2
- GIS maps (e.g., Zoning Map)..... Full sheet \$45; see Engineering fees for other sizes
- Bluelines (e.g., Zoning Map)..... All sizes \$5

Comprehensive Plan ancillary documents: (most not available online)

- Ardenwald Park Master Plan\$2
- Downtown and Riverfront Land Use Framework Plan.....\$25
- Elk Rock Island Natural Area Management Plan.....\$8
- Furnberg Park Master Plan.....\$5
- Homewood Park Master Plan\$1
- Johnson Creek Resources Management Plan\$15
- Lake Road Multimodal Plan\$8
- Lewelling Community Park Master Plan\$1
- North Clackamas PFP\$25
- Town Center Master Plan\$15
- Scott Park Master Plan\$2
- Spring Park Master Plan\$5
- Springwater Corridor Master Plan.....\$8
- Transportation System Plan
 - Full Document49
 - Executive Summary\$15
 - CD\$3.50
- Water Tower Park Master Plan.....\$2
- Wichita Park Master Plan.....\$2
- Vision Statement (one page) No charge

Sign Ordinance	\$5
Land Division Ordinance	\$5
Downtown Design Guidelines (Black & White/Color)	\$10/\$35
Downtown and Riverfront Public Area Requirements	\$16
Other informational handouts (10 pages or less)	No charge
Other informational handouts (over 10 pages)	At cost

FEE REVISION NARRATIVE
Proposed 2010 Planning Department Fees
April 16, 2010

The cost of processing a land use application includes not only the review of the application itself, but also staff time (from Planning, Engineering, and Community Development), materials, public hearing notification and preparation, consultation with the City Attorney, and public hearing costs.

The City's estimated total cost of processing land use applications is as follows:

Type I	\$130-\$200
Type II	\$1350
Minor Quasi-Judicial.....	\$4350
Major Quasi-Judicial.....	\$5700
Legislative	\$5700
Expedited Annexation	\$1650
Non-Expedited Annexation	\$6000

Generally, application fees are not intended to cover the full cost of application processing. Most Milwaukie applicants are homeowners, small business owners, and nonprofits, and are not able to absorb the full cost of application processing. Planning work supports community livability and is a public service not unlike the police or library. With that in mind, the proposed 2010 fees for standard land use applications are as follows:

Type I review	\$150
Type II review	\$900
Minor Quasi-Judicial review	\$1,700
Major Quasi-Judicial review	\$3,500
Legislative review	\$3,500

“Other” Fees

Although most applications will fit within the “standard” fee schedule proposed above, some applications have fees that differ from the standard fee. This is due to City policy to subsidize certain types of applications to provide an incentive for submittal, and requiring other types of applications to pay closer to the full cost of processing.

- Annexations, aside from Expedited Annexations, are processed as Major Quasi-Judicial applications. Annexation fees are heavily subsidized to encourage annexation to the City in accordance with Comprehensive Plan goals:

Annexation (Expedited)	\$150
Annexation (Nonexpedited: No Zone Change or Comp Plan Amendment).....	\$150
Annexation (Nonexpedited: Zone Change only)	\$500
Annexation (Nonexpedited: Zone Change and Comp Plan Amendment)	\$3500
- CSU Minor Modifications are a Type I application. Currently, no fee is charged for this type of application, although staff processes many each year. The proposed fee is less than a standard Type I application because the purpose of this review is to ensure that no other land use review is necessary. Often the proposals that undergo this review would not require permitting on non-CSU properties. Keeping the fee low is an incentive to encourage property owners to follow through with a requirement that, if burdensome, could easily be overlooked..

Community Service Use—Type I Minor Modification	\$25
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- Historic Resource Designation is a Major Quasi-Judicial application; the fee is heavily subsidized to encourage designation of historic properties:
Historic Resource Designation \$150
- The proposed Minor Land Partition fee reflects the actual cost of processing at Type II application, and combines the fee and deposit that are currently listed separately on the fee schedule. This is a fairly complex application type that requires staff analysis of multiple criteria and drafting findings for multiple code sections.
Minor Land Partition (Type II) \$2000
- Commercial development projects are expected to bear closer to the full cost of the processing of their applications.
Planned Development (Preliminary Plan Review—Minor Quasi-Judicial) \$4400
Planned Development (Final Plan Review—Major Quasi-Judicial) \$5700
Subdivision (Preliminary Plat Review—Minor Quasi-Judicial) \$4400 + \$100 per lot over 4 lots
- Although a Property Line Adjustment application is subject to a Type I review, the application fee is higher than a standard Type I application due to the complexity of this type of application:
Property Line Adjustment (Type I) \$650
- The Temporary Structure permit fee is subsidized in recognition of the fact that temporary structure permits are issued only in the event of emergency hardship resulting from a natural catastrophe:
Temporary Structure (Type I) \$50

Appeals

The previous fee schedule charged the same fee for appeals to the Planning Commission and appeals to City Council. Appeals to City Council require more staff time and preparation than appeals to the Planning Commission, which have a \$500 fee. The higher fee for appeals to the City Council reflects the additional resources needed.

