

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, January 8, 2013
6:30 PM**

COMMISSIONERS PRESENT

Lisa Batey, Chair
Clare Fuchs, Vice Chair
Sine Adams
Shaun Lowcock
Wilda Parks
Gabe Storm
Chris Wilson

STAFF PRESENT

Steve Butler, Planning Director
Ryan Marquardt, Senior Planner
Damien Hall, City Attorney

1.0 Call to Order – Procedural Matters*

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

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.ci.milwaukie.or.us/meetings>.*

2.0 Planning Commission Minutes

2.1 November 13, 2012

It was moved by Commissioner Parks and seconded by Commissioner Wilson to approve the November 13, 2012, Planning Commission minutes as presented. The motion passed with Commissioners Fuchs, Adams, and Storm abstaining because they weren't at that meeting.

3.0 Information Items—This item was taken out of order.

Chair Batey introduced and welcomed the new members of the Planning Commission, Sine Adams, Gabe Storm, and Alternate Commissioner Pascal Sauton. She invited them to share their reasons for joining the Planning Commission.

Commissioner Adams stated she moved to Portland in 2004 and has an MA in Planning from PSU. She moved to Milwaukie two years ago and currently is a transportation planner in Portland. She is interested in planning concepts and wants to give back to her community by sharing her knowledge.

Commissioner Storm had been on the Budget Committee for almost 4 years before joining the Planning Commission. He originally moved to Milwaukie in 1988 and moved back 7-8 years ago to start a family. He owns a business in Milwaukie and does graphic design and web design. He is interested in being on the Planning Commission because it plays such an important part in setting the direction for the community.

Alternate Commissioner Pascal Sauton said he owns Milwaukie Kitchen and Wine on Main Street. He has lived in Portland for 16 years. He wants to be involved with the Planning

Commission in order to participate in his community, and noted he is hoping to have his business in Milwaukie for a long time and enjoys the City and community around it.

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: Public Area Requirements & Downtown Code
Applicant: City of Milwaukie
File: ZA-12-02
Staff: Ryan Marquardt, Senior Planner

Chair Batey opened the public hearing for ZA-12-02 and read the conduct of continued legislative hearing into the meeting record. No conflicts of interest were declared.

Commissioner Storm abstained from participating in the hearing.

Ryan Marquardt, Senior Planner, presented the revised amendments pursuant to the Commission's direction on November 27, 2012. Staff was requesting a recommendation on the amendments from the Planning Commission to the City Council.

He reviewed the history of the current zoning regarding downtown zones, use regulations, and design and development standards. the summer of 2012, Council directed staff to make some limited zoning amendments to address the frequently occurring issues, including the public area requirements.

Mr. Marquardt noted key issues of the revised proposed amendments:

Public area requirements (PARs):

- Required for new development, or significant redevelopment, in downtown.
- Exemption for changes of use and additions of less than 1,500 sq ft (decreased from 3,000 sq ft per direction from Planning Commission).
- Traffic mitigation could be required if a change in use increased the number of trips.
- Reimbursement of Fee in Lieu of Construction (FILOC) payments for permits issued between August 2012 and the effective date of this ordinance.

Ground-floor uses on Main Street:

- Current requirement was for only retail or restaurant uses on that frontage.
- Allowance for up to 25% of a building area for personal/business services.
- Internal space dimension requirements for new construction to accommodate retail and restaurant uses.

Stand-alone retail and restaurant uses in the Downtown Office Zone:

- Remove requirement of retail and restaurant uses as part of office development or other outright permitted uses.
- Ground floor square footage limit of 5,000 sq ft.
- Allowance of an additional 5,000 sq ft for manufacturing associated with the primary use, to a maximum of 10,000 sq ft total.

Day care and downtown-oriented manufacturing and light industrial uses.

- Clarify downtown-oriented manufacturing and light industrial uses as specifically allowed if associated with a retail storefront or restaurant.
- Allow day care up to 3,000 sq ft as an outright use in downtown.

Mr. Marquardt answered questions from the Planning Commission.

Chair Batey opened public testimony.

Dion Shepard, Historic Milwaukie NDA, liked a moratorium on PARs, but wondered how needed improvements would occur. She felt the reimbursement should go back further. She thought it wasn't right to remove "transit center" from the table, and was concerned about the number of zones in such a small area and about height requirements.

Jean Baker, Historic Milwaukie NDA, was concerned that "public facility improvements" applied to developments throughout the city, and that the downtown code tune-up would extend to affect all of those as well. She wondered what types of traffic mitigation would be possible in downtown, and was concerned about increased traffic with new businesses. She noted that downtown Milwaukie was very walkable but felt a focus on restaurants was misguided and could turn downtown into a "restaurant row." She felt businesses that used the buildings more fully should be encouraged.

Mr. Marquardt responded by clarifying that PARs were a type of frontage improvement that was specific to the downtown zones and were a subset of the citywide public facility improvement requirements. He said that expanding reimbursements to before August 2012 would go beyond Council's direction to staff. He clarified that one stop for light rail was not considered a transit center. The proposed amendments were encouraging retail, personal services, and other uses within downtown zones. Main Street was designated as the primary pedestrian corridor for downtown and addressed differently.

He clarified that Council had directed staff to move forward with a limited set of amendments at this time and that other issues would be addressed in the larger downtown code update in the near future.

Chair Batey closed public testimony and the Commission began their deliberation.

Commissioner Lowcock expressed his confidence that these amendments would not lead to a "restaurant row." He felt that an eye should be kept on development, but he was happy with the amendments as they stood.

Commissioner Wilson wanted something even more pro-business, but felt that this was a great start. He was happy with the amendments as they stood.

Commissioner Parks agreed. She felt the amendments addressed some of the issues that have arisen over the last few years, and felt that the business community would be pleased with these small steps.

Commissioner Adams had concerns about creating a more appropriate downtown plan but felt this was a good step forward for now.

Commissioner Wilson asked about the plan for the Comprehensive Plan update project.

Steve Butler, Planning Director, said that staff was currently proposing to do a more detailed focus on the downtown policies and regulations, with the tentative goal of completion by the end of 2013. This would not be part of the Comprehensive Plan update project. A decision was still pending about when to pursue a major Comprehensive Plan update.

It was moved by Commissioner Lowcock and seconded by Commissioner Wilson to recommend approval to City Council of ZA-12-02, Public Area Requirements & Downtown Code, with the amended Attachment 1 from the memorandum from Ryan Marquardt, dated January 8, 2013. The motion passed unanimously.

6.0 Worksession Items

- 6.1 Summary: Officer Elections
Staff: Steve Butler

Damien Hall, City Attorney, reviewed the rules and procedures for elections.

It was moved by Commissioner Lowcock and seconded by Commissioner Parks to reelect Chair Batey and Vice Chair Fuchs. The motion passed unanimously.

7.0 Planning Department Other Business/Updates

- 7.1 Planning Commission Notebook Update Pages

Chair Batey mentioned a staff clarification—if any Commissioners wanted their pages updated by staff, they were requested to please bring them in after each update (not after multiple updates).

- 7.2 Adams Street Connector Beacon/Lantern Project

Mr. Butler stated this was a component of the Adams Street Connector project that would incorporate lighting with a historic and cultural aspect. He shared the presentation given to the Design and Landmarks Committee the night before, and noted the DLC was very much in favor of the project.

8.0 Planning Commission Discussion Items

- 8.1 Kellogg Lake Cleanup Project

Commissioner Lowcock asked about the status of the project and whether the Planning Department was responsible.

Mr. Butler said that the project fell primarily under the Parks and Sustainability Department, that some questions had been raised, and that they were moving forward to answer those questions.

- 8.2 Assisted Annexations

Chair Batey asked about the status of the last batch of assisted annexations.

Mr. Butler said they were going to Council soon.

Commissioner Wilson asked if there were any "island" properties related to the annexations.

Mr. Butler said that the current process in the Northeast Sewer Extension area was to ask for voluntary compliance by such property owners.

Mr. Hall explained that the term "island" referred to unincorporated property that was surrounded on all sides by City property. He clarified that staff was looking for consent-based annexations—rather than pursuing "island annexations," which wouldn't require the consent of unincorporated property owners.

8.3 Urban Growth Management Area (UGMA)

Chair Batey requested a future worksession on the UGMA work that was going on.

Mr. Butler said staff would schedule a worksession, and noted the upcoming City Council goal-setting would also clarify the process.

9.0 Forecast for Future Meetings:

January 22, 2013	1. TBD
February 12, 2013	1. Worksession: Transportation System Plan (TSP) update

It was moved by Vice Chair Fuchs and seconded by Commissioner Parks to cancel the January 22, 2013, Planning Commission meeting. The motion passed unanimously.

The meeting was adjourned at approximately 7:49 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II
Marcia Hamley, Administrative Specialist II



Lisa Batey, Chair



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, January 8, 2013, 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 November 13, 2012
- 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: Public Area Requirements & Downtown Code
Applicant: City of Milwaukie
File: ZA-12-02
Staff: Ryan Marquardt
- 6.0 Worksession Items**
 - 6.1 Summary: Officer Elections
Staff: Steve Butler
- 7.0 Planning Department Other Business/Updates**
 - 7.1 Planning Commission Notebook Update Pages
- 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:**
 - January 22, 2013 1. TBD
 - February 12, 2013 1. Worksession: Transportation System Plan update *tentative*

Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TIME 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:

Lisa Batey, Chair
Clare Fuchs, Vice Chair
Sine Adams
Shaun Lowcock
Gabe Storm
Wilda Parks
Chris Wilson

Planning Department Staff:

Steve Butler, Planning Director
Ryan Marquardt, Senior Planner
Li Alligood, Associate Planner
Brett Kelter, Associate Planner
Kari Svanstrom, Associate Planner
Alicia Martin, Administrative Specialist II

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, NOVEMBER 13, 2012
6:30 PM**

COMMISSIONERS PRESENT

Lisa Batey, Chair
Scott Churchill
Mark Gamba
Shaun Lowcock
Wilda Parks
Chris Wilson

STAFF PRESENT

Stephen C. Butler, Planning Director
Ryan Marquardt, Senior Planner
Brett Kelter, Associate Planner
Peter Cook, City Attorney

COMMISSIONERS ABSENT

Clare Fuchs, Vice Chair

1.0 Call to Order – Procedural Matters*

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

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.ci.milwaukie.or.us/meetings>.*

2.0 Planning Commission Minutes

2.1 July 31, 2012

The July 31, 2012, Planning Commission minutes were carried over to the next meeting, as there was not a quorum of members present who had been at that meeting.

