

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, August 26, 2014
6:30 PM**

COMMISSIONERS PRESENT

Sine Bone, Chair
Wilda Parks, Vice Chair
Shannah Anderson
Scott Barbur
Greg Hemer
Gabe Storm

STAFF PRESENT

Denny Egner, Planning Director
Li Alligood, Senior Planner
Peter Watts, City Attorney

COMMISSIONERS ABSENT

Shaun Lowcock

1.0 Call to Order – Procedural Matters*

Chair Bone 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 June 10, 2014

It was moved by Vice Chair Parks and seconded by Commissioner Hemer to approve the June 10, 2014, Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, gave an update regarding the property on SE 37th Ave and SE Harvey St. The applicant applied for another variance for the project but staff determined that the application was incomplete and was waiting for additional information to be filed.

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

5.0 Public Hearings – None

6.0 Worksession Items

6.1 Summary: Moving Forward Milwaukie Briefing #5
Staff: Li Alligood

Li Alligood, Senior Planner, presented the staff report via PowerPoint. She gave a brief update on the direction staff planned to take for the draft downtown plan and code amendments. There would be on a number of worksessions with the Commission prior to the public hearings, anticipated to begin in October. She reviewed the project goals that were focused on implementing code revisions to facilitate vibrant commercial areas, and noted the project's schedule.

Ms. Alligood reviewed and explained the recommended direction and revisions regarding barriers to development and approaches to remove them. She noted that these were draft concepts and there was time for feedback and revisions before the hearings process began.

- Downtown zones should be combined and simplified into one Downtown Mixed Use zone;
- Allow for lower review types per project and exempting design review for small additions;
- Remove restrictions on retail uses in south downtown;
- Allow for open spaces/plazas along Main St;
- Expand allowed uses on Main St and apply pedestrian-friendly standards throughout downtown;
- Reduce required off-street parking;
- Implement key items from the South Downtown Concept Plan (adopted by City Council in 2009) including reducing building heights and minimum lot sizes, activating the South Downtown plaza and Adams Street Connector, and reducing off-street parking minimums.

She noted specifics of the revisions:

- The five downtown zones and two overlays would be combined to one Downtown Mixed Use zone with the renamed Open Space zoned retained for the parks.
- Uses on the ground floor would be expanded; currently the ground floor required retail or eating/drinking establishments. The proposed permitted uses included commercial office, personal/business services, limited office uses, and expanded retail use square footage.
- Although a combined zone would apply to all of downtown, some standards and requirements would still be in place for Main St to ensure a vibrant commercial core. It was expected that layers of code applied to different areas, particularly areas such as Main St.
- Allow retail sales and service up to 10,000 sq ft from 5,000 sq ft; more than 10,000 sq ft could be permitted conditionally.
 - **Commissioner Hemer** asked about the intent of the 10,000 sq ft limit.
 - **Ms. Alligood** noted that it would allow for review by the Commission should a larger retail use move into the downtown.
 - **Mr. Egner** agreed that that trigger would be good to discuss – where would a use like a smaller Trader Joe's fit into the downtown?
- Minimum lot size would be changed from between 750-10,000 sq ft to just 750 sq ft minimum, with no minimum height requirement.
- Off-street parking requirements for non-residential uses would be eliminated throughout downtown. Residential development would still be required to provide off-street parking.
 - **Chair Bone** suggested that perhaps a maximum be considered, rather than a minimum for residential, to allow for market flexing and increased transit ridership.
 - **Ms. Alligood** noted that staff heard from developers that the suburban residential market demanded off-street parking.
 - **Commissioner Hemer** asked again why off-street parking was being eliminated.
 - **Ms. Alligood** responded that when off-street parking was required, it created a barrier and deterrent to development by reducing the surface square footage available for development, and parking garages were expensive. The goal of the project was to reduce or eliminate those barriers and to promote a pedestrian-friendly and vibrant downtown. Requiring off-street parking prohibited development to pencil out. She suggested that perhaps staff could return to the Commission to discuss parking alone.
 - **Chair Bone** asked if there was a recommendation for transportation demand management options as a part of this project or if it could be included.
 - **Ms. Alligood** agreed that that could be a possibility.

- **Mr. Egner** clarified that transportation demand management would encourage businesses to provide options and alternatives with regarding to parking and public transit for their employees to lessen the demand for parking.
- Allowed uses on ground floor would include commercial and limited office, personal/business services, housing north of Harrison St, and expanded allowed square footage for retail.
- There was some discussion regarding changes to ground floor windows, doors, height and depth minimum percentages. but no proposals have been decided upon.
- Changes to development standards:
 - For buildings facing Main St – Build-to lines expanded but built-in flexibility would allow setbacks to provide public plazas or open space; reduce minimum height requirement; increase percentage of ground floor windows and doors; and require the primary entrance to face abutting street.
 - For other streets – Establish build-to lines to key streets; reduce maximum setbacks to 10 ft; establish minimum window and door percentages; and retain 3-story height limit with 1-story height bonus and extend that regulation south of Washington.
- Changes to design standards –
 - No changes were proposed for the design standards for residential features, walls, windows, or roofs. However, it was suggested that the prohibited materials for walls and roofs be revisited.
 - A new design standards chapter was being proposed for downtown that would add standards for rooftop equipment, mixed use and residential buildings, corners, weather protection, and open spaces/plazas.
- Type II Downtown Design Review would be added for projects that meet clear and objective standards or for building additions less than 250 sq ft. She explained the difference between Type II and Type III reviews.

Chair Sine asked about using Harrison St as the dividing line between north downtown and the main downtown area and why it wasn't Scott St, for example.

- **Ms. Alligood** agreed that the north side of the North Main development at Scott St was a better dividing line. However, Harrison St was not decided upon.

Ms. Alligood reminded that the Commission could send along their questions and concerns to staff, and staff would be returning to the Commission for more worksessions.

Commissioner Hemer asked for examples of successful models of development review processes.

Peter Watts, City Attorney, noted that from a developer's perspective, Hillsboro would be an example of a successful model. What developers look for was certainty, where the standards were clear and easily met. If the review process involved multiple committee reviews with uncertainty of approval, developers see that as a community that was riskier to build in.

Commissioner Hemer clarified that his question was about what was more important to the citizens of Milwaukie: creative and unique development or cookie-cutter development?

Chair Bone noted that clear and objective review did not imply cookie-cutter; there was not just one way to meet the standards.

Ms. Alligood agreed and added that the standards were based on what the community wanted.

Ms. Alligood introduced the Central Milwaukie concepts and said the concepts were preliminary at this point. She noted the areas of Milwaukie that were considered Central Milwaukie, and added that major barriers were the Hwy 224 expressway and the railroad. She summarized the feedback received from the project advisory committee – that central Milwaukie was convenient and provided easy vehicle access for daily needs and was used by many neighborhoods to the east, but there was little identity to the area and bike and pedestrian access was difficult due to safety and connectivity obstacles.

Draft concepts included improved safety and connectivity with downtown through greenways and enhanced crossings at key intersections, improved internal connections for bikes and pedestrians, growing the community by expanding the range of housing choices and protecting the character of existing neighborhoods, and enhancing the Oak St “Main Street.”

Mr. Egner noted that staff and the consultants walked the area that day, and in light of that, the draft concept map would need to be changed.