- Appeal to City Council \$1000

Reviews, Inspections, and Pre-Application Conferences

Several new fees have been proposed for services requested for which there is currently no fee charged, and to discourage poor application management, which impacts City costs and staff time.

- Building Permit Review for single family residential projects is less costly than permit review for Commercial, Industrial, and Institutional project. This reflects both the greater complexity of larger projects, and a departmental and Comprehensive Plan policy to support single family residential development.
Building Permit Review (Single Family) \$200 (includes 2 inspections)
Building Permit Review (Commercial, Industrial, Institutional) \$350 (includes 4 inspections)
- An “additional planning inspection fee” is proposed, which would allow staff to charge for multiple inspections for compliance with a condition of approval.
Additional Planning Inspection Fee \$50
- Pre-Application Conferences are encouraged for all projects, and required for complex projects that require multi-departmental coordination. The Pre-Application Conference fees have been increased to more accurately reflect staff time and preparation, but 50 percent of the fee can now be applied to future applications. This encourages applicants to seek a pre-application conference in cases where it is optional, and discourages pre-application conferences that are unlikely to result in an application.
Pre-Application Conference \$200 (\$100 applied to application fee)
Pre-Application Conference with Transportation Facility Review \$300
- Currently, applicants are charged one fee for multiple permits of the same type of sign, although each sign is reviewed individually. The proposed fee increases to \$100 for review of each individual sign.

The Daily Display sign permit review fee has been raised to \$150 to encourage property owners to install permanent signs and to reflect the perpetual nature of a Daily Display sign.

Sign Permit Review	\$100/sign
Sign Permit Review (Daily Display or "sandwich board" sign)	\$150

Discounts for Land Use Applications

Currently, applicants are granted a 50% discount for applications submitted concurrently with a more expensive application. Although the applications are submitted concurrently, this results in limited efficiency because staff must analyze and write findings for each application criteria individually. To reflect the actual effort required, this discount is being reduced to 25%. The application discount for low income citizens will remain in place, but the senior citizen discount is reduced to 10%, and the 50% discount for appeals has been removed.

- Two or more applications No discount for most expensive application—25% discount for all others
- Low income citizens 25% discount
- Senior citizens 10% discount

New Fees

Several new fees have been proposed for services requested for which there is currently no fee charged. These services require staff research and analysis, which should be reflected in the fees.

- DMV, bank letter (Land Use Compatibility Statement)..... \$25
- Temporary Occupancy Request..... \$100
- Planning Commission Approval for Bee Colonies..... \$500

The new proposed building permit review fees include Planning inspections in the fee. In some cases, staff must make multiple visits to a site to verify compliance with conditions of approval. In situations where these inspections exceed those normally required, staff may charge an additional Planning Inspection fee.

In some cases, applicants initiate revisions to building permits after they have been submitted for review. This effectively requires a new review of the permit. A fee for applicant-generated revisions to the site plan is proposed to encourage applicants to consider any revisions before submitting the building permit for review.

- Additional Planning Inspection Fee of Building Permits..... \$50
- Revisions to Building Permit after Review..... \$100

New fees have been proposed to discourage poor application and project management, which impacts City costs and staff time. These particular situations arise with some frequency and require a great deal of staff time and resources. When a complete land use application is resubmitted or significantly revised, a new completeness review and referral period is necessary. If the application has been scheduled for a public hearing and public notification has occurred, re-notification expenses can be significant.

- Resubmittal or Significant Revision of Complete Land Use Application..... \$500
- Reschedule of Public Hearing at Applicant's Request (when re-notification required)..... \$500

New Applications

In order to assist applicants with the preparation of their applications, a new type of design review consultation is being offered to allow presentation of proposals to the DLC prior to formal application.

- Design Review Consultation with Design and Landmarks Committee \$800

In addition to the existing pre-application conference, a pre-application meeting option has been introduced; this option is less costly than the full pre-application conference and allows applicants to meet with up to 2 staff in a less formal setting.