2.2 September 11, 2012

It was moved by Commissioner Parks and seconded by Commissioner Churchill to approve the September 11, 2012, Planning Commission minutes as presented. The motion passed with Commissioner Gamba abstaining.

3.0 Information Items

There were no information items.

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

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5.1 Summary: Downtown Code Amendments
Applicant: City of Milwaukie
File: ZA-12-02
Staff: Ryan Marquardt

Chair Batey opened the public hearing for ZA-12-02 and read the conduct of legislative hearing into the meeting record.

Commissioner Churchill stated that he contacted the Oregon Government Ethics Commission and they stated that his acceptance of campaign donations from downtown businesses was not a statutory conflict of interest. He declared, therefore, that he had no conflict of interest.

Commissioner Gamba stated that he had received in-kind donations and declared that he, also, had no conflict of interest.

Ryan Marquardt, Senior Planner, presented the staff report. He explained that the proposed downtown code amendments addressed public area requirements, use restrictions on Main Street, and use restrictions in the Downtown Office Zone. These amendments would not change policies, goals, and long-range visions for downtown; they would only affect ordinance language regarding implementation, development, and day-to-day uses in the downtown zones.

There had been extensive notice and public discussion of these issues over the last two years.

Chair Batey asked which neighborhoods had received notice.

Mr. Marquardt said that he believed Historic Milwaukie Neighborhood District Association (NDA) was notified, but not general NDA leadership.

Mr. Marquardt described the criteria and explained that this was a recommendation hearing.

The Commission raised several questions, with staff responding, on several issues, including:

- Timing and process for the amendments.
- Nonconforming uses.

- 80 • Floor size limitations.
- 81 • Reimbursement program.
- 82 • Office uses on upper floors.
- 83 • Visibility requirements.
- 84 • Vacancy rates.
- 85 • Funding options for pedestrian-oriented improvements.
- 86 • Parking limited to surface lots.
- 87 • Meaning of "active use."
- 88 • Adult entertainment

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90 **Ed Parecki, 10600 SE McLoughlin Blvd, Spring Creek Coffeehouse**, felt that any further
91 dimensional requirements would stifle development. He said the only code changes should be
92 those that make existing uses legal. He was concerned about fast-tracking the amendments. He
93 was concerned about the public area requirements. He felt there should only be one downtown
94 zone. He felt that reimbursement should go back to 2000.

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96 **Dion Shepard, Historic Milwaukie NDA**, had questions about residential transition zones and
97 the zoning maps. She felt that public area requirements needed to be addressed. She agreed
98 with Mr. Parecki that reimbursement should be rolled back further. She asked why there were
99 two transit centers, yet they weren't listed as allowed uses.

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101 **Chair Batey** clarified that those were in the right-of-way, not uses of property parcels.

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103 **Ms. Shepard** questioned having different development standards for different downtown zones.

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105 **Jean Baker, Historic Milwaukie NDA**, believed that Historic Milwaukie NDA hadn't receive
106 public notice. She said they felt that the amendment process should be slowed down and go
107 through more public review. She said the maps were too involved for a small downtown, and
108 she said the various maps, charts, and density standards were confusing.

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110 **Greg/Frank Hemer, 5822 SE Harrison St, and manager of Milwaukie Lumber** raised
111 concerns about transit centers and the village and residential transition area concepts. He didn't
112 agree with all the standards. He said mapping the downtown zones was confusing without a
113 scale model. He felt everyone in the same zone should have the same rules. He said the

amendment process shouldn't be rushed due to council turnover. He said that the current downtown zoning was a disaster, regardless of retail/ground floor issues. He said that making downtown more special would be a better idea than trying to have things that will never fit there.

Chair Batey said it seemed clear that the Commission shouldn't plan on voting tonight but hoped they could give staff some guidance on refinements to the proposed amendments.

Mr. Marquardt said that staff is aware of several issues with the downtown code, which could be fixed in a future set of code amendments. The focus here is on easy fixes that could alleviate some ongoing problems. Staff would check on the public notice issue.

Steve Butler, Planning Director, asked if there were parts of the proposed amendments that the Commission could support, in order to move forward as directed by Council.

Commissioner Churchill commented that staff had clearly tried to work within the timeline directed by Council but that the Commission feels it needs to be approached with more deliberation.

Chair Batey also commented that the Commission hadn't been discussing this issue during the time that Council was, so the Commission was somewhat in "catch-up" mode now.

Commissioner Gamba asked staff about the time and cost for a major update of the Comprehensive Plan.

Mr. Butler said it would probably take 2 to 2½ years. A very rough cost estimate for that process was \$150,000-\$400,000.

Chair Batey closed the public testimony portion of the hearing and opened Commission deliberation.

The Commission discussed the possibilities and timing of addressing these easy fixes in the short-term, doing a more in-depth review of the downtown zones within the next year, and doing a complete Comprehensive Plan review which would address these issues at a policy level. The Commission didn't want to only "apply a band-aid" now and see other important downtown issues delayed until the Comp. Plan review process, especially because of concerns about the

possible delay of that process due to budgetary constraints, about getting downtown issues resolved before light rail arrives in three years, and about coordination with the South Downtown planning effort. They felt it was important to give the citizens, businesses, and NDAs more time for input.

Mr. Butler said there was a strong desire by the City Council to do something. Staff's hope was that the Commission and Council could take care of some of the "low-hanging fruit" now and later do a phase 2 look at downtown and south downtown and how they would work together, to bridge the gap before doing the entire Comprehensive Plan review.

Commissioner Gamba asked if there was a way to start the Comprehensive Plan review sooner than later by phasing it over more years, with an earlier focus on the downtown aspects.

Mr. Butler said that, in his experience, what works best for a Comprehensive Plan review process is to look at it all at the same time, to be able to balance decisions that have to be made. He said that often the process will start with the visioning process and extensive public input. He said it might be more cost-effective to do a downtown-focused plan first, while gearing up for rest of the Comprehensive Plan review. In the end, he stated, it was important to be sure the entire Comprehensive Plan review had been conducted in a "comprehensive" manner, that all topics got their due consideration.

Commissioner Batey suggested that the Commission attend the November 20 Council worksession next week and have a conversation with them about their concerns. Other commissioners agreed.

Mr. Butler said he would check on that possibility and get back to the Chair as soon as possible. He felt there should be a recommendation to Council coming from the next Commission meeting on November 27, even if the recommendation was simply to take more time reviewing these amendments.

It was moved by Commissioner Churchill and seconded by Commissioner Wilson to continue the public hearing of ZA-12-02, Downtown Code Amendments, to a date certain of November 27, 2012. The motion passed unanimously.

6.0 Worksession Items

6.1 Summary: Transportation System Plan (TSP) Update

Staff: Brett Kelter

Brett Kelter, Associate Planner, presented the staff report. He mentioned that the TSP is an ancillary document to the Comprehensive Plan. Each of the key chapters addressed different modes of transportation and included maps and improvement project lists. The City's first TSP was adopted in 1997, and then there was a major rewrite of the TSP in 2007. The TSP was still a very good document, but the State's Transportation Planning Rule (TPR) requires that cities' TSPs comply with Metro's Regional Transportation Plan (RTP). The City was being asked to look at the latest Metro RTP and make sure our TSP remained compliant with that.

- This project was proposed to make some small adjustments to make sure our TSP remained compliant with Metro's RTP or to clarify how the existing plan already met it. Staff was not proposing any big policy changes, but taking a light touch. Because Metro's forecasting horizon changed from the year 2030 to 2035, we would need to have a traffic consultant rerun some of the forecasting models and update them for 2035. DKS Consultants would be doing that work.
- This would also be an opportunity to update the TSP for any of the projects that had since been done and update our maps to keep it current. It would also be a chance to show the final light rail alignments on a couple of the maps.
- Metro had set performance targets, so we would need to address how we would track how we're doing with our goals; e.g., reducing the number of single-occupancy vehicles.

Commissioners Parks and Batey asked how certain counts are done.

Mr. Kelter said he would find out about that for a future meeting.

Commissioner Gamba said he would be curious to know from Metro whether there would be any incentives from them to make it possible for the City to prioritize some of these projects.

Mr. Kelter stated that this project wouldn't get into reordering project priorities—that would take a much more extensive public input process. He explained that the proposed timeline was to

have a couple more worksessions with the Commission starting early next year, then a Commission hearing in May and Council hearing by the end of June. They were thinking of having a public open house in the spring.

7.0 Planning Department Other Business/Updates

7.1 Residential Development Standards Implementation

Mr. Butler reported that staff is working on getting our handouts updated.

7.2 Assisted Annexation Program

Mr. Butler reported that 18-19 people have come in so far for the last batch of assisted annexations, deadline November 30.

7.3 Density and Historic Resources

Mr. Butler reported that he made a presentation to Council at the end of October.

7.4 Metro Info

Mr. Butler reported that new information had come out from Metro about development capacity numbers. He hoped to share that information with the Commission in the future.

8.0 Planning Commission Discussion Items

Chair Batey mentioned that if Sine Adams is appointed to the Planning Commission, there would be four women on the Planning Commission.

9.0 Forecast for Future Meetings:

November 27, 2012 1. Public Hearing: ZA-12-02 Downtown Code Amendments

December 11, 2012 2. Worksession: Tacoma Station Area Plan

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Marcia Hamley, Administrative Specialist II

Lisa Batey, Chair



To: Planning Commission
Through: Steve Butler, Planning Director
From: Ryan Marquardt, Senior Planner
Date: January 2, 2013, for January 8, 2013, Public Hearing
Subject: **File:** ZA-12-02 – Downtown Zoning Amendments
Applicant: Steve Butler, Planning Director, for the City of Milwaukie
NDA: Historic Milwaukie

ACTION REQUESTED

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

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

- **November 27, 2012:** Planning Commission continued the hearing and gave specific direction to staff regarding policies in the proposed amendments.
- **November 20, 2012:** Three members of the Planning Commission discussed the proposed amendments and the adoption schedule with City Council. Council directed the Planning Commission to take additional time to consider the amendments if necessary.
- **November 13, 2012:** Planning Commission held an initial public hearing on the proposed amendments to the downtown zone. The hearing was continued to November 27, 2012.
- **October 2012:** The Planning Commission and the Design and Landmarks Committee held a joint worksession on the proposed amendments on October 23, 2012.