Ms. Alligood asked the Commission key questions of what they felt the identity of the area should or might be.

Chair Bone explained that her group discussion at the last Project Advisory Committee (PAC) meeting was that this area was the meeting point of four different neighborhoods and was really a center point of the community; the “Milwaukie Junction.” Although it doesn’t currently have much of an identity, the shopping centers were frequently used and were important. She felt there was great opportunity for the area.

The Commission discussed the walkability and auto-centric nature of the area.

Ms. Alligood noted that staff would be taking these draft concepts to the PAC at the end of the month for more feedback. The Commissioners were encouraged to forward their feedback through Chair Bone to take to the PAC. She reviewed next steps including PAC meetings, City Council and Planning Commission worksessions, and the first public hearing tentatively scheduled for October 28, 2014.

Steve Butler, Community Development Director, added that staff was considering a joint session between the Planning Commission, City Council, and the PAC.

Chair Bone encouraged the Commissioners to participate and attend the open houses and PAC meetings in order to hear the feedback from the community on these amendments.

Chair Bone called for public comment.

David Aschenbrenner introduced himself. He said he represented the South Downtown Steering Committee on the PAC, and also was the Chair of the Hector Campbell Neighborhood District Association. He reiterated that the PAC would like to have a joint discussion with the Commission and Council. He noted that what hadn’t been discussed that evening was 4th and 5th story building setbacks as an option. He felt that those options should be included in the discussion as they provided both a smaller scale feeling as well as added incentive for development to better pencil out. He was concerned about build-to property lines in south downtown as that standard was not necessarily in line with the concept plan for the south downtown, with potential for dining establishments and the like to want outdoor seating, etc. He also reminded the Commission of the medial office identity of the central Milwaukie area as

there were numerous medical offices and facilities in that area, which allowed for office development.

Chair Bone asked about standards for open spaces applying to south downtown with regard to Mr. Aschenbrenner's concern.

Ms. Alligood replied that since there was a plaza as part of the south downtown concept plan, it was assumed that businesses abutting the plaza would have use of it, helping to make it a vibrant area.

6.2 Summary: Medical Marijuana
 Staff: Denny Egner

Mr. Egner reminded the Commission that staff was working to craft code language in response to a change in State law that allowed local governments to create reasonable regulations for medical marijuana dispensaries. He reviewed the staff report and the Commission's direction to staff from the July worksession regarding adding buffers around two former school sites and not including buffers around parks. He noted that the request to buffer youth and daycare facilities may be complicated for future locations of such facilities and could create nonconforming uses.

Mr. Watts clarified the State's description of 'career school primarily attended by minors' and added that some jurisdictions have interpreted that broadly, such as a ballet school or a music store that provided lessons. Interpretation was up to the jurisdiction.

The Commission discussed the implications of the 'career school' definition.

Mr. Watts further explained the intention of the state's bottom-line rules. If the ballot for recreational legalization in November passed, the sale of recreational marijuana would be regulated by the OLCC rather than the Oregon Health Authority. Getting local rules in place would take time.

Commissioner Hemer asked if, in looking at the map of allowed areas, the City could write regulation where facilities could not be located in any Commercial zone that was within 1000 ft of a school. He felt that it was unusual to allow, per the map, a part of a commercial property or zone, to have a dispensary located in it, but the other part not allow for it based on the range of the 1000 ft buffer.

Mr. Egner responded that the City could write the regulations how it saw fit, as long as they were reasonable and they met minimum State requirements.

Commissioner Anderson reminded that at the last worksession on this topic, the Commission seemed to agree to not be much more prescriptive than the State regulations, and that these were medical facilities.

Mr. Watts noted that one of the benefits of sticking with the State regulations was that it decreased the possibility of litigation over what was reasonable or not.

Mr. Egner said he had spoken with the Police Chief Bartol. Chief Bartol was not a fan of medical marijuana or dispensaries but acknowledged that there was demand for them in Milwaukie. He was concerned about proximity to light rail stations and felt that buffers around parks would help eliminate more areas. Regarding collocated businesses, Chief Bartol felt that created more possibility for illegal sales due to extra foot traffic other than medical marijuana

recipients. A single use would be easier to regulate. Hours of operation played a role in increased possibility of intoxication and other issues.

Mr. Watts noted that other jurisdictions have requested certain regulations with regard to police location and availability, should there be issues. Also, possible challenges were around the fact that patients patronizing these facilities had to carry cash and so were at higher risk of robbery.

The Commission discussed the possibility of colocation and agreed that it should not be allowed.

The Commission agreed that hours should be 7:00 a.m. to 9:00 p.m.

Mr. Egner said that allowing dispensaries in retail areas and reserving industrial areas for more employment was reasonable; however, industrial areas were generally outside of residential areas. He noted that with regard to buffering around daycare facilities, those facilities were only permitted in certain areas but the two types of facilities may not overlap and so buffering may not be necessary.

The Commission agreed that sales should be allowed in industrial areas and that no special buffers around daycare facilities should be proposed.

7.0 Planning Department Other Business/Updates

7.1 Planning Commission Notebook Update Pages

8.0 Planning Commission Discussion Items

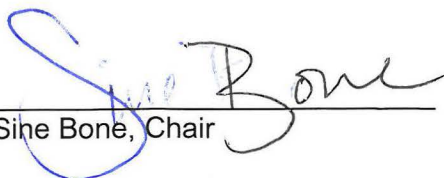
Commissioner Hemer noted that some exhibits at the Milwaukie Historic Museum were opening on September 27th.

9.0 Forecast for Future Meetings:

- | | |
|--------------------|---|
| September 9, 2014 | 1. Worksession: Moving Forward Milwaukie Downtown Plan and Code Amendments drafts overview |
| September 23, 2014 | 1. Worksession: Moving Forward Milwaukie Downtown Plan and Code Amendments drafts overview <i>continued tentative</i> |

Meeting adjourned at approximately 9:33 p.m.

Respectfully submitted,
Alicia Martin, Administrative Specialist II


Sine Bone, Chair



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, August 26, 2014, 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 June 10, 2014
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
- 6.0 Worksession Items**
 - 6.1 Summary: Moving Forward Milwaukie Briefing #5
Staff: Li Alligood
 - 6.2 Summary: Medical Marijuana
Staff: Denny Egner
- 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:**
 - September 9, 2014 1. Worksession: Moving Forward Milwaukie Downtown Plan and Code Amendments drafts overview
 - September 23, 2014 1. Worksession: Moving Forward Milwaukie Downtown Plan and Code Amendments drafts overview *continued 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:

Sine Bone, Chair
Wilda Parks, Vice Chair
Shannah Anderson
Scott Barbur
Greg Hemer
Shaun Lowcock
Gabe Storm

Planning Department Staff:

Denny Egner, Planning Director
Li Alligood, Senior Planner
Brett Kelter, Associate Planner
Vera Kolias, Associate Planner
Alicia Martin, Administrative Specialist II

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Milwaukie City Hall
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COMMISSIONERS PRESENT

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STAFF PRESENT

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COMMISSIONERS ABSENT

Shannah Anderson
Shaun Lowcock

1.0 Call to Order – Procedural Matters*

Chair Bone 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 April 8, 2014

It was moved by Vice Chair Parks and seconded by Commissioner Storm to approve the April 8, 2014, Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, noted that Northwest Housing Alternatives (NHA) would be submitting for appeal to the Land Use Board of Appeals (LUBA) of the decision by City Council to reverse the Planning Commission's decision on NHA's zone change application. He explained the process of a LUBA appeal.