- Pre-Application Meeting\$100 (\$50 applied to application fee)

Proposed PLANNING Fees

Land Use Application Fees

Standard Applications

The following standard fees apply to all land use applications¹ not listed below. Some applications may require additional fees as described below under Additional Application Fees:

Type I review	\$150
Type II review	\$900
Additional fee collected if decision is elevated to Minor Quasi-Judicial Review	\$800
Minor Quasi-Judicial review.....	\$1,700
Major Quasi-Judicial review.....	\$3,500
Legislative review	\$3,500

Other Applications

Community Service Use—Minor Modification (Type I)	\$25
Historic Resource Designation (Major Quasi-Judicial).....	\$150
Minor Land Partition (Type II)	\$2000
Planned Development—Preliminary Plan Review (Minor Quasi-Judicial)	\$4400
Planned Development—Final Plan Review (Major Quasi-Judicial)	\$5700
Property Line Adjustment (Type I).....	\$650
Subdivision—Preliminary Plat Review (Minor Quasi-Judicial)	\$4400 + \$100 per lot over 4 lots
Temporary Structure (Type I)	\$50

Annexations

Annexation (Expedited)	\$150
Annexation (Nonexpedited: No Zone Change or Comp Plan Amendment).....	\$150
Annexation (Nonexpedited: Zone Change only)	\$500
Annexation (Nonexpedited: Zone Change and Comp Plan Amendment)	\$3500

Appeals

Appeal to Planning Commission	\$500
(Fees waived for NDA-sponsored appeals, pursuant to Resolution #26-1999)	
Appeal to City Council	\$1000
(Fees waived for NDA-sponsored appeals, pursuant to Resolution #26-1999)	
Tree Removal Appeal Hearing	\$500

Additional Application Fees

The following fees apply in addition to Land Use Application fees:

Measure 56 Notice (for Zone Amendment or Zone Change).....	Actual Cost (\$1 per affected property, \$35 minimum)
Reserve deposit	\$500
Technical Report Review:	
• Scope of Work Preparation	Actual Cost ²
Reserve deposit.....	\$1,000
• Review of Technical Report	Actual Cost ³
Reserve deposit:	
• Traffic	\$2,500
• Water Quality Resources	\$1,500

¹ For a complete list of land use application types, see *City of Milwaukie Land Use Applications*

² Actual cost to be determined by Planning Director or Engineering Director by estimating the cost of City staff time and resources dedicated to the project. See more information under Deposit Information.

³ Actual cost to be determined by Planning Director or Engineering Director by estimating the cost of City staff time and resources dedicated to the project. See more information under Deposit Information.

City of Milwaukie Fees & Charges

Adopted June 16, 2009/Effective July 1, 2009—Resolution #37-2009 (except as noted)

Page 2

- All others\$1,000

Deposit Information

In some cases, reserve deposits are collected to ensure that the City's actual expenses are covered. Deposits used for consultant review of technical reports will be refunded relative to actual costs, and additional money may be required if actual costs exceed the deposit amount. Deposits collected as part of Type II land use applications are refunded if the application is not elevated to the level of Minor Quasi-Judicial review. This applies only to reserve deposits—base fees are nonrefundable.

Discounts for Land Use Applications

Two or more applications No discount for most expensive application, 25% discount for all others.
(This discount applies to applications which relate to the same unit of land and which will be reviewed and decided concurrently.)

Senior citizens 10% discount
(Seniors must be at least 65 years of age, and must be the property owner.)

Low income citizens 25% discount
(Low-income citizens may qualify for reduced fees by filing the same application used to apply for reduced sewer and water rates.)

NDA-sponsored land use applications related to parks Fees waived

Other Planning Fees**Early Assistance**

Preapplication Meeting \$100 (\$50 applied to application fee)
(Applies to optional meetings attended by a maximum of 2 City staff. No written notes provided.)

Preapplication Conference \$200 (\$100 applied to application fee)
(Applies to required meetings or optional meetings that require 3 or more City staff. Written summary notes provided 2 weeks after meeting.)

Preapplication Conference –Transportation Facilities Review.....\$100
(Additional meeting required to discuss TIS.)

Design Review Consultation with Design and Landmarks Committee\$800

Special Requests

Planning Commission Approval for Bee Colonies.....\$500

Property Value Reduction Claims (pertaining to Measures 37 or 49).....\$1,515
(Fee will be refunded if applicant prevails. If claim is denied, additional money may be required to cover contract-attorney or appraiser costs, as determined by City Manager.)