B. Proposed Amendments

At the direction of City Council, staff drafted code amendments that address the code issues described above as well as other minor policy items with downtown zoning. The Planning Commission discussed the proposed policy changes in the amendments at the November 27, 2012 meeting, and gave staff specific direction on revisions to make to the proposal.

- Policies retained from the initial draft of the amendments
 - Allow daycare/childcare uses outright in downtown zones, with a size limit of 3,000 sq ft per use. Current regulations require Planning Commission approval for this type of use.
 - Remove outdated references to a transit center from the downtown zones. This was envisioned as a use for the property that became North Main Village, and is no longer a use allowed in downtown.
 - Require new construction along Main Street to construct interior spaces with certain minimum interior height and depth dimensions to facilitate use of the space by retail and restaurant uses.
 - Allow manufacturing and production as an accessory use when associated with retail or restaurant. This is intended to allow uses such as brew pubs and small-scale food production and sales.
 - Public Facility Improvements, Chapter 19.700 - Creates a reimbursement program for expenditures incurred on frontage improvements after 8/1/2012 if the development would have been exempt from frontage improvements in the proposed code. At this point, staff is not aware of any development proposal that would trigger such a reimbursement, but supports keeping the provisions just in case.
- Policies modified by the Planning Commission at the November 27th hearing
 - Allow retail and restaurant uses in Downtown Office zone as stand-alone uses. The modification to this policy is to reduce the maximum floor area per use on the ground floor from 10,000 sq ft to 5,000 sq ft. An additional 5,000 sq ft of floor area is allowed for a manufacturing or production use that is associated with and accessory to the retail or restaurant use.
 - Public Facility Improvements, Chapter 19.700 - PAR frontage improvements would not be required in downtown zones for changes of use in existing building space and small-scale additions. The modification to this policy is to reduce the size of an exempt addition from 3,000 sq ft down to 1,500 sq ft. Traffic safety mitigation measures may still be required for uses that add significantly more traffic to downtown.
- Policy removed from the initial draft of the proposed amendments
 - A proposed policy in the initial draft of the amendments would have allowed office and personal/business service uses to locate in storefronts along Main St. The current regulations allow only retail and restaurant uses. The Planning Commission opted to retain the current policy that requires retail and restaurant uses in ground floor spaces fronting Main St, with an

allowance for personal/business services in up to 25% of the floor area of an individual building.

C. Outreach

City staff has conducted the following outreach since the November 27, 2012 hearing:

- The revised amendments were posted on the city website on December 19, 2012.
- Notice of that the revised amendments were available for review and comment was sent to:
 - All Neighborhood District Association Chairs and Land Use Committee members,
 - Persons that have testified at a hearing or commented on the proposal, and,
 - A city-maintained contact list of business and property owners in downtown.
- Materials for the January 8, 2013 hearing were posted on the city website on January 2, 2013. The notice was provided to the groups listed above as well as those signed up to receive notice of Planning Commission meeting materials.

As of December 28, 2012, staff has not received comments other than those included in the November 27, 2012 Planning Commission packet.

CONCLUSIONS

Staff recommends that the Planning Commission forward a recommendation to City Council approve application ZA-12-02, with the proposed findings and amendments found in 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).

- Section 19.902, Amendments to Maps and Ordinances

This application is subject to Type V review. The Commission has 4 decision-making options as follows:

- A. Recommend that City Council approve the proposed amendments to Title 19 as presented in Attachment 1.
- B. Recommend that City Council approve the proposed amendments to Title 19 with modifications to the materials in Attachment 1.
- C. Recommend that City Council not approve the proposed amendments to Title 19.
- D. Continue the hearing to a future date.

The application is a legislative action and is not subject to the 120-day clock. Given City Council's direction about the schedule for the proposed amendments, however, staff requests that the Planning Commission provide its recommendation to the City Council as expeditiously as possible.

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 (attached)
 - Exhibit A: Findings in Support of Approval
 - Exhibit B: Amendments – underline/strikeout version
 - Exhibit C: Amendments – clean version

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AMEND MILWAUKIE MUNICIPAL CODE TITLE 19, ZONING ORDINANCE REGARDING USES ALLOWED IN DOWNTOWN ZONES AND PUBLIC FACILITY IMPROVEMENTS REQUIRED FOR CERTAIN TYPES OF DEVELOPMENT IN DOWNTOWN. (FILE #ZA-12-02).

WHEREAS, the City Council has established goals to promote small business investment and development and to promote downtown as a special place; and

WHEREAS, certain provisions in the Zoning Ordinance hinder the ability of businesses to locate, develop, and invest in downtown Milwaukie; and

WHEREAS, City Council passed resolution #53-2012 directing city staff to prepare amendments to the Zoning Ordinance to address the issues created by such policies; and

WHEREAS, city staff has drafted amendments to address these issues and have made the drafts of such amendment available for public review since September 2012; and

WHEREAS, the proposed amendments have been processed pursuant to a Type V Legislative Review per Milwaukie Municipal Code Section 19.1008, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes, and duly advertised public hearings on the proposed amendments before the Planning Commission and City Council;

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

Section 1. Findings. Findings of fact in support of the proposed amendment(s) to Title 19 are attached as Exhibit A.

Section 2. Title 19, Zoning Ordinance, Text Amendment. Title 19, Zoning Ordinance, is amended as described in Exhibit B – underline/strikeout amendments, and Exhibit C – clean amendments.

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 Ramis PC

Pat DuVal, City Recorder

City Attorney

Document2 (Last revised 2/6/2008)

Recommended Findings in Support of Approval

1. The City of Milwaukie ("applicant") proposes to amend portions of Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application for these amendments is ZA-12-02.
2. The purpose of the proposed code amendments is to relieve changes of use and minor additions in downtown Milwaukie from requirements for street frontage improvements, allow a wider array of uses for ground-floor storefronts along portions of Main Street, allow greater flexibility for retail and restaurant uses in the Downtown Office zone, ensure that new development along Main Street constructs ground-floor spaces that facilitate future conversion to restaurant and retail uses, and to improve the clarity of the downtown zoning regulations. The amendments are proposed to the following portions of Title 19:
 - Subsection 19.304, Downtown Zones
 - Chapter 19.700, Public Facility Improvements
3. The proposed amendments are subject to the following provisions of the MMC:
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on October 19, 2012, pursuant to City Council Resolution #53-2012.
 - B. MMC Section 19.1008 establishes requirements for Type V review.
 - i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff distributed drafts of the proposed amendments electronically starting in September 2012 and notified the Historic Milwaukie NDA and other downtown interested parties. The Planning Commission and Design and Landmarks Committee held a worksession to review the proposed amendments on October 23, 2012. An additional opportunity for comment was provided to all city Neighborhood District Associations and downtown interested parties for a second version of the amendments in December 2012. In addition, all worksessions and hearings on this matter were broadcast multiple times on local access cable television by Willamette Falls Media Center and also available on the city's internet page.
 - ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission's November 13, 2012, hearing was posted as required on October 12, 2012, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council's February 5, 2013 hearing was posted as required on January 4, 2013, at the same locations.

- iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. All downtown property owners were notified of the hearing date via a Measure 56 notice.
 - iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. Notice of the proposed amendments was sent to Metro on September 28, 2012. DLCD requires notice 35 days prior to the first evidentiary hearing, and notice was provided to DLCD on October 5, 2012. The first evidentiary hearing was held on November 13, 2012.
 - v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. Because the proposed amendments would affect uses and development on some downtown properties, the City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all downtown property owners in the city on October 24, 2012.
 - vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on November 13, 2012, November 27, 2012, and January 8, 2013 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on February 5, 2013, and approved the amendments.
- D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.
- i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.
The amendments are consistent with other provisions of the Milwaukie Municipal Code. The amendments to Subsection 19.304.5 help clarify the connection between Public Area Requirements and the provisions of Chapter 19.700. The other text proposed for amendment involves modifications to existing sections of Subsection 19.304 and Chapter 19.700, and will maintain the consistency between these portions of code and the other provisions of the Milwaukie Municipal Code.
 - ii) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.
There are multiple Comprehensive Plan sections and ancillary documents concerning downtown Milwaukie. The amendments are found to not be applicable or have no appreciable effect on policies or objectives not identified below.
 - a. *Relevant sections of the Comprehensive Plan are in Chapter 4 –Land Use:*
 - i. *Residential Land Use and Housing Element – the proposed amendments do not affect any regulations related to dwelling unit capacity or housing design, so the goals and policies of this element are not applicable.*
 - ii. *Economic Base and Industrial/Commercial Land Use Element, Objective #12, Town Center -*
 - 1. *Policy #2: “Through adoption of the Downtown and Riverfront Land Use Framework Plan, implementing zones and other*

measures, opportunity for mixed use development will be ensured to establish downtown Milwaukie as a Town Center.” The amendments are consistent with the basic policy of encouraging mixed use development and further the policy by facilitating the placement of a variety of uses within downtown.

2. *Policy #4: “Downtown public improvements will be coordinated with private improvement efforts by local property owners, consistent with the Downtown and Riverfront Public Area Requirements. The aim of all public improvements will be to stimulate and support private investments in the area.” The amendments are consistent with this policy in that exempting small project from frontage improvements encourages private investment for utilization of existing storefronts and buildings while maintaining the policy of obtaining public improvements with larger downtown development projects.*
- b. *The Milwaukie Downtown Riverfront and Land Use Framework Plan is a Comprehensive Plan ancillary document.*
 - i. *Item 1.7, Fundamental Concepts – Main Street “Retail Armature” – the proposed amendments are consistent with the concept of Main Street presented in this plan. The Framework Plan calls for establishing an environment in which people can shop, work, live, and socialize on Main Street. The proposed amendments ensure that retail and restaurant uses will be the predominant uses along the majority of Main St, and that new development would be required to construct space conducive to restaurant and retail uses and include doors and fenestration consistent with this concept. The amendments maintain consistency with the fundamental concept of creating a lively pedestrian street by requiring uses that invite pedestrian activity and maintaining requirements for ground floor windows and doors, having buildings with no street setback, and requiring window views into active areas such as storefront, lobbies, or working areas.*
 - ii. *Item 1.9, Key Land Use Features – the amendments are consistent with the statement about revitalizing Main Street by having uses that are predominantly retail and restaurant use.*
 - iii. *Item 1.13, Storefront Main Street Area – the proposed amendments are consistent with the vision for this area in that structures are required to be built so as to accommodate retail and restaurant uses, and that the plan includes retail and restaurant uses along Main Street.*
 - c. *The Downtown Public Area Requirements plan is a Comprehensive Plan ancillary document. The amendments are consistent with this document in that they do not affect or alter the streetscape improvements envisioned for downtown.*
- iii) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments.