Mr. Egner also welcomed the new Planning Commissioner, Greg Hemer.

Commissioner Hemer introduced himself and noted he had previously serviced as Chair of the Design and Landmarks Committee (DLC) and was a supporter of the Milwaukie Museum.

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

Jessica Renner and Annie Roth, Linwood Elementary Parent-Teacher Association board members, explained that the school had won a Safe Routes to School grant to add sidewalks around the school. Ms. Roth noted that they hoped to become a pilot school for other area schools. She added that the group was building the project team and needed a Planning Commissioner to be on the team.

Vice Chair Parks asked if a facilitator was identified for the project.

Ms. Roth stated that City Councilor Mark Gamba was working with them, along with the Safe Routes to School program staff and the Bicycle Transportation Alliance (BTA).

Ms. Renner noted that they were only in the planning stages at this point, including information and data gathering, to prepare an action plan.

Vice Chair Parks would like to help as she lived in the Linwood neighborhood.

5.0 Public Hearings

5.1 Summary: Moda Parking Expansion

Applicant/Owner: Moda Health

Address: 10505 SE 17th Ave

File: P-14-01, DR-14-03, WG-14-01

Staff: Denny Egner for Brett Kelter

Chair Bone called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Commissioner Barbur declared a potential conflict, stated the Historic Milwaukie Neighborhood District Association (NDA) had discussed the application and took a vote at the

May 12 meeting. He did not participate in the discussion or the vote, and believed he would be able to make an unbiased decision.

Commissioner Hemer declared ex parte contacts as he had participated in the Design Review meeting as a member of the DLC.

Peter Watts, City Attorney, asked Commissioner Hemer if he had taken formal action on the application as part of the DLC.

Commissioner Hemer clarified that the DLC approved the staff recommendations regarding the street lighting and the Willamette Greenway review that would be presented to the Commission tonight.

Mr. Watts noted his concern about Commissioner Hemer's previous participation on this application.

Commissioner Hemer agreed to abstain from this public hearing.

Denny Egner, Planning Director, presented the staff report via PowerPoint. He oriented the Commission to the site and noted the zoning and overlays. He described the proposal to expand parking beyond the allowed amount and displayed the site plan which showed the amount of trees lost in the expansion. He noted the approval criteria for the three application types and staff recommendation.

Regarding the key issues:

- The proposed parking ratio was comparable to other jurisdictions;
- The applicant provided public transit incentives to their employees, which reduced demand on parking generally;
- Downtown standards regarding lighting were not applicable considering how separate the subject site was from the downtown area;
- The site was separated from the river by housing so the Willamette Greenway issues weren't necessarily applicable either

Mr. Egner reviewed the staff's recommendations and decision options.

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Vice Chair Parks asked about the leased spaces downtown and if that agreement would continue or would those spaces be freed up with this proposal.

Mr. Egner believed that was the case but would be a question for the applicant.

Chair Bone called for the applicant's testimony.

Jerry Offer, OTAK Inc., the applicant's representative, noted that he and the applicant appreciated the recommendation for approval and agreed with the conditions as written. He confirmed Vice Chair Parks' question regarding freeing up the leased parking spaces in the downtown area. He noted there was an adjustment to the proposed site plan with regard to tree removal, with less trees being removed.

Chair Bone called for public testimony.

Gary Klein, 10795 SE Riverway Lane, noted the history of the area and applicant's property ownership. He was a member of the Johnson Creek Watershed Council (JCWC) which had done a number of plantings in the area with help from Moda Health, as the CEO was involved with nature conservancy. He felt there was little concern regarding the trees slated for removal and added that the neighbors approved of the proposed lighting. He felt that Moda was a great employer and neighbor, and supported the proposal.

James Fossen, 11836 SE 34th, member of the Design and Landmarks Committee, noted how the DLC came to their recommendation on the proposal. He said the public testimony at their meeting had been in support and the overall sentiment was that Moda Health was a great neighbor. The lighting style was preferred as it cast light downward rather than outward, like how the recommended style for downtown did.

Chair Bone closed the public testimony.

The Commission felt that the proposal was fair and appreciated the public support and testimony received.

It was moved by Commissioner Storm and seconded by Vice Chair Parks to approve land use applications P-14-01, DR-14-03, and WG-14-01 for 10505 SE 17th Ave with the findings and conditions as presented. The motion passed with Commissioner Hemer abstaining.

6.0 Worksession Items – None

7.0 Planning Department Other Business/Updates

8.0 Planning Commission Discussion Items

9.0 Forecast for Future Meetings:

June 24, 2014	1. Worksession: Moving Forward Milwaukie Downtown and Central Milwaukie Action & Implementation Plan
July 8, 2014	1. TBD

Meeting adjourned at approximately 7:39 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Sine Bone, Chair



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Dennis Egner, Planning Director

From: Li Alligood, Senior Planner

Date: August 19, 2014, for August 26, 2014, Worksession

Subject: Moving Forward Milwaukie Briefing #5

ACTION REQUESTED

None. This is a briefing for discussion only. This is the fifth in a series of project briefings to the Planning Commission. Staff is seeking feedback about draft plan and code amendments for downtown Milwaukie, as well as proposed land use and transportation concepts for Central Milwaukie.

BACKGROUND INFORMATION

The *Moving Forward Milwaukie: Enhancing our Commercial Districts* (MFM) project began in July 2013 and will continue into early 2015. The project was preceded by the *Fresh Look Milwaukie: Downtown Road Map* project (January – June 2013).

The MFM project is focused on bringing new activity to Milwaukie's commercial districts: downtown, central Milwaukie, and the neighborhood main streets of 32nd & 42nd Avenues. The major phases of the project are:

- Market Study (completed December 2013);
- Opportunity Site Development Concepts (completed March 2014);
- Downtown and Central Milwaukie Action & Implementation Plan (anticipated Council adoption 8/19);
- Downtown Plan and Code Amendments (anticipated summer/fall 2014);
- Central Milwaukie Land Use & Transportation Plan, and Plan and Code Amendments(anticipated fall 2014); and,
- Neighborhood Main Streets Plan and Code Amendments (anticipated spring 2015)

A. History of Prior Actions and Discussions

- **June 24, 2014:** The Commission was briefed on the draft Action and Implementation Plan, and provided feedback about key policy issues, specifically: reducing the number of zones in downtown; ground floor uses; and pedestrian-friendly development and design standards; and how to approach the PARs. The Commission agreed with the approaches proposed by the draft Action and Implementation Plan.
- **May 27, 2014:** The Commission was briefed on the draft Action and Implementation Matrix, and provided feedback about recommended policy and regulatory changes.
- **February 11, 2014:** The Commission was briefed on the opportunity site development concepts, including building form and financial feasibility, and provided input into the final versions.
- **November 12, 2013:** The Commission was briefed on the results of the market study and provided input into its findings.
- **August 5, 2013:** The Commission was briefed on the project overview and schedule.
- **May 28, 2013:** The Planning Commission and Design and Landmarks Committees were briefed on the final recommendations of the *Fresh Look Milwaukie: Downtown Road Map* project.