Resubmittal or Significant Revision of Complete Land Use Application.....\$500

Reschedule of Public Hearing at Applicant's Request (when re-notification required).....\$500

Temporary Occupancy Request.....\$100

Time Extension of Previously Granted Approval.....\$50

Zoning Confirmation (General).....\$50

Zoning Confirmation (DMV Permit, LUCS).....\$25

Permit Review and Inspections

Building Permit Review and Inspections (Demolition, Erosion Control, etc.).....\$25

Building Permit Review and Inspections (Single Family Residential)\$200

Building Permit Review and Inspections (Commercial, Industrial, Institutional)\$350

Additional Planning Inspection Fee\$50

Revisions to Building Permit after Review.....\$100

(Fee applies to site plan revisions generated by applicant, not those required by staff during review process.)

Sign Permit Review (per sign)\$100

Sign Permit Review (Daily Display or "sandwich board" sign)\$150

Tree Permit (major pruning or removal of trees in the public right-of-way)\$50

ATTACHMENT 5

Planning Department Proposed Fee Comparison--2010			
Application Type	Current Fees	Proposed Fees	Notes
Title 19, Zoning Ordinance			
Chapter 19.300, Use Zones			
CSC Community Shopping Commercial Review	\$1,500	\$1,700	
CSU Community Service Use	\$1,500 (max.) or Actual Cost *	\$1,700	
CSU Community Service Use—Wireless Communication Facility (Type II review)	\$750	\$900	
CSU Community Service Use—Wireless Communication Facility (Minor Quasi-Judicial review)	\$1,500 (min.) or Actual Cost	\$1,700	
Reserve deposit	\$1,000	Same	
DR Design Review (Type I review, without Building Permit)	\$130	\$150	
DR Design Review (Type I review, with Building Permit)	Incl. w/ cost of Major Building Permit Review	Same	
DR Design Review (Type II review)	\$800	\$900	
DR Design Review (Minor Quasi-Judicial review)	\$1,500	\$1,700	
HR Historic Resource Alteration (Type I review)	\$500	\$150	
HR Historic Resource Alteration (Minor Quasi-Judicial review)	\$1,500	\$1,700	
HR Historic Resource Deletion	\$2,035	\$3,500	See attached
HR Historic Resource Demolition	\$2,035	\$3,500	See attached
HR Historic Resource Designation	\$0	\$150	
MU Mixed Use Overlay Review	\$1,500	\$1,700	
PD Planned Development (Preliminary Plan Review)	\$2,615	\$4,400	See attached
PD Planned Development (Final Plan Review)	\$3,245	\$5,700	See attached
WG Willamette Greenway Review	\$1,500	\$1,700	
WQR Water Quality Resource (Type I review, without Building Permit)	\$130	\$150	
WQR Water Quality Resource (Type I review, w/ Building Permit)	Incl. w/ cost of Major Bldg. Permit Review	Incl. w/ cost of Bldg. Permit Review	
WQR Water Quality Resource (Type II review)	\$750	\$900	
WQR Water Quality Resource (Minor Quasi-Judicial review)	\$1,500	\$1,700	
Chapter 19.400, Supplementary Regulations			
ADU Accessory Dwelling Unit, Type 1	\$860	\$900	
TAR Transition Area Review	\$1,500	\$1,700	
TS Temporary Structure (Type I review)	\$50	\$50	
TS Temporary Structure (Minor Quasi-Judicial review)	\$1,010	\$1,700	

Application Type	Current Fees	Proposed Fees	Notes
Chapter 19.600, Conditional Uses			
CU Conditional Use	\$1,500	\$1,700	
ADU Accessory Dwelling Unit, Type 2	\$1,770	\$1,700	
Chapter 19.700, Variances, Exceptions, and Home Improvement			
E Use Exception	\$1,500	\$1,700	
HIE Home Improvement Exception	\$800	\$900	
VR Variance (Type II review)	\$800	\$900	
Additional reserve deposit	\$700	\$800	
VR Variance (Minor Quasi-Judicial review)	\$1,500	\$1,700	
Chapter 19.800, Nonconforming Uses			
DD Director's Determination of Nonconforming Situation	\$50	\$150	
NCU Nonconforming Use/Structure (Type II review)	\$800	\$900	
NCU Nonconforming Use/Structure (Minor Quasi-Judicial review)	\$1,500	\$1,700	
Chapter 19.900, Amendments			
CPA Comprehensive Plan/Map Amendment	\$3,210	\$3,500	
ZA Zoning Ordinance Amendment	\$3,210	\$3,500	
ZC Zoning Map Amendment (a.k.a. "Zone Change")	\$3,210	\$3,500	
Ballot Measure 56 Notice (for Zone Amendment or Zone Change)	Actual Cost (Actual Cost = \$1 per affected property, \$35 minimum)	Same	
Reserve deposit	\$500	Same	
Chapter 19.1000, Administrative Provisions			
AP Appeal to City Planning Commission	\$505	\$500	
AP Appeal to City Council	\$505	\$1,000	See attached
DI Planning Director Interpretation	\$100	\$150	
Chapter 19.1400, Transportation Planning, Design Standards,			
TPR Transportation Plan Review (Type I review)	\$150 **	\$150	
TPR Transportation Plan Review (Type II review)	\$750 **	\$900	
TPR Transportation Plan Review (Type II or Minor Quasi-Judicial review)	\$750 **	\$900	
Additional reserve deposit	\$750 **	\$800	
Chapter 19.1500, Boundary Changes (Annexations)			
A Annexation (Expedited)	\$100	\$150	
A Annexation (Non-expedited with no Zone Change or Comp Plan Amendment)	\$100	\$150	