- iv) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD was supportive of the increased flexibility afforded for properties downtown. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

The Oregon Department of Transportation (ODOT) contacted staff via telephone regarding ODOT's comments. ODOT requested a finding regarding changes to use allowances for the Downtown Office zone and the compliance of these changes with the State Transportation Planning Rule (Oregon Administrative Rules 660-012-0060). Analysis from Metro with regard to the Regional Transportation Plan indicated that the impacts of the amendments related to retail and restaurant use in the Downtown Office zone are materially insignificant in comparison to existing zoning, and would have little or no economic impact and no significant change in travel behavior. The proposed zoning amendments will not affect the trip generation of the downtown zones and does not affect compliance with the State Transportation Planning Rule

- v) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City has not identified any Federal Regulations that are relevant to the proposed amendments.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, ~~and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street.~~ Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. A range of pedestrian-oriented Retail or restaurant uses, such as retail, restaurant, and offices, are encouraged ~~are required as the predominant uses on the ground floors of buildings fronting on Main Street with storefront design standards.~~ Residential uses are allowed only on upper floors. Warehousing and industrial ~~Industrial~~ uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets ~~a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses.~~ These uses include rowhouses and multifamily buildings.

B. Downtown Commercial (DC)

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that

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engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

C. Downtown Office (DO)

The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. ~~Retail commercial uses are limited to support the primary uses (office, entertainment, and hotel establishments) and encourage retail development along Main Street.~~ The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area ~~a defined portion of the Downtown Residential Zone~~ to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

19.304.3 Uses

A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Single-family detached	N	N	N	N	N
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[102]	P	N	P	N
Senior and retirement housing	N	P	N	P	N

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Second-floor housing	P	P	P	P	N
Commercial/Office⁺					
Automobile service station	N	N	N	N	N
Automobile repair	N	<u>L[23]</u>	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	<u>L[34]</u>	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	<u>PL[4]</u>	P	P	<u>L[5]</u>	N
Parking facility	P	P	P	N	<u>L[6]</u>
Personal/business services	<u>PL[7]</u>	P	P	<u>L[5]</u>	N
Retail trade	P	P	<u>L[34]</u>	<u>L[5]</u>	N
<u>Manufacturing and production</u>	<u>L[117]</u>	<u>L[117]</u>	<u>L[117]</u>	<u>L[117]</u>	<u>N</u>
Industrial	N	N	N	N	N
Other					
Adult entertainment	N	N	N	N	N
Community service uses	<u>L[8]</u>	<u>L[8]</u>	<u>L[8]</u>	<u>L[8]</u>	<u>L[8]</u>
<u>Day care/childcare</u>	<u>L[9]</u>	<u>L[9]</u>	<u>L[9]</u>	<u>L[9]</u>	<u>N</u>
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N

⁺ Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

B. Limited Uses

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

C. Nonconforming Uses

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

D. Prohibited Uses

Uses listed in Table 19.304.3 with an “N,” or uses not listed above, are prohibited as new uses.

E. Accessory Uses

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Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

F. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

G. ~~Limited Uses~~ Limitations

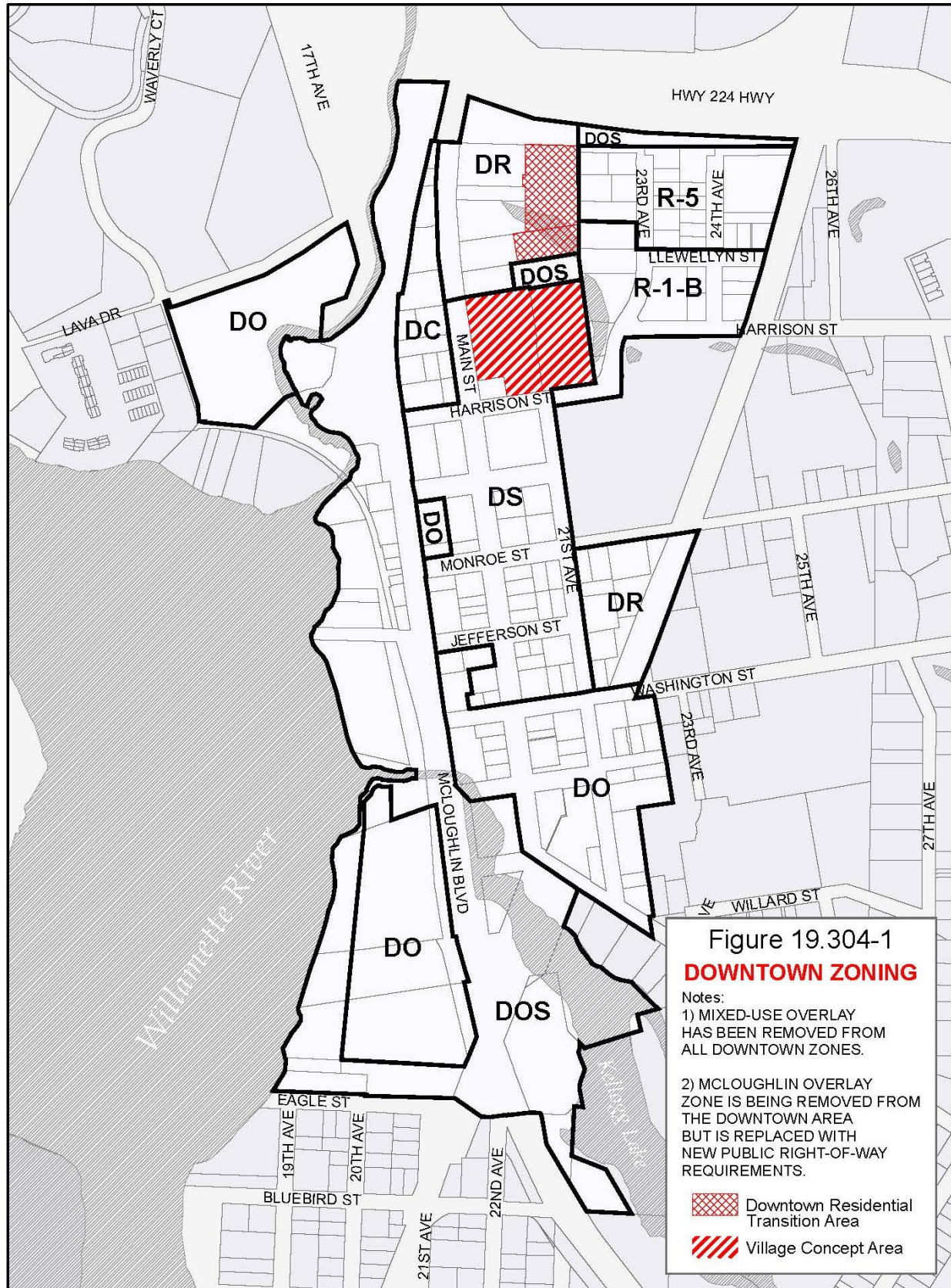
The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Downtown Residential Transition Area ~~Transitional Residential Area~~” on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”
- ~~2. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1. [Staff note: this provision has been moved to #10 in this subsection, and will not be deleted entirely from the zoning code.]~~
- ~~32.~~ Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
- ~~43.~~ In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to ~~10,000~~ 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with and accessory to an eating or drinking establishment or retail trade use. For purposes of this subsection, manufacturing and production involves goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered as a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on site would not be considered manufacturing and production. These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).
- ~~54.~~ In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.
5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail uses may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.

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6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building. ~~Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.~~ [Staff note: the strikethrough part of this provision has been moved to #11 in this subsection].
8. ~~New~~ A new community service uses, or expansion/alteration of an existing community service use, ~~in the downtown zones~~ may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Day care and childcare uses are limited to 3,000 sq ft. ~~Transit centers shall comply with the public area requirements for transit centers.~~
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.

Proposed Code Amendment



Proposed Code Amendment

19.304.4 Development Standards**A. Purpose**

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

Table 19.304.4 Downtown Zones—Development Standards					
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft ¹	None
2. Minimum street frontage	15'	30'	30'	15'/30' ¹	None
32. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
43. Building height (see Figure 19.304-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
54. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
65. Street setback (see Figure 19.304-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
76. Other setbacks (side and rear)	None	None	None	15' ²	None
87. Spaces for ground-floor active uses-retail, with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
98. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
109. Drive-through facilities	No	No	No	No	No
114. Off-street parking required	No	Yes	No/Yes ³	Yes	Yes
124. Landscaping	None	10%	None	15%	20%

¹ Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

² Setbacks are required only where the DR zone abuts a lower-density residential zone.

³ Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

Figure 19.304-2—Required-Retail Ground-Floor Active Use Areas

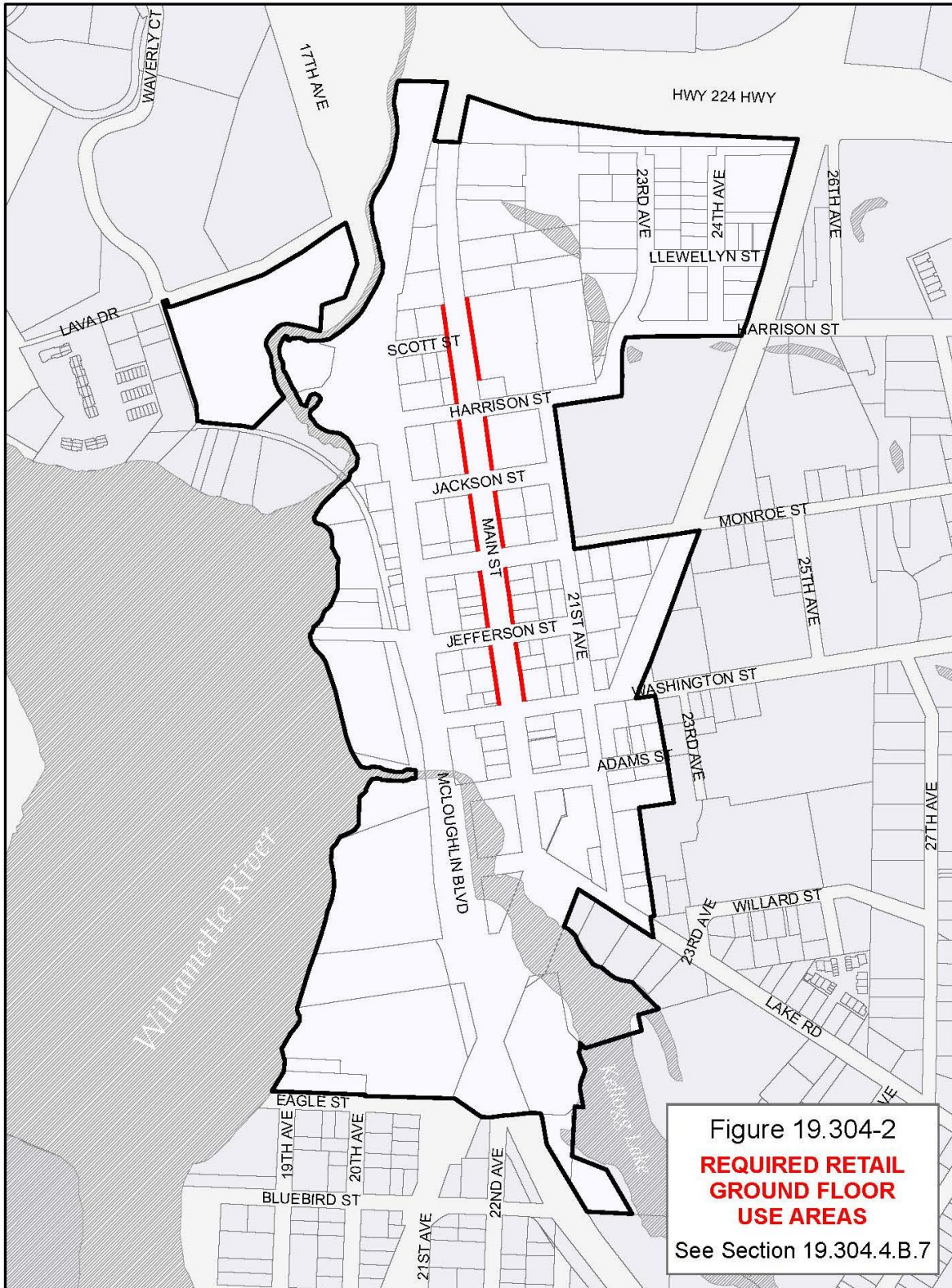
Figure 19.304-3—Maximum Building Heights

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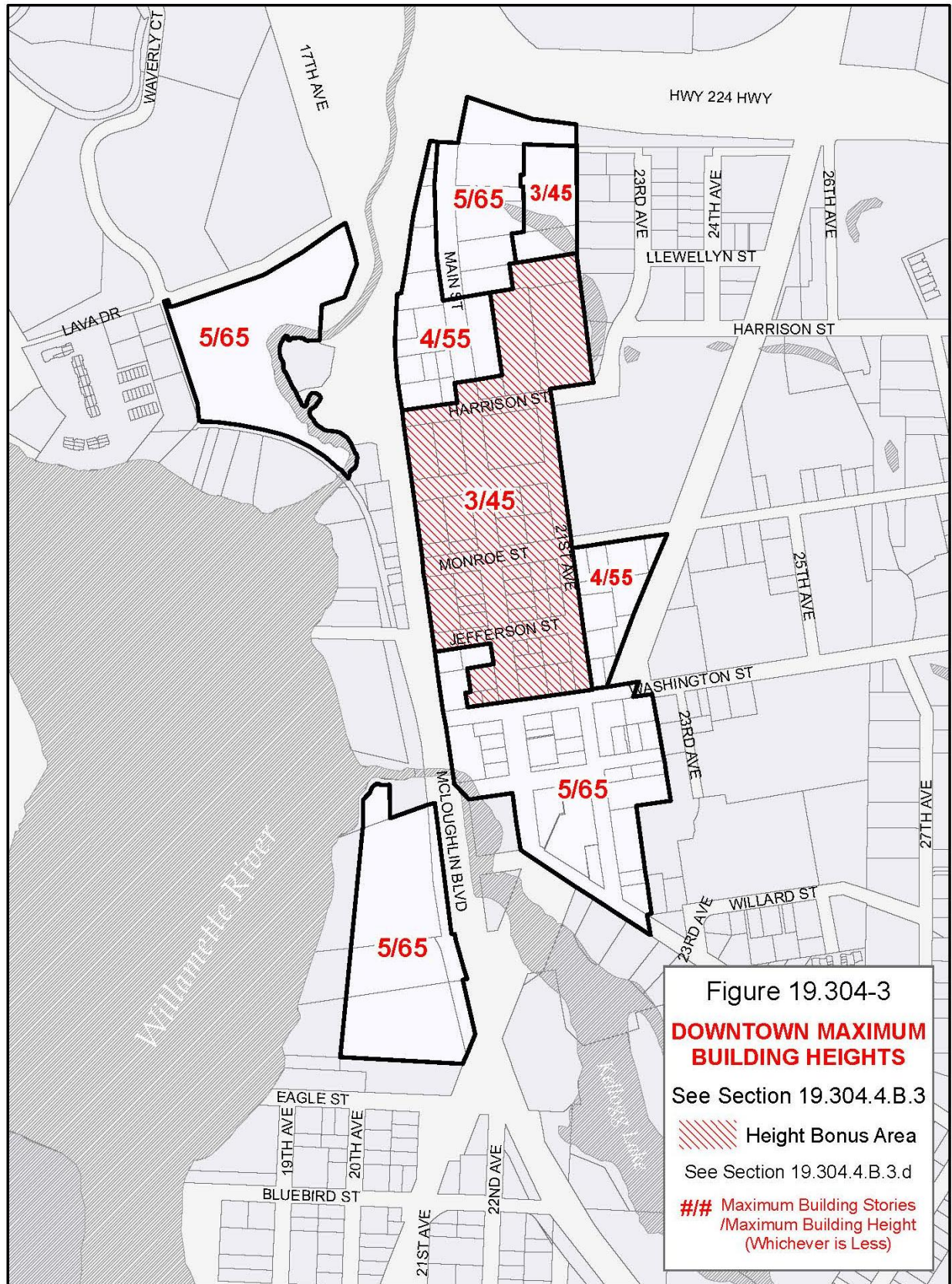
Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground-Floor Windows and Openings