B. Draft Plan and Code Amendments for Downtown Milwaukie

Angelo Planning Group (APG) has prepared a memo outlining potential approaches to plan and code amendments, included as Attachment 1. APG has also drafted plan and code amendments, which are tentatively scheduled for a public hearing before the Planning Commission on October 14. The draft plan amendments do not include any policy revisions. The draft code amendments do include some key regulatory changes, as summarized below:

New

- Incorporate downtown zones into a Downtown Mixed Use (DMU) zone
- Establish a Type II clear and objective design review process for development that meets clear and objective standards; Type III option available for developers that desire more flexibility.
- Provide allowances for Type II review of alternation or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance (currently requires Type III review).
- Require Type III conditional use review for retail sales and service uses larger than 10,000 sf in area.
- Proposed exemption for building additions of less than 250 sq ft.
- Design standards for building facades; corner treatments; weather protection; and requirements and design standards for open spaces/plazas.

Revised

- Allow commercial office uses on Main Street, but prohibits industrial office uses (currently no office uses are allowed).

- Permit ground floor uses on Main St north of Harrison St.
- Reduce building heights in downtown from 5 stories/65 feet to 3 stories/45 feet with a height bonus to 4 stories/55 feet for inclusion of residential uses.
- Add build-to lines along the plaza and Adams St in South Downtown.
- Apply pedestrian-friendly design standards throughout downtown.
 - Increase window/door coverage on Main St from 50% to 60%
 - Establish required window/door coverage of 40% on McLoughlin Blvd
 - Establish required window/door coverage of 50% elsewhere in downtown
- Reduce minimum lot sizes from 5,000 sf to 750 sf.
- Reduce minimum building heights on Main St from 35 ft to 25 ft; remove minimum building heights in other areas of downtown.
- Require off-street parking minimums only for residential uses; retain off-street parking maximums.

Deleted

- Remove Transition Area and Village Concept Area overlays; replace with existing Transition Area Measures.

C. Proposed Central Milwaukie Land Use & Transportation Concept

The Moving Forward Milwaukie planning efforts for central Milwaukie kicked off at the August 13 meeting of the project advisory committee (PAC). Generally, the central Milwaukie planning area includes the commercial areas east of Hwy 224, west of 37th Ave, and south of Meek St (see Attachment 2).

The project team proposed draft concepts for Central Milwaukie, and the PAC discussed the area and provided input. Feedback from the PAC included:

- Central Milwaukie is convenient and provides for daily needs; it is easy to access by vehicle to purchase bulky items such as dog food or weekly groceries.
- It is more difficult to access by bike or foot because of various obstacles related to safety and connectivity.
- There is not much of an identity in this area.
- Many neighborhoods to the east do their shopping in central Milwaukie rather than continuing downtown.

The draft general concepts include the following, and will be refined through discussions with the PAC and the Planning Commission:

1. Improve safety through a greenway connection to downtown and enhanced crossings at key intersections
2. Improve connections between Central Milwaukie and Downtown
3. Support and grow the community through an expanded range of housing choices
4. Protect the character of existing neighborhoods
5. Strengthen the SE Oak “Main Street”

The project team will refine the draft concepts based on PAC and Planning Commission feedback, and begin to draft Central Milwaukie Land Use and Transportation Plan language. Once there is general agreement on the Plan, the team will draft implementing amendments to the Comprehensive Plan and zoning ordinance.

D. Next Steps

The project team will be returning to the Planning Commission for at least one more worksession before the first public hearing for the downtown plan and code amendments, which is scheduled for October 14.

The PAC will review the draft Central Milwaukie Land Use and Transportation Plan at its next meeting on September 29. This draft plan will incorporate feedback from the August 13 PAC meeting and August 26 Planning Commission worksession.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	E- Packet
1. Downtown Plan and Code Review memo, prepared by Angelo Planning Group, dated July 30, 2014	☒	☒	☒
2. Draft Central Milwaukie Concept Maps, prepared by Fregonese Associates, dated August 6, 2014	☒	☒	☒

Key:

PC Packet = paper materials provided to Planning Commission 7 days prior to the meeting.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-110>.



Memorandum

Date: July 30, 2014
To: Li Alligood, City of Milwaukie
Nick Popenuk, ECONorthwest
From: Serah Breakstone
Mary Dorman
cc:
Re: Moving Forward Milwaukie – Task 5.1 Downtown Code and Plan Review FINAL

Introduction

This memo reviews plan policies and development code sections that are relevant to Milwaukie's downtown. The intent of this review is to determine where plan and code amendments may be needed in order to implement the goals of the Moving Forward Milwaukie project. Specifically, this review will emphasize the following:

- ◆ Protection of existing businesses and providing flexibility to respond to market conditions
- ◆ Allowing flexibility for a broader range of uses within the Downtown
- ◆ Understanding the urban design vision for Downtown and establishing appropriate design standards
- ◆ Establishing a design review process that is clear, reasonable and effective

The information provided in this review will be used as the basis for drafting recommended plan and code amendments in Task 5.2. As such, this memo is intended to establish a clear direction for APG to draft amendments that reflect input received to date from staff, the Project Advisory Committee (PAC) and the Planning Commission on initial plan and code concepts. In those instances where more than one suitable approach to plan and code amendments exists, this memo will outline the approaches and seek guidance from city staff on which approach to move forward.

Documents reviewed for this memo are listed below.

Plans & Guidelines

Milwaukie Downtown and Riverfront Land Use Framework Plan

Milwaukie Downtown and Riverfront Plan Public Area Requirements (separate memo)

Milwaukie Comprehensive Plan

South Downtown Concept Plan

Town Center Master Plan



Zoning Ordinance

Section 19.304 Downtown Zones

Section 19.907 Downtown Design Review

Plans and Guidelines

Milwaukie Downtown and Riverfront Land Use Framework Plan

This plan was adopted as an ancillary document to the Milwaukie Comprehensive Plan in September 2000 and is implemented by the Milwaukie Downtown Design Guidelines, the Downtown Zones and the Public Area Requirements (PARs). The plan outlines a vision for the future of Milwaukie's downtown and riverfront area and identifies a fairly specific land use pattern that includes planning areas for housing, commercial uses, parks and open space, a Main Street District and more. City staff and the community have indicated that the framework established in the plan is overly prescriptive. Because the plan is implemented through the PARs and design guidelines, the specific planning areas identified in the plan are not needed and do not necessarily support the goals of the Moving Forward Milwaukie project, most specifically the goal to allow flexibility for a broader range of uses within the Downtown.