Application Type	Current Fees	Proposed Fees	Notes
A Annexation (Non-expedited: Zone Change only)	\$100	\$500	
A Annexation (Non-expedited: Zone Change and Comp Plan Amendment)	\$3,210	\$3,500	
Title 17, Land Division			
DD Director's Determination of Legal Lot Status	\$50	\$150	
ELD Expedited Land Division	\$4,125	Deleted	
FP Minor Land Partition (Final Plat)	\$150	\$150	
FP Subdivision (Final Plat)	\$150	\$150	
LC Lot Consolidation	\$250	\$150	
Additional reserve deposit	\$250	\$0	
MLP Minor Land Partition	\$1,125	\$2,000	See attached
Additional reserve deposit	\$1,000	\$0	
PLA Property Line Adjustment	\$640	\$650	
R Partition Replat	\$875	Per review type	
Additional reserve deposit	\$500	Per review type	
R Subdivision Replat	\$500	\$900	
Additional reserve deposit	\$1,000	\$800	
S Subdivision (Preliminary Plat)	\$3,005	\$4400+ \$100 per lot over 4 lots	See attached
Extension of Previously Granted Approval	\$40	\$50	
Title 14, Signs			
Adjustment (Type II)	\$800	\$900	
Adjustment (Minor Quasi-Judicial review)	\$1,500	\$1,700	
Community Service Use Sign Review (Minor Quasi-Judicial review)	Actual Cost	\$1,700	
Other fees			
M-37 Property Value Reduction Claims (pertaining to Measures 37 or 49)	\$1,515	Same	
TP Tree Permit (major pruning or removal of trees in the public right-of-way)	\$35	Same	
Tree Removal Appeal Hearing	\$505	\$500	
Technical Report Review (Traffic, Wetlands, Geotechnical, Hydrology, etc):			
• Scope of Work Preparation	Actual Cost	Same	
Additional reserve deposit:	\$1,000	Same	
• Review of Technical Report	Actual Cost	Same	
Reserve deposit:			
o Traffic	\$2,500	Same	

Application Type	Current Fees	Proposed Fees	Notes
o Water Quality Resources	\$1,500	Same	
o All others	\$1,000	Same	
Variance from Clear Vision Standards	\$1,500	Deleted	
Zoning Confirmation Letter	\$50	\$50	
Reviews, Inspections, and Pre-Application Conferences:			
Building Permit Review (Short--demo etc)	\$25	\$25	
Building Permit Review (Minor--Single Family)	\$95	\$200 (includes 2 inspections)	See attached
Building Permit Review (Major-Commercial, Industrial, Institutional)	\$130	\$350 (includes 4 inspections)	See attached
Planning Inspection Fee	\$50	Same	
Pre-Application Conference	\$125	\$200 (\$100 applied to application fee)	See attached
Pre-Application Conference with Transportation Review	\$200	\$300	
Sign Permit Review	\$95/sign type	\$100/sign	See attached
Sign Permit Review (Daily Display or "sandwich board" sign)	\$50	\$150	See attached
Discounts for Land Use Applications:			
Two or more applications	No discount for most expensive application—50% discount for all others	No discount for most expensive application—25% discount for all others	See attached
Senior citizens and low income citizens	25% discount (50% for appeals)	25% discount for low income citizens; 10% discount for seniors over 65	See attached
NDA-sponsored land use applications related to parks	Fees waived	Same	
NDA-sponsored appeals to Planning Commission or City Council	Fees waived	Same	
Proposed New Fees			
DMV Land Use Compatibility Statement (LUCS), bank letter	None	\$25	
Resubmittal/Revision of Complete Land Use Application	None	\$500	
Reschedule of Public Hearing at Applicant's Request	None	\$500	
Temporary Occupancy Request	None	\$100	
Planning Commission Approval for Bee Colonies	None	\$500	
Additional Planning Inspection Fee of Building Permits	None	\$50	
Revisions to Building Permit after Review	None	\$100	
Proposed New Applications			
Pre-Application Meeting	New	\$100 (\$50 applied to application fee)	
Design Review Consultation with DLC	New	\$800	



MILWAUKIE
Dogwood City of the West

To: Planning Commission
From: Katie Mangle, Planning Director
Date: April 22, 2010, for April 27, 2010, Worksession
Subject: Amended Packet for the 4/27/10 Planning Commission

The following additional items are being provided to you for the packet you received earlier this week:

1. Addendum to Staff Report for ZA-10-01 Parking Chapter Amendments Public Hearing Item 5.1.
2. Supplement for Natural Resources Overlay Project Update Worksession Item 6.1.