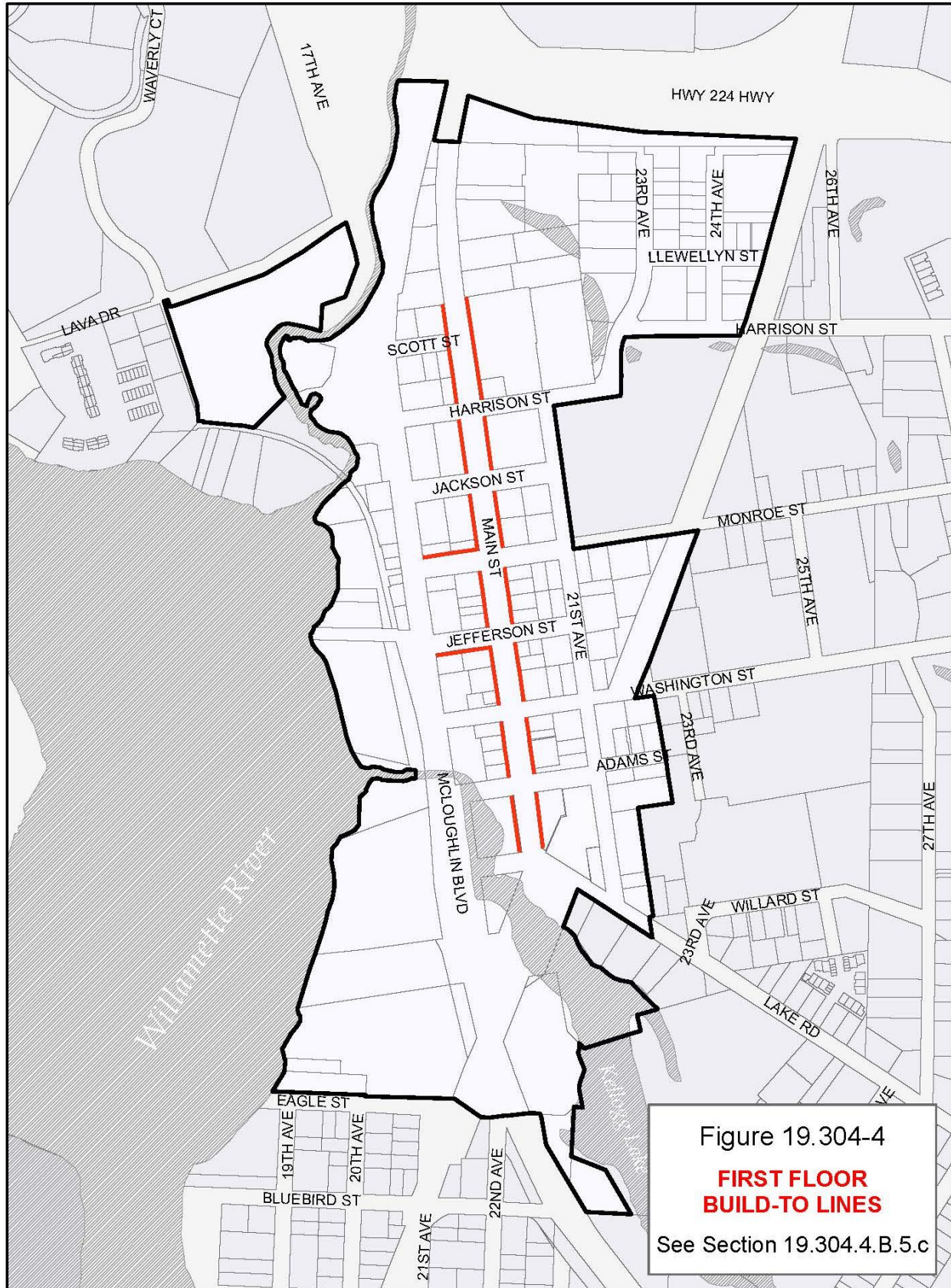
Proposed Code Amendment



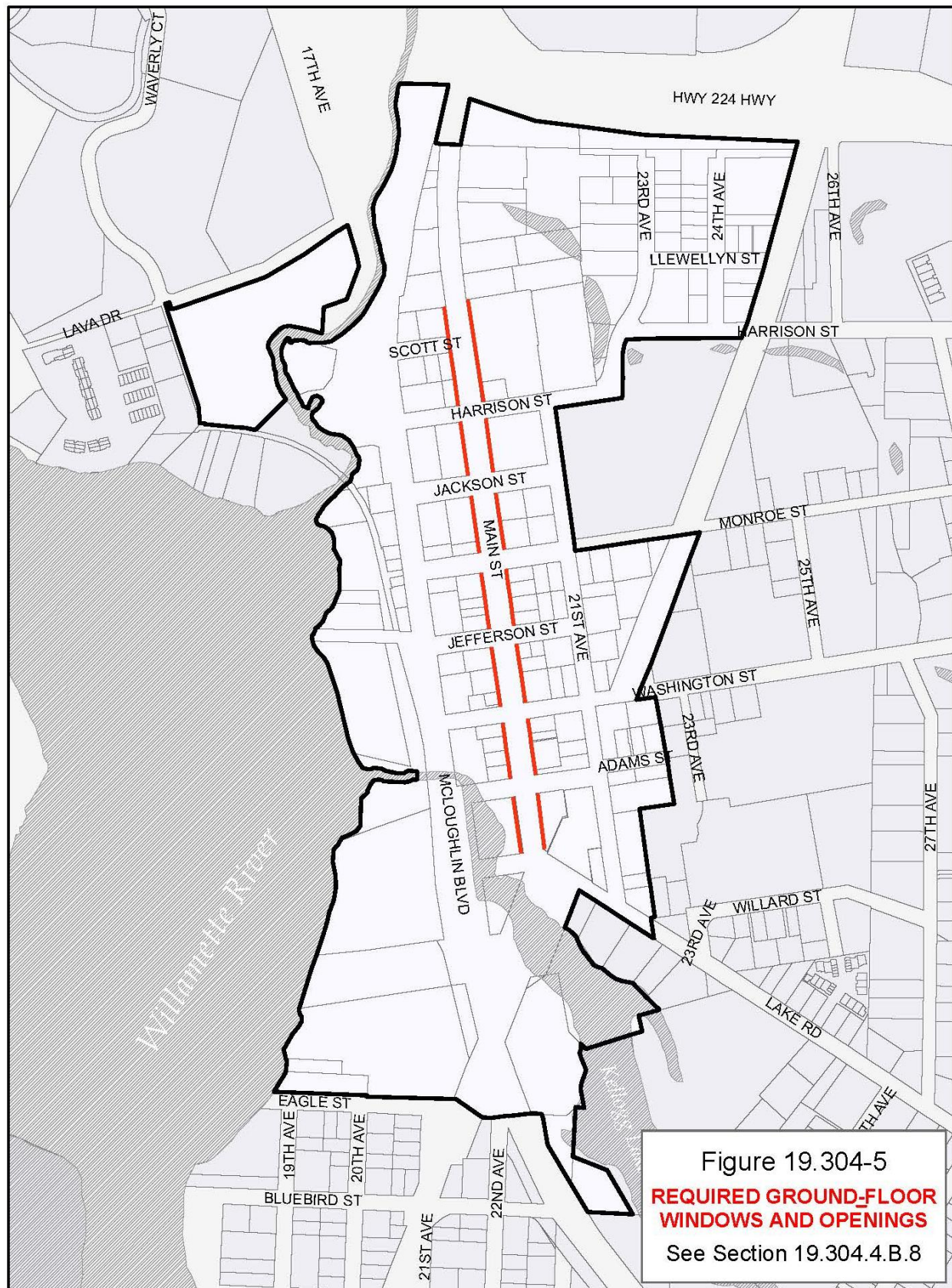
Proposed Code Amendment



Proposed Code Amendment



Proposed Code Amendment



B. Explanation of Development Standards

1. Minimum Lot Size

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zones (in the Downtown Residential Transition Area ~~transitional residential area~~ only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area ~~transitional residential area~~) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: transit centers, public parks and plazas, and commercial parking facilities and public parks and plazas.

3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

Proposed Code Amendment

- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.
- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
 - (1) Projections or recesses of up to 18 in are allowed.
 - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown

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Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

7. Ground-Floor ~~Active Uses~~ Retail/Restaurants

~~Spaces that accommodate active uses~~ Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are a limited use within these buildings that are allowed to occupy a maximum of 25% of the ground floor area.

New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

- a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.
- b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-Floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

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- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

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 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft 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 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the ~~public area requirements~~ Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

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- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

12. Right-of-Way Projections

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

19.304.5 Public Area Requirements

A. Purpose

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an ancillary document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

~~The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design.~~

B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along rights-of-way included in the PAR shall be consistent with the PAR as implemented in the Milwaukie Public Works Standards.

~~All downtown development projects that meet the applicability provisions of Section 19.702 are subject to Chapter 19.700 in its entirety, with the exception of specified portions of Section 19.708 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.~~

C. ~~Review Process~~

~~All downtown development projects that meet the applicability provisions of Section 19.702 shall submit all appropriate applications per Subsection 19.703.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use~~

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~~applications for downtown development projects shall be submitted in accordance with Subsection 19.703.2 and processed in accordance with Chapter 19.1000.~~

~~D. Street Design Standards~~

~~If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.704, the Community Development Director will identify the type, size, and location of needed improvements to the public right of way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.705. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.703.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.703.5.B.~~

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
 - B. Subdivisions.
 - C. Replats that increase the number of lots.
 - D. New construction.
 - E. Modification or expansion of an existing structure ~~(including single-family residential expansions as described in Subsection 19.702.2)~~ or a change or intensification in use that results in any one of the following: See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
 - 1. A new dwelling unit.
 - 2. Any increase in gross floor area.
 - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.
-

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

B. Exemptions

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1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 ~~3,000~~ sq ft or less, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in the approval criterion of Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 10 years. The 10-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 3,000 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 ~~3,000~~ sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.4~~3~~ Exemptions**19.703 REVIEW PROCESS****19.703.3 Approval Criteria****B. Transportation Facility Improvements**

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

19.703.4 Determinations**B. Street Design**

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

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19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan (PAR) per Subsection 19.304.5.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The City will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

- A. The expenditure is required as a prerequisite to obtaining a development or building permit.
- B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.
- C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.
- D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2012, the effective date of Ord. # _____.
- E. The development or change in use would have been exempt under Subsection 19.702.3.B.
- F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement or the successors in interest of such parties.

Proposed Code Amendment**19.710.2 Reimbursement Amount**

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
1. The total amount paid to the City by the party or parties requesting reimbursement as a fee in lieu of construction for right-of-way improvements on the property's frontage.
 2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: system development charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

19.710.3 Reimbursement Process

A property owner in a downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
1. The address or tax lot number of the property in question.
 2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
 3. Documentation of current ownership of the property in question.
 4. The amount of the requested reimbursement.
 5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
 6. A copy of the decision requiring the construction of the subject right-of-way improvements, or a receipt for the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2012, the effective date of Ord. # _____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

Clean Copy Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail or restaurant uses are required as the predominant uses on the ground floors of buildings fronting on Main Street. Residential uses are allowed only on upper floors. Warehousing and industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets. These uses include rowhouses and multifamily buildings.

B. Downtown Commercial (DC)

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

C. Downtown Office (DO)

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The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

19.304.3 Uses

A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office⁺					
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N

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Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Manufacturing and production	L[11]	L[11]	L[11]	L[11]	N
Other					
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Day care/childcare	L[9]	L[9]	L[9]	L[9]	N
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P

⁴B. Limited Uses

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

C. Nonconforming Uses

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

D. Prohibited Uses

Uses listed in Table 19.304.3 with an “N,” or uses not listed above, are prohibited as new uses.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

F. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

G. Use Limitations

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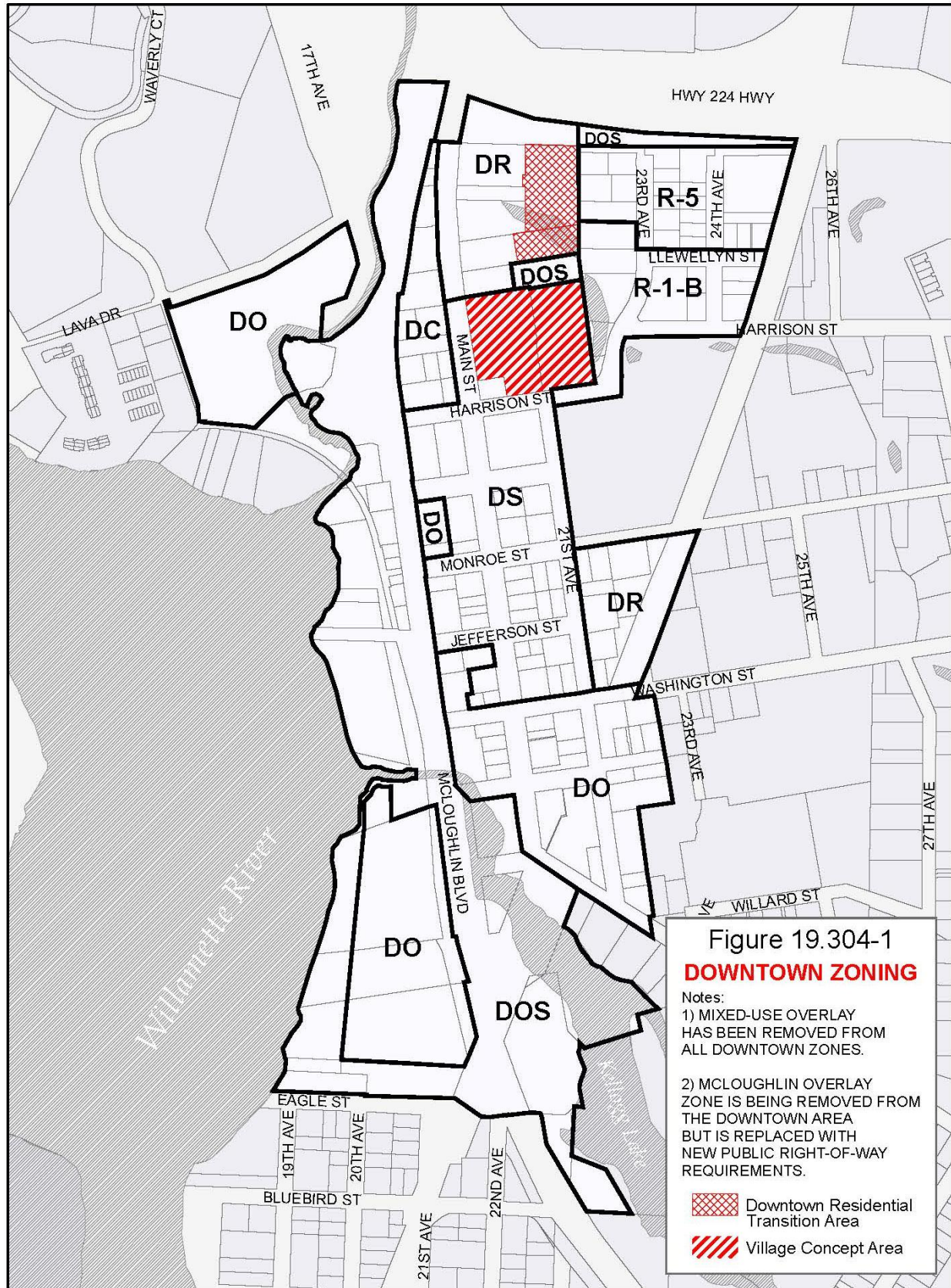
The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Downtown Residential Transition Area” on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”