Recommendation: The general framework of the plan should be maintained but some of the detailed elements should be removed. This would mean deleting sections about the six "emerging planning areas" (housing, storefront Main Street, etc.) that identify the location of specific uses, design treatments, number of housing units and other detailed information. Key components that should be maintained are the emphasis on retail along Main Street. Specifically recommendations include:

- Consider incorporating policy components and key graphics of the Public Area Requirements
- Retain pages 1 through 9 of the plan, with the exception of page 4 (Illustrative plan); these describe the general urban design framework for the Downtown Riverfront area; revise and/or update to reflect the following:
 - Page 2: Update aerial photograph
 - Page 6: Update fundamental concepts to reflect increased focus on 21st Ave and east/west pedestrian connections
 - Page 8: Remove language referencing a grocery store anchor; impact zone; and arts and entertainment anchor; remove Main Street plaza; update graphic to reflect revised policies
 - Page 9: Remove references to bus transit center; grocery store; Main Street Plaza; hotel; and new public marina and rowing facility
- Incorporate appropriate elements from the South Downtown Concept Plan (Section 3



Concept, particularly the location of the plaza and light rail station and the circulation plan) into graphics as appropriate

- Delete page 10 (Figure 1.8 Land Use Framework) which establishes six distinct planning areas
- Retain page 11 describing key land use features; update to reflect the following:
 - current plans for South Downtown
 - bus transit center site has been developed as mixed use
 - South Downtown Concept refines the Arts and Entertainment Campus concept
 - new policies regarding the Kellogg Treatment Plant (no longer assume redevelopment into a public marina and restaurant/riverfront hotel)
 - completion of Johnson Creek restoration
 - ongoing efforts to restore Kellogg Creek (Kellogg-to-Coho project)
 - review quality housing features depending on whether DR zone is retained or not
 - new plans for parks and trails
- Delete pages 12 through 19; these pages contain information about the six planning areas and are unnecessarily specific in terms of uses and development/design elements
- Retain pages 20 and 21 which describe the envisioned open space and amenities framework for the Downtown Riverfront area; update to reflect the following:
 - Consider removing #2 "Springwater/Crystal Creek Trail"
 - Remove #4 "Downtown Spring Creek"
 - Remove #5 "Main Street Plaza"
 - Remove #6 "Rail Trail"
 - Replace #7 with Riverfront Park
 - Remove #9 "Main Street Pedestrian Walk"
 - Remove #10 "Riverfront Restaurant"
 - Add names of existing parks (Dogwood and Kronberg parks)
 - Add Kellogg bike/ped bridge (connecting open spaces of Dogwood Park and Kronberg Park)
- Retain page 22 depicting priority projects, and change title to "Project List". This page should be updated to reflect key projects that have been completed and any new projects from the capital projects list. Updates could include the following:
 - Replacement of the planned bus transit center with a new mixed use building (North Main Village)



- Completion of Johnson Creek restoration work
- Adoption of Riverfront Park design concept
- Revised policies related to decommissioning the Kellogg Treatment Plant

Milwaukie Comprehensive Plan

The Comprehensive Plan and its ancillary documents provide the guiding policy for future growth and development throughout the city. The plan contains policy language specific to Downtown Milwaukie that may be outdated and require amendments in order to support the goals of the Moving Forward Milwaukie project and establish the desired vision for Downtown.

Recommendations: Consider updates to Comprehensive Plan policies in Chapter 4 (Land Use) as follows:

- Objective #2, Policy 7 of the *Residential Land Use and Housing Element* relates to the Town Center and may need revisions to reflect updated planning projects that have occurred since the language was drafted. Specifically:
 - References to a Mixed Use Zone are no longer applicable and can be removed
 - References to Regional Plan Areas should be Town Center Areas and may need to be removed if they're no longer relevant
- The Economic Base and Industrial/Commercial Land Use Element describe McLoughlin Blvd as a Highway Oriented Center which is dependent on automobiles for access and is generally service-oriented. This is not in line with the current vision for McLoughlin in downtown Milwaukie and should be revised as needed.

Town Center Master Plan

The Town Center Master Plan is an ancillary document to the Comprehensive Plan, adopted in 1997 to comply with Metro requirements for designated Town Centers. The plan was further refined by the Downtown and Riverfront Framework Plan and is implemented by the Downtown Zones. No changes to the Town Center Master Plan policies related to downtown are recommended as part of this project.

Milwaukie South Downtown Concept Plan

The South Downtown Concept Plan establishes a vision for the area south of Washington Street and west of 21st Avenue within the Downtown (currently zoned Downtown Office). The plan was adopted by resolution in 2011 and has been partially implemented in the code. Generally, the plan describes a public plaza along Main Street surrounded by mixed use buildings with active ground floor uses. The core is surrounded by a “village” with flexible buildings and a transition area to buffer the core from nearby neighborhoods and the riverfront.



Recommendations: While no amendments to the plan itself are recommended, key elements of the plan should be incorporated into the Downtown and Riverfront Framework Plan (see Recommendations on page 2). In addition, the zoning ordinance (Section 19.304 Downtown Zones) should be revised to support and implement the plan as needed. See recommendations for that section of code below.

Zoning Ordinance - Section 19.304 Downtown Zones

This section of code contains all standards and provisions related to development in Downtown Milwaukee. Downtown is currently divided into five zones: Downtown Storefront (DS), Downtown Office (DO), Downtown Commercial (DC), Downtown Residential (DR), and Downtown Open Space (DOS). Previous evaluations of the downtown code and tasks in this project have identified the following issues with the existing Downtown zones in Section 19.304:

- ◆ Overall, development standards are not flexible enough to allow desired redevelopment
- ◆ Many existing uses are nonconforming
- ◆ Permitted use lists are too prescriptive and not always clear
- ◆ Minimum height requirement of 35 ft on Main Street in DS zone is aggressive as compared to other Town Center communities
- ◆ Design guidelines are difficult to understand and follow
- ◆ Prohibited materials for walls are outdated and may be overly restrictive
- ◆ Parking requirements in many cases exceed those required by the market and add additional cost to development downtown

Recommendations - Downtown Zones Consolidation:

In order to streamline the Downtown Zones and provide more flexibility for development, combine the DS, DC, DO and DR zones into one zone (called Downtown Mixed Use or something similar). Retain the DOS on at least an interim basis; rename to “OS” so it can ultimately be applied outside of downtown.

- In the future, the DOS zone could be addressed by either a) renaming it Open Space (OS) and revising the language as needed to make it more broadly applicable to Open Space lands outside the Downtown or b) incorporate it into the new Downtown Mixed zone
- Remove the Village Concept Area designation but retain a Transition Area to R-5 and R-1-B zones in north Downtown
 - Consider removing Transition Area and using existing transition standards in 19.500.
- Update the zoning map as needed to reflect above changes to Downtown boundaries/zones and include the Transition Area overlay, if retained.



Recommendations - Permitted Uses:

For the proposed Downtown Mixed Use zone, allow greater flexibility for the types of uses permitted:

- Establish use categories that are well defined and consistent throughout the code (see more discussion below). In general, allow residential, commercial, office and other use categories listed in Table 19.304.3 in the Downtown Mixed Use zone. Break office category into Traditional Office and Industrial Office categories and don't allow Industrial Office along Main Street.
- Remove the limitation on townhouse development as shown on Figure 19.304-1 in the Village Concept Area. Retain the limitation that does not allow townhouses within 50 feet of Main Street frontage.
- Revise the 5,000 s.f. limitation on eating/drinking establishments and retail uses on the ground floor. Allow up to 10,000 square feet outright and require conditional use approval for anything over 10,000 sf.
- Retain the limitation that manufacturing or production uses be limited to 5,000 s.f. on the ground floor and must be associated with, and accessory to, an eating/drinking establishment or retail use.
- Remove the requirement for ground floor retail/restaurant uses as established in Figure 19.304-2. Retain the requirement that new ground floor space facing Main Street be designed to be flexible enough to accommodate retail/restaurant uses should the market support them (generally through a first floor height minimum).
- Remove the limitation (maximum 25% of the ground floor) on personal/business service uses.
- Remove the limitation on multifamily development as shown on Figure 19.304-1 in the Village Concept Area. Multifamily and other residential types should be allowed on the ground floor except along Main Street south of Harrison. North of Harrison, residential on the ground floor should be allowed.
- Reference a limited list of prohibited uses as suggested by the PAC and staff.