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To: Planning Commission

Through: Katie Mangle, Planning Director

From: Ryan Marquardt, Associate Planner

Date: April 22, 2010 for April 27, 2010 Public Hearing

Subject: Addendum to Staff Report for ZA-10-01

This addendum to the staff report for Land Use File #ZA-10-01 addresses the comments submitted by the Hector Campbell Neighborhood District Association (HCNDA) for the revisions to the residential parking regulations. Staff appreciates HCNDA's time and thorough review of the proposal. The comments are part of Attachment 5 to the staff report.

- HCNDA recognizes that the proposed regulations apply to all areas within the city. Staff agrees that most areas of the city will not be built for households with 1 car, and that most areas will continue to have 2 or more parking spaces.
- HCNDA advocates limiting parking spaces to either 30% of the front yard area or 2 additional spaces in addition to a driveway. Staff believes that a 30% ratio is too restrictive for many lots. A 20 ft deep yard on a 50 ft wide lot would only be allowed 300 sq ft of parking area. This would not allow a 2 car wide driveway on the lot. Having a standard based on 2 spaces in addition to a driveway is also problematic because driveways serve as parking spaces for residential properties, making it difficult to distinguish what constitutes a driveway and what constitutes a parking area.

In response to the HCNDA proposal, staff suggests the Planning Commission consider a proposal to place a limit of 3 parking spaces in the front setback. This would be in addition to the proposed 50% limitation of the front yard area. The proposed regulation is illustrated in the graphic below.

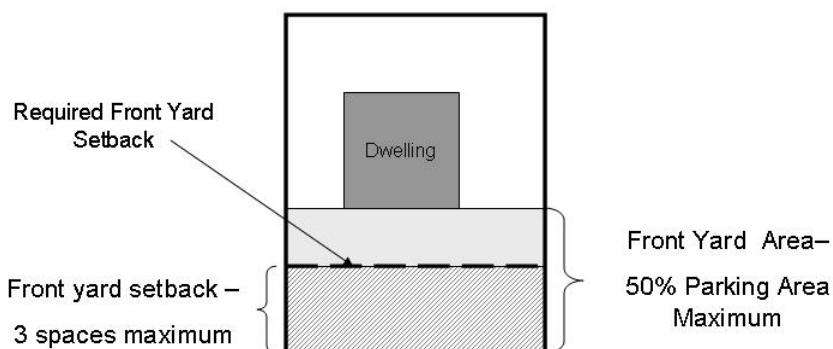


Figure 1: Proposed regulations to limit parking in the front yard setback and overall front yard

Staff believes this addresses the concern of having too many parking spaces too near to the front lot line. For smaller lots, the 50% limitation will be the more limiting regulation. For larger lots with deeper front yards, it limits the size of the parking area adjacent to the right of way. Staff will prepare revised code language for the residential parking standards to incorporate this change for the April 27, 2010 hearing.

- Staff appreciates and supports the suggestion by HCNDA that a certain percentage of a front yard be required for vegetation. Staff suggests that this issue be addressed in the upcoming residential design standards project later in 2010. The current amendments are focused on parking related regulations, and HCNDA's comment begins to affect broader residential development standards.
- The Code Compliance Officer has indicated that inoperable vehicles are covered by MMC 8.04.010. This section allows inoperable vehicles to be stored for up to 15 days on a property before it is a violation of the nuisance code.
- HCNDA's point about the number of vehicles in the front yard of a property is well taken. For many residential properties, 6 or more cars would be out of character with good neighborhood character. Larger lots with deep front yard setbacks may still accommodate 6 or more cars without being out of character with a neighborhood, and the regulations apply to these properties as well. Staff believes that the proposed regulations are appropriate because the amount of parking is proportional to the front yard area. The additional proposed regulation that would limit the number of spaces in the setback ensures that the bulk of a larger parking area would be set back further on the property.
- With regard to on-street parking, staff believes that the proposed regulations would have limited impacts. Staff does not expect to see a decrease in the amount of off-street parking for new or existing houses, regardless of whether the minimum require is 2 spaces or 1 space. Also, staff believes that the minimum amount of required parking is a minor factor in the use of on-street parking compared to other factors. The amount of vehicles owned by a household and the use of off-street spaces for play areas or storage of items other than passenger vehicles have larger impacts on whether residents use on-street parking.