[Staff note: this provision has been moved to #10 in this subsection, and will not be deleted entirely from the zoning code.]

2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with and accessory to an eating or drinking establishment or retail trade use. For purposes of this subsection, manufacturing and production involves goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered as a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on site would not be considered manufacturing and production. 4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor. 5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail use may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building. [Staff note: the strikethrough part of this provision has been moved to #11 in this subsection].
8. A new community service use, or expansion/alteration of an existing community service use, may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Day care and childcare uses are limited to 3,000 sq ft. 10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.

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19.304.4 Development Standards

A. Purpose

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

Table 19.304.4 Downtown Zones—Development Standards					
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft ¹	None
2. Minimum street frontage	15'	30'	30'	15'/30' ¹	None
3. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
4. Building height (see Figure 19.304-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
5. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
6. Street setback (see Figure 19.304-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
7. Other setbacks (side and rear)	None	None	None	15' ²	None
8. Ground-floor retail, with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10. Drive-through facilities	No	No	No	No	No
11. Off-street parking required	No	Yes	No/Yes ³	Yes	Yes
12. Landscaping	None	10%	None	15%	20%

¹ Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

² Setbacks are required only where the DR zone abuts a lower-density residential zone.

³ Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

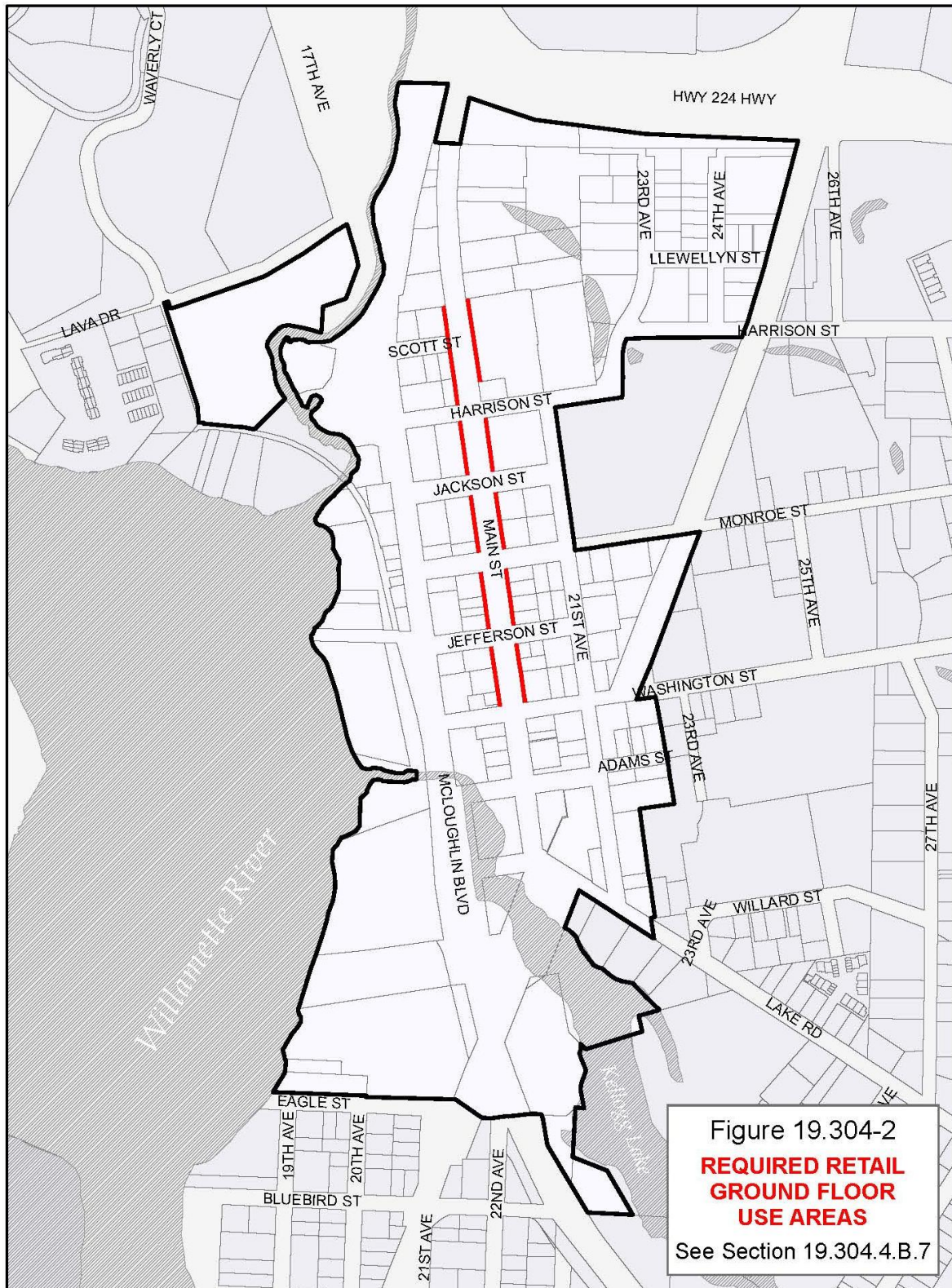
Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

Figure 19.304-2—Required Retail Ground-Floor Use Areas

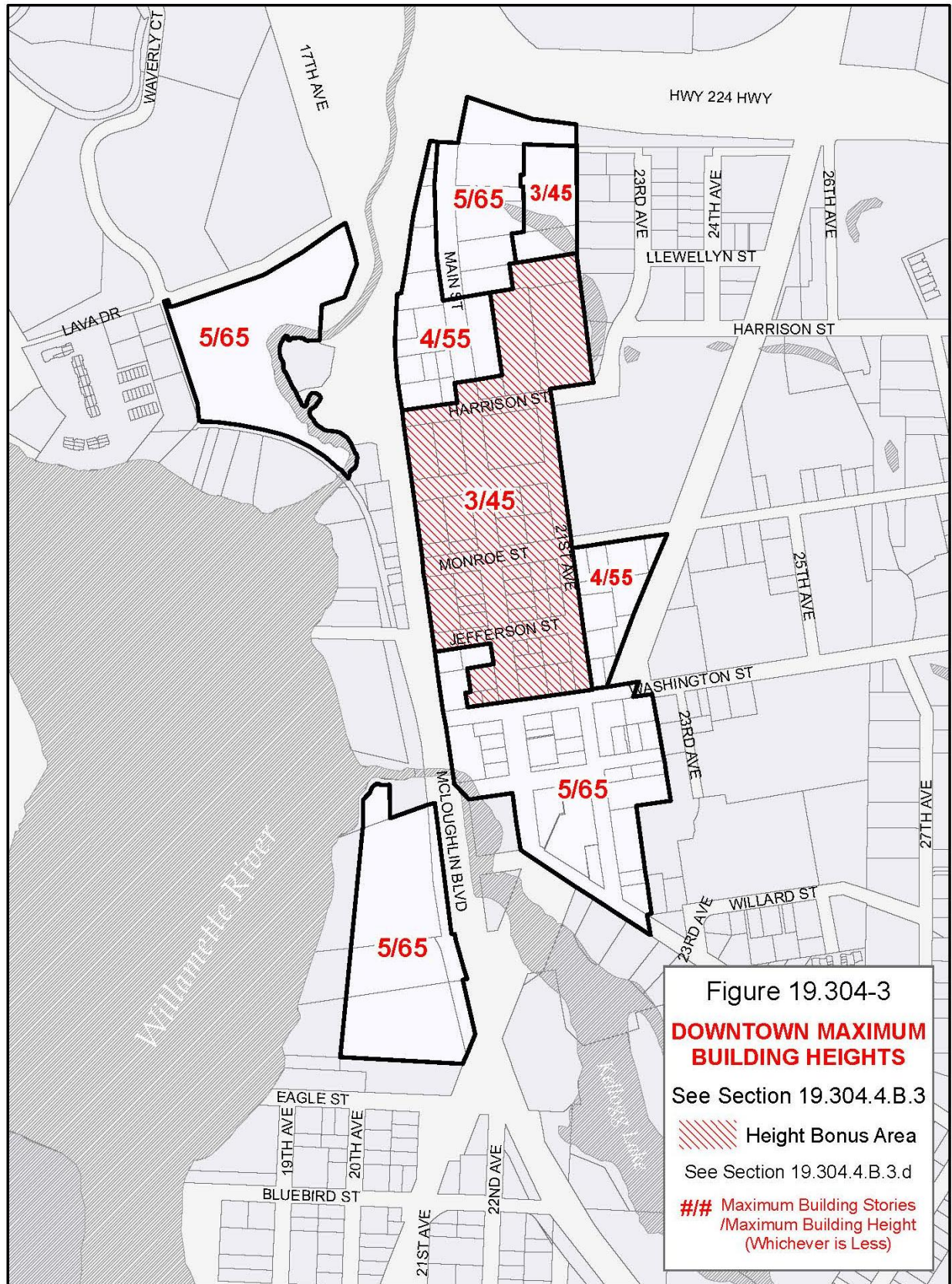
Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