Use categories - Ultimately, the City may want to consider establishing a separate chapter of code called "Use Categories" that identifies and defines use categories that are employed consistently throughout the different zones. This approach would be similar to Portland's code (Chapter 33.920) which defines categories of uses and provides a description of characteristics, examples, and accessory uses for each. Exceptions to the category are also provided where applicable. Each zone then lists the use categories and indicates whether or not that category of uses is permitted outright or conditionally. Drafting use categories for Milwaukie is outside the scope of this project but could be considered for future planning projects.



Recommendations - Development and Design Standards:

In order to increase flexibility for development and apply pedestrian-friendly design to the entire Downtown (instead of Main Street only), the following approach is recommended:

- Consider revising or removing the minimum building height standard if it is determined to be a barrier to development. If removed, consider requiring one-story buildings to have tall ceilings.
- Maintain the required build-to line (Figure 19.304-4) along Main Street. For the rest of the Downtown Mixed Use zone, require at least 50% of buildings be built to front lot line; remaining 50% can be setback up to 15 feet with provision of pedestrian amenities within the setback (plazas, landscaping, etc.)
- Apply the required ground floor windows/openings standard (Figure 19.304-5) throughout Downtown, with the following variations: require 60% window coverage for Main Street; require 50% window coverage along other streets; require 40% window coverage along McLoughlin
- Explore code options to keep the ground floor transparent while allowing some interior space planning flexibility and minimizing the need for a high level of enforcement
- Establish building entry and orientation standards that orient primary building entrances to the street/sidewalk or corner. If a development is on a corner with McLoughlin, allow developer to choose which street to apply the building entry standards.
- Establish provisions that prohibit parking within the front setback
- Establish building design standards that require articulation
- Revise and clarify the applicability thresholds for design standards in Section 19.304.6

Question: By consolidating the number of downtown residential zones and allowing a broad range of uses in the new Downtown Mixed Use zone – the city will be reducing the number of non-conforming *uses* in downtown. However, by expanding the applicability of pedestrian-oriented design standards to a much broader area of downtown – the city will be expanding the number of sites with non-conforming *development* (e.g., location of existing parking, existing building exceeds maximum setback, does not conform with main entry or ground-floor window requirements, etc.)

The Nonconforming Use/Development Chapter (19.802.2.D) states: “Where other sections of the Milwaukie Municipal Code require nonconforming uses or development to come closer to conformance, those provisions apply instead of the provisions of this chapter.” We assume that the city wants to avoid requiring a Type III land use review for nonconforming development downtown, and instead intends to use the Type II Design Review process (as discussed in the next section) to allow development that comes closer to conformance with the new pedestrian-oriented design standards.

Recommendations - Parking Standards:

Currently, off-street parking is not required in the DS zone but it is required in the DO, DC and DR



zones. For the proposed new Downtown Mixed Use zone, the following options were considered:

- Option 1 - Only require off-street parking for residential uses and exempt other uses (commercial, office, etc.) in the Downtown Mixed Use zone
- Option 2 - Require off-street parking as established in Table 19.605.1 and allow a by-right reduction of 50% for all uses in the Downtown Mixed Use zone (or in an established parking overlay). Further reductions could also be made available for transportation demand management plans, transit oriented development and/or provision of public open space/amenities beyond what would otherwise be required. This approach is used in Oregon City: <https://library.municode.com/index.aspx?clientId=16540>. The "neighborhood main street" areas of Milwaukie are also allowed a by-right reduction of 50% per MMC 19.605.3.B.1.
- Option 3 - Retain the existing approach and establish minimum and maximum parking ratios by use category for the Downtown Mixed Use Zone lower than those currently required by Table 19.605.1. Preliminarily, parking standards could be similar to the following:
 - Residential uses: 1/2 space per unit
 - Commercial uses smaller than 1,000 square feet of floor area: none
 - Commercial uses 1,000 square feet or more of floor area: 1 space per 1,000 square feet of gross floor area
 - Entertainment uses: Determined by conditional use
 - Hotel/motel: 1/2 space per room
 - Office uses: 1.5 spaces per 1,000 square feet of floor area
 - Light industrial/manufacturing uses: 0.5 spaces per 1,000 square feet of floor area
 - Public and institutional uses, government uses: 1 space per 1,000 square feet of floor area

Based on discussions with staff, Option 1 will be carried forward in the proposed code amendments in Task 5.2.

Recommendations - South Downtown Concept Plan:

In order to support the vision established by the South Downtown Concept Plan, the following code changes are recommended:

- Map the boundary of the South Downtown study area and apply the proposed new Downtown Mixed Use zoning
- Limit building heights in this area to three stories with a height bonus available for inclusion of residential uses.
- Retain the build-to line along Main Street and apply to Adams St west of 21st Ave and the edge of the plaza (revise Figure 19.304-4 to show build-to line applicability)



- Apply low minimum lot size (down to 750 square feet) to create opportunity for live/work units and “fine grained” development pattern

Zoning Ordinance - Section 19.907 Design Review

The current code requires all new construction and major exterior alterations in the downtown to go through a Type III Design Review process. Projects must demonstrate “substantial consistency” with the Downtown Design Guidelines, which regulate many aspects of the downtown environment (“character”, architecture, lighting, signs, etc.). The Type III process can take up to four months and requires significant investment on the part of the applicant to design a project to the level of detail required for the review.

A two-track Design Review process with the option of a Type II Design Review process using clear and objective design standards would provide a quicker and less expensive option for applicants, while preserving a public notification requirement. This approach has been broadly supported by participants in the MFM project.

Recommendations: The City should consider establishing a two-track design review process that gives applicants the choice to use clear and objective standards (Type II) or the more discretionary guidelines (Type III). Potential approaches include:

- Create a table similar to the one used for multifamily design in Chapter 19.505.3. The table contains a list of required design elements and for each one describes a design guideline and design standard(s). If the guidelines are used, a Type II review is required. If the standards are used, a Type I or II review is used (Type I is required for “needed” housing). This approach is useful because the applicant can compare guidelines with standards side-by-side to determine which path will be most appropriate for their particular project.
- Based on public input to date, we assume that the two-tracks for Downtown Design Review would be Type II (staff decision) and Type III (Planning Commission decision).
- Retain the Downtown Design Guidelines “as is” for the Type III Design Review and create a set of clear and objective standards for a Type II Design Review for inclusion in Chapter 19.907 Downtown Design Review. The standards could regulate basic design elements such as building façade articulation, building materials and other architectural elements. One way to provide additional flexibility for developers would be to create a design review menu that allows the developer to choose which design elements to incorporate. The menu presents a list of options with points assigned to each option. The applicant must “earn” a minimum number of points (or percentage of the total points available) in order to be approved; the combination of elements used to meet the point minimum is up to the applicant. This approach is used in [Canby](#).

Note: Staff needs to have further discussion about whether a new Type II Design Review option would be consolidated with or take the place of Type II Development Review (19.906) in the Downtown.