It is important to recognize that the discussion of limiting parking areas, as supported by staff and the HCNDA, could have the effect of increasing the use of on-street parking.

Staff appreciates the time and thought given to the proposed regulations by the HCNDA. We appreciate input from the NDAs as we try to implement regional requirements and fix existing problems with the residential off-street parking standards. This area of regulation is challenging in that there must be a good balance in making the code restrictive enough to prohibit bad development and permissive enough to not be overly regulatory and difficult to comply with.



To: Planning Commission

Through: Katie Mangle, Planning Director

From: Brett Kelter, Associate Planner

Date: April 22, 2010 for April 27, 2010 Worksession

Subject: Supplement for Natural Resources Overlay Project Update

This memo is to introduce the additional materials that were referenced in the April 20 staff memo to the Planning Commission regarding the Natural Resources Overlay project.

Attachment 1 (Ongoing Issues) is a list of questions and topics that have arisen through meetings with the Advisory Group. Staff is ready to report back to the Advisory Group on some of the issues, while others need further research. The second half of this list is a group of specific questions that staff would like to discuss with the Planning Commission. If time allows at the upcoming meeting on April 27, we would like to address the issue of variances (Questions A and B).

Attachment 2 (List of Changes to Draft 2) is staff's working list of edits and adjustments for modifying Draft 2 of the proposed code. This is provided for your information, to show where some of the larger issues that have been discussed with the Advisory Group fit into the draft code as well as where some of the ongoing issues fit into the code.

Attachments

1. Ongoing Issues
2. List of Changes to Draft 2

**Water Quality and Natural Resource Regulations
(Revisions to MMC Section 19.322)**

Ongoing Issues

1. Is it worthwhile to distinguish between existing HCAs and potential HCAs established by restoration efforts after the rules go into effect (“manmade HCAs”)? Is there any effective way to distinguish between the two?
2. How to encourage and facilitate restoration and enhancement projects? (We do not want to inhibit restoration work or make it more difficult.)
3. Are the tree-mitigation requirements in Table 19.322.12-1 appropriate for Milwaukie?
4. How to allow or regulate tree removal in WQR areas and HCAs?
5. What falls into the category of “normal landscape planting and maintenance”? Where does tree pruning or removal fit in to “normal maintenance”? How to consider “normal maintenance” in the context of highly altered situations (such as clearing silt from the channelized portion of Spring Creek)? What kinds of activities should prompt staff to notify other agencies (DSL, ODFW, DEQ)?
6. Fees/process for reviewing construction management plans and boundary verification.
7. Map accuracy and corrections to the draft map, including the costs and benefits of merging the “High-value” and “Moderate-value” HCAs.
8. Coordination with floodplain and Willamette Greenway review.

Specific Key Issues for the Planning Commission

- A. Variances: Get PC concurrence with how the variance process will work (322.16), given that the overall setup of the revised 19.322 would allow for some variation through increasing levels of review.
- B. Variances: Is the PC comfortable with the proposed language about economic hardship specifically noted in 19.322.16.B?
- C. For requiring construction management plans and boundary verification, are the trigger distances (100 ft and 50 ft) acceptable and reasonable?
- D. Should the maximum HCA disturbance area calculation consider 50% of lot area or 50% of the area of the HCA (322.12.A)? Is the higher priority on property rights or resource protection?
- E. Under 322.4.A.7.b, the word “size” suggests that the addition of stories or bay windows or cantilevered decks would not be exempt from further review, even if the building footprint itself does not change. Is the PC comfortable with that policy?
- F. Is the PC comfortable allowing variations from the base-zone standards (e.g., setbacks being reduced to zero) to provide some flexibility in order avoid impacts to the resource?
- G. Is the PC comfortable allowing a maximum of only 10% of an HCA to be disturbed for all uses besides single-family detached and attached?

**Water Quality and Natural Resource Regulations
(Revisions to MMC Section 19.322)**

List of Changes to Draft 2

Section

322.1 Intent

- Staff to consider deleting D-3. The language seems more relevant in the current WQR code, which establishes general applicability for whole properties with any degree of WQR designation and then provides more specific restrictions depending on impact to the WQR area. The proposed code establishes applicability based on proximity to the designated resource, so the language seems unnecessary and misleading, since the new rules will in fact limit some activities not considered “development.”
- In G, add language to clarify that 19.800 does not apply if the nonconformity is solely a result of the standards of 19.322.
- (Minor edits to clarify existing language.)