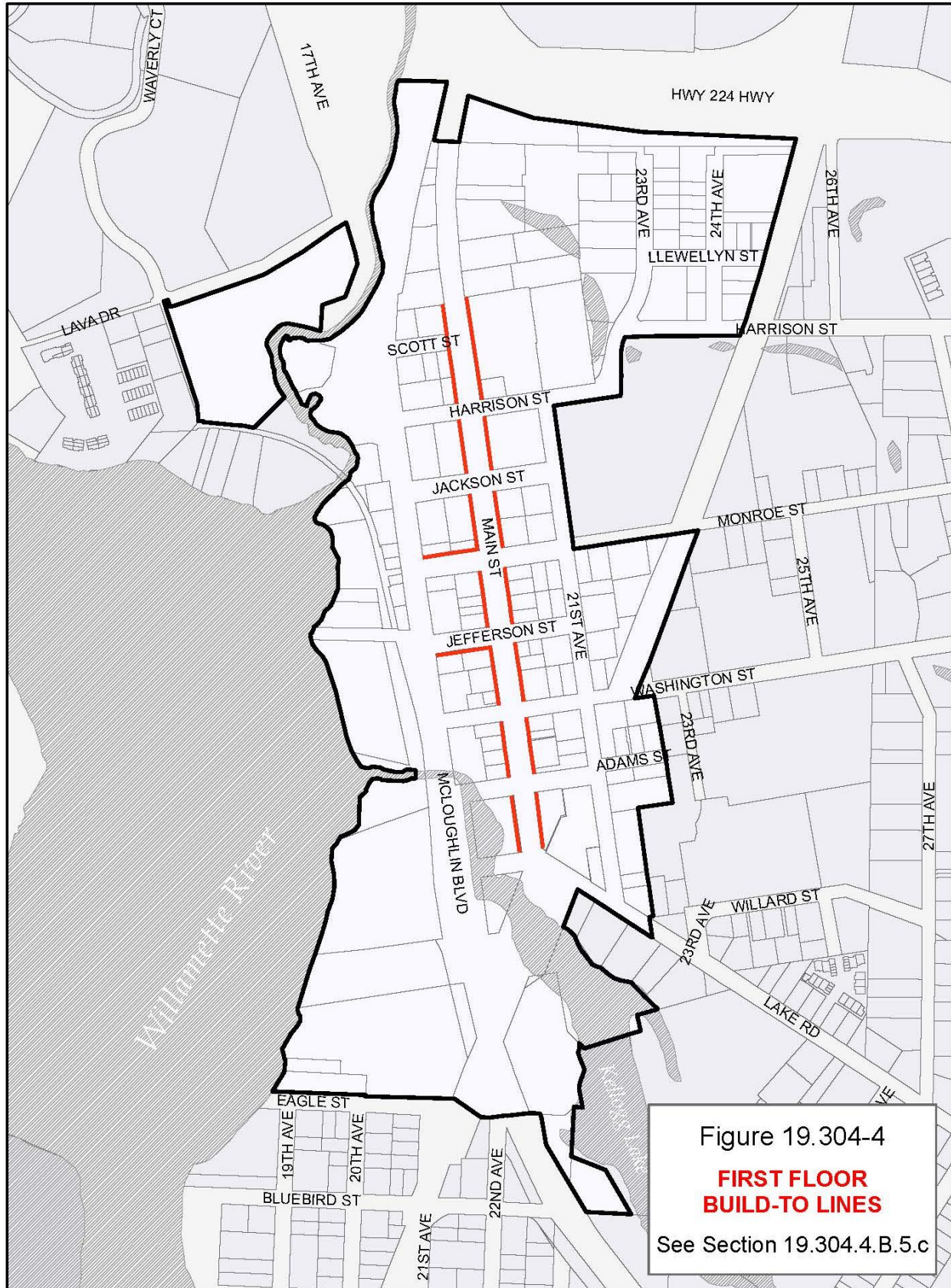
Figure 19.304-5—Required Ground-Floor Windows and Openings



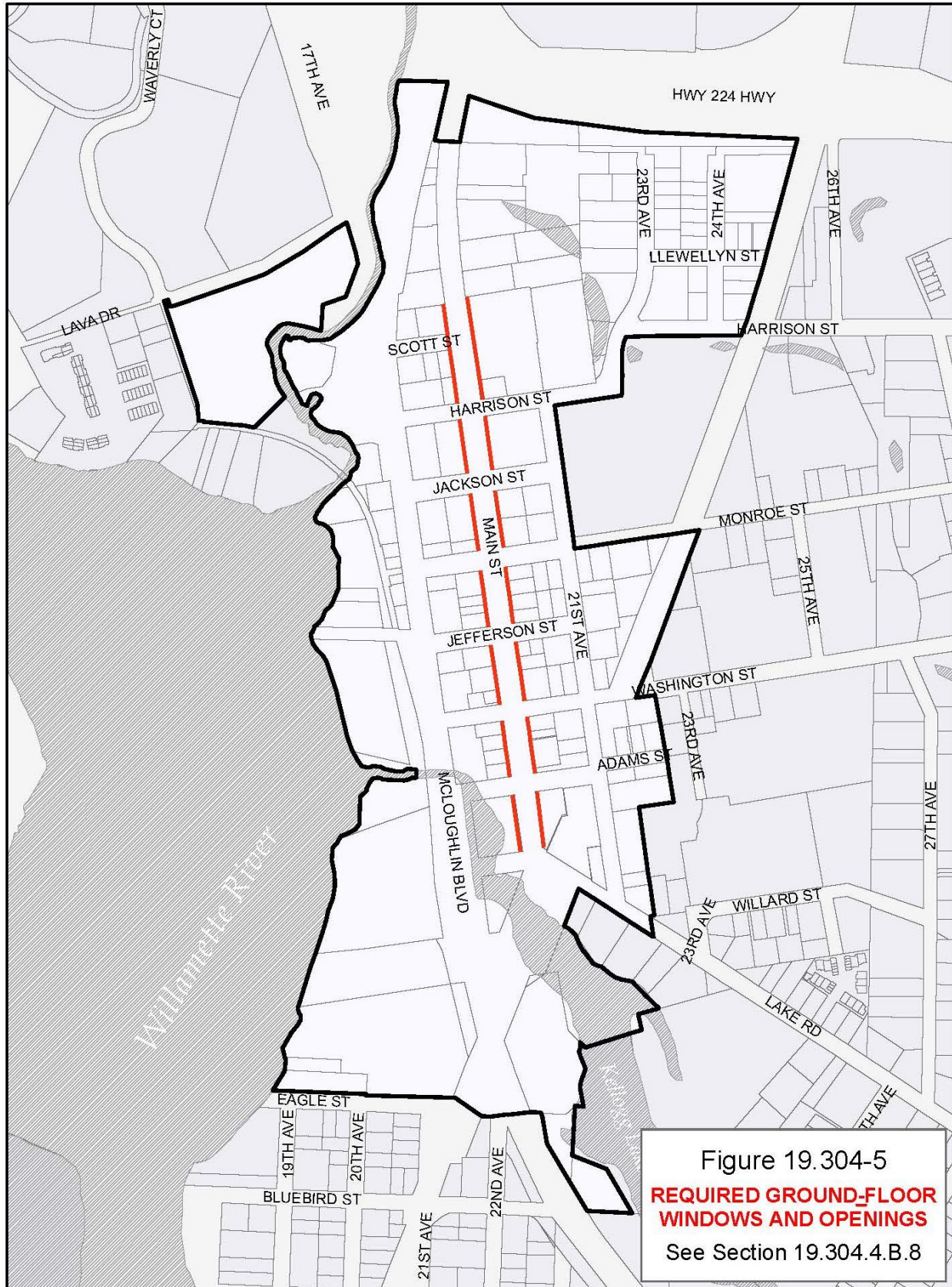
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B. Explanation of Development Standards**1. Minimum Lot Size**

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zone (in the Downtown Residential Transition Area only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: commercial parking facilities and public parks and plazas.

3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.
- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.

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- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
 - (1) Projections or recesses of up to 18 in are allowed.
 - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

7. Ground-Floor Retail/Restaurants

Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are a limited use within these buildings that are allowed to occupy a maximum of 25% of the ground floor area.

New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

- a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.
- b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-Floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50%

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of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

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 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft 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 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.
- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

12. Right-of-Way Projections

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

19.304.5 Public Area Requirements

A. Purpose

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an ancillary document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along rights-of-way included in the PAR shall be consistent with the PAR as implemented in the Milwaukie Public Works Standards.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
 - 1. A new dwelling unit.
 - 2. Any increase in gross floor area.
 - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in

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downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

B. Exemptions

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in the approval criterion of Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 10 years. The 10-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 3,000 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.4 Exemptions

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

19.703.4 Determinations

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross

section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the (PAR) per Subsection 19.304.5.

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the (PAR) is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The City will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

- A. The expenditure is required as a prerequisite to obtaining a development or building permit.
- B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.
- C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.
- D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2012, the effective date of Ord. #_____.

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- E. The development or change in use would have been exempt under Subsection 19.702.3.B.
- F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement or the successors in interest of such parties.

19.710.2 Reimbursement Amount

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
 - 1. The total amount paid to the City by the party or parties requesting reimbursement as a fee in lieu of construction for right-of-way improvements on the property's frontage.
 - 2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: system development charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

19.710.3 Reimbursement Process

A property owner in a downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
 - 1. The address or tax lot number of the property in question.
 - 2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
 - 3. Documentation of current ownership of the property in question.
 - 4. The amount of the requested reimbursement.
 - 5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
 - 6. A copy of the decision requiring the construction of the subject right-of-way improvements, or a receipt for the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2012, the effective date of Ord. #_____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.