Existing Conditions Diagram

Key

Study Area Boundary

Railroad Tracks
(Circulation Barrier)

Milwaukie
Expressway/Hwy 224
(Circulation Barrier)

Primary Connections

Stable Existing
Neighborhoods

Existing Land Use:

Commercial

Single-Family Residential

Multi-Family Residential

Industrial

Vacant

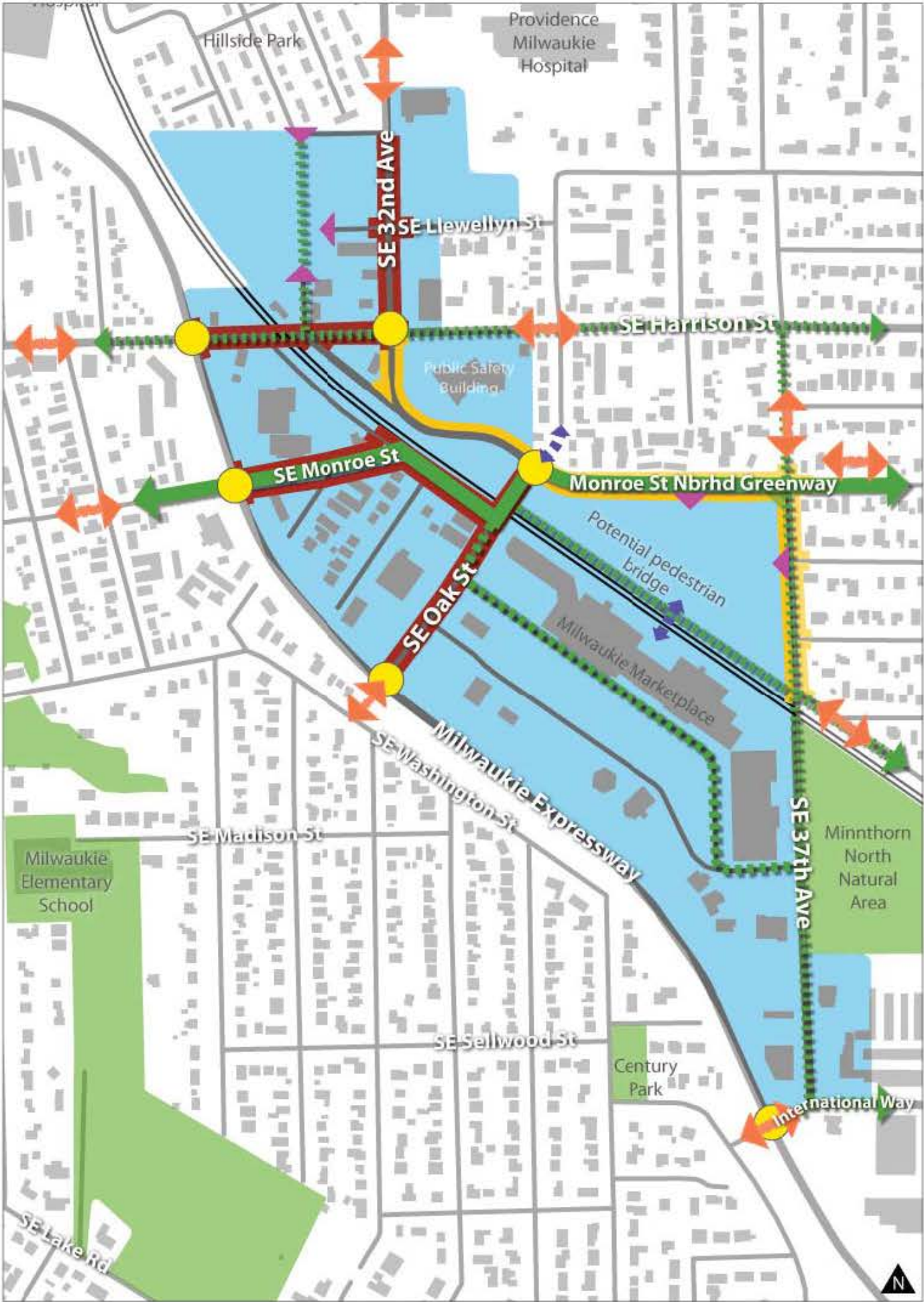
Park/Open Space



Transportation/ Circulation Diagram

Key

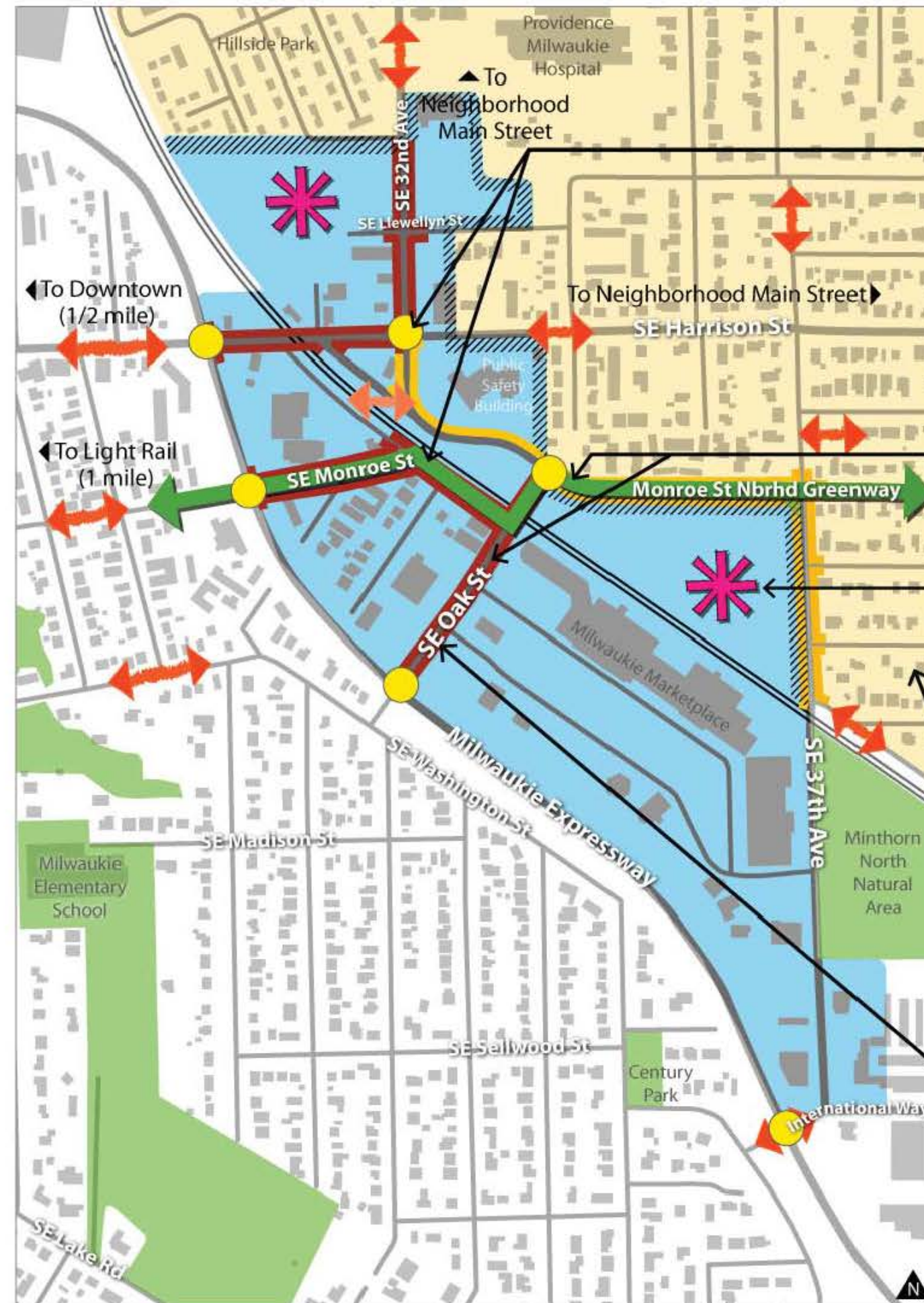
-  Study Area
-  Commercial Edge Treatment
-  Residential Edge Treatment
-  Primary Bicycle Routes
-  Ped/Bike Connection Opportunities
-  Primary Connections
-  Key intersections
-  Potential Access Points