322.2 Coordination with Other Regulations

- Resolve any conflicts of coordination with Willamette Greenway overlay (MMC 19.320), in the context of vegetation and preserving view corridors.

322.3 Applicability

- Determine whether the 100-foot and 50-foot triggers for construction management plans and boundary verification are the right triggers for Milwaukie. Consider establishing trigger exemptions for resources that are separated from the subject property by a road or other paved area.
- (In Table 19.322.3-1, minor edits to clarify existing language.)

322.4 Exempt Activities

- In A-4, change second sentence to read, “After removal of ~~invasive nuisance or noxious prohibited~~ plants, all open soil areas ~~greater than 25 square feet~~ must be replanted and/or protected from erosion.”
- Add a new exemption in A (call it A-5 and renumber the others): “Removal of manmade debris during the allowable window(s) for in-stream water work as designated by the Oregon Department of Fish and Wildlife.”
- Does B-2 include small, fill-related projects? (Clarify.)

322.5 Prohibited Activities

- *No proposed changes at this time.*

322.6 Activities Permitted Under Type I Application Review

- Staff to plug in criteria for tree removal under B-2 once it is developed. Include a note about required replacement, with a case-by-case assessment to determine whether tree replacement is appropriate.
- Add a description of natural resource management plans that qualify for Type I review.
- (Minor edits to clarify existing language.)

322.7 Activities Permitted Under Type II Review

- Add description of natural resource management plans that require Type II review and make reference to the difference from plans needing Type I review.
- (Minor edits to clarify existing language.)

322.8 Activities Permitted Under Minor Quasi-Judicial Review

- *No proposed changes for Draft 2.*

322.9 Construction Management Plans

- Staff to consider whether this subsection should move back into closer proximity with the Boundary Verification section. Or consider moving it to an earlier point in the section, so that it's clearer that these plans will often be required, even if the activity itself is exempt).
- In B-1, add language establishing a root protection zone.

322.10 Submittal Requirements

- In A-1, add language to make a direct reference to the information an applicant should provide if they believe the WQNR map is accurate.

322.11 Approval Criteria

- (In Table 19.322.11-1, minor edits to clarify existing language.)

322.12 Standards for Non-Discretionary Review Development Standards for Habitat Conservation Areas (HCAs)

- Staff is reviewing Table 19.322.12-1 to see if there are more current and appropriate replanting numbers that could be used.
- Clarify that Table 19.322.12-1 relates specifically to mitigation for tree removal in the context of larger development, as opposed to 19.322.6.B.
- (Minor edits to clarify existing language.)

322.13 Standards for Special Uses Standards

- Add language in A-2 to establish a root protection zone (similar to the suggestion for 322.9).
- In E, staff to consider elaborating on natural resource management plans and/or pulling this out of the Special Use category, since there will be two levels of review for natural resource management plans. Include a note on expiration dates for approved plans.

- Add “Clackamas County Soil and Water Conservation District” to list in E-1.

322.14 Standards for Partitions and Subdivisions

- Staff to consider adding a graphic to demonstrate the newly clarified E-1-a.
- In F-2-b and G-2-c, this may be too much analysis to require for land divisions of properties that include designated resources. Staff to consider establishing new criteria for the analysis, different from that needed for actual development happening within the resource area.
- (Minor edits to clarify intent of existing language.)

322.15 Standards for Discretionary Review ~~Development Standards~~

- (Minor edits to clarify existing language.)

322.16 Adjustments and Variances

- Staff to clarify language as needed, pending discussion with the Planning Commission about how variances would work with 19.322.

322.17 Boundary Verification and Map Administration

- Minor edits to clarify the remaining types of verification, given the proposal to move the standards for agreeing with the map into the Submittal Requirements subsection (322.10).
- Staff to consider adding a reference to 322.3 (Applicability) regarding any new exemption for properties within the trigger area but where the property is separated from the resource by a road or other significant barrier.
- Staff to consider reducing the level of detailed information needed from property owners for map verification when the resource itself is not on their property, especially if they think a mapping inaccuracy is pulling them into the verification process.
- Include a note about expiration dates for map verifications. (Or if not in this subsection, add a note in the appropriate place.)
- In B-2-b, remove the bulk of the language to a worksheet as guidance for applicants.
- In B-5, make it clearer that the steps in this subsection are directly related to B-4 and not the other types of verification.
- In C, make it clearer that most map corrections (WQR and HCA) can be made without having to use the amendment process of 19.900. Remove any sense of contradiction with the language in B.
- (Other minor edits throughout to clarify existing language.)