Fundamental Concept Diagram

Key

-  Study Area
-  Stable Existing Neighborhood
-  Ped/Bike Greenway
-  Commercial Edge Treatment
-  Residential Edge Treatment
-  Neighborhood transition area
-  Primary Connections
-  Priority enhanced pedestrian crossings
-  Catalyst sites



- 1 Improve safety and connections through a greenway downtown and enhanced crossings at key intersections
- 2 Improve connectivity within the Central City
- 3 Support and grow the community through an expanded range of housing, employment and commercial options
- 4 Protect the character of existing neighborhoods
- 5 Enhance the pedestrian experience on SE Oak Main Street and SE Harrison Street

Proposed Land Use Diagram

- Key**
- Study Area Boundary
 - Catalyst sites
 - Mixed-Use
 - Mixed-Use with Flex Space Overlay
 - Mixed Use with Live-Work Overlay
 - Civic
 - Parks/Open Space/Schools





MILWAUKIE

Dogwood City of the West

To: Planning Commission

From: Dennis Egner, Planning Director

Date: August 18, 2014, for August 26, 2014, Worksession

Subject: Zoning Amendments for Medical Marijuana Facilities

ACTION REQUESTED

Staff is seeking general direction on options to regulate medical marijuana facilities in Milwaukie.

SUMMARY

State law allows the City to adopt "reasonable regulations" to govern the location and operation of medical marijuana facilities. On July 22, 2014, the Planning Commission held its first worksession on the topic. This memorandum responds to questions raised at the worksession. Based on Commission direction at the August 26 worksession, staff will prepare a draft ordinance for a public hearing

DISCUSSION AND ANALYSIS

The Commission's July 22 recommendations and questions are listed below. A staff response is provided for each issue. If Commissioners would like to review a copy of the July 22 staff report you can download a copy at <http://www.milwaukieoregon.gov/planning/planning-commission-108>.

Land Use Issues

School Buffers – The Commission recommended that 1,000-ft buffers be provided around the two closed schools in Milwaukie (Wichita and Hector Campbell) since these schools still house some school and youth-related activities. State law requires that no medical marijuana facility be allowed within 1,000 feet of a school (kindergarten to high school). In addition, state law requires a 1,000-ft buffer from other medical marijuana facilities.

Response: A new map is attached with buffers depicted around the schools.

August 26, 2014

Park Buffers – The Commission proposed that no buffers be provided around City parks. In general, Commissioners believed that there would be low demand for these facilities in Milwaukie and it would be unnecessary to provide buffers around parks.

Response: Buffers are not depicted on the attached map.

Youth Facilities - The Commission proposed that buffers be considered for youth facilities and locations where minors congregate. Based on a web search, staff found only one youth organization facility in Milwaukie – the Milwaukie MOVE center at 11097 SE 21st Avenue. This facility is in the downtown, close to Milwaukie High School. No medical marijuana facilities will be permitted downtown because of the 1,000 foot buffers around the high school and the Waldorf School. Some churches in the community sponsor youth activities but in most cases, churches are in residential districts and separated from the commercial or industrial areas where medical marijuana facilities can locate.

Response: No buffers are proposed for youth facilities.

Daycare and Preschool Facilities – The Commission proposed that buffers be considered for daycare and preschool facilities. The zoning ordinance permits daycare and preschool facilities as follows:

ZONING CATEGORY	PERMITTED
R- Residential Zones	Community Service Use subject to public hearing before the Planning Commission
Downtown Commercial Zones	Limited Use – No greater than 3,000 feet in size
BI – Business Industrial Zone	Accessory use for children of employees
Other Commercial and Manufacturing	Not Permitted

Except for in the BI zone, where daycare and preschool facilities are allowed only as an accessory use for the children of employees, daycare and preschool facilities are allowed only in the areas where medical marijuana facilities are prohibited (they are not allowed in residential areas and the downtown is within the buffers of the high school and the Waldorf School). The zones boundaries should provide for adequate separation in most instances. Another factor to consider is that parents or caregivers pick-up and drop-off children at daycare and preschool facilities.

Response: No buffers are proposed for daycare and preschool facilities.

August 26, 2014

Commercial, Mixed Use, and Industrial Zones – State law limits the siting of medical marijuana facilities to areas designated for commercial, industrial, or mixed use zones. The facilities are prohibited in residential zones. The maps provided at the July 22 worksession did not differentiate between commercial, mixed use, and industrial areas. At the worksession, there was some discussion regarding whether medical marijuana facilities should be allowed in industrial areas but there was no clear direction to staff regarding the Commission's preference. It can be argued that given the retail nature of the facilities, that they should be limited to the commercial/mixed use zones rather than the employment-focused industrial zones. It can also be argued that the uses should be allowed in the industrial areas because these areas tend to be separated from residential districts.

Response: The attached map depicts industrial zones in purple and commercial/mixed use areas in red. The Commission will be asked for direction regarding which zones to include in the draft proposal.

Operational Issues

Customer Access – There was a question at the July worksession regarding access to the medical marijuana facilities. Based on the Oregon Health Authority (OHA) administrative rules, only medical marijuana patients, caregivers, facility operators/workers, and OHA inspectors are allowed in facilities where marijuana is sold or prepared for sale. Rules state that no one under the age of 18 is permitted and no consumption on-site is permitted. In addition, grow operations are not allowed in the same location as a dispensary.

Response: No local regulations are required.

Co-Located Businesses – There are no OHA rules preventing a medical marijuana facility from being housed within another business. In theory, a medical marijuana facility could be located in the back room of a head shop, convenience store, or any retail establishment. OHA does have security and monitoring rules that must be followed.

Response: The Commission may want to consider whether local regulations are needed for co-located businesses.

Window Displays – There are no OHA administrative rules regarding window displays. Rules state that during operating hours, marijuana must be stored in a "locked, secured area". If a window display is provided, it would need to be "locked and secured". When facilities are closed, usable marijuana is required to be stored in a locked safe and immature plants are to be kept in a locked room. Given that the only customers allowed in a marijuana sales area are patients and caregivers, it would follow that window displays should be limited. An additional issue to consider is that in commercial retail areas, the City encourages window displays in order to create a pedestrian friendly environment.

Response: The Commission may want to consider a local regulation stating that the display of marijuana products is prohibited from view outside of the sales area of the dispensary. If window displays are limited, how can we still encourage a pedestrian friendly storefront environment?

August 26, 2014

Hours of Operation – At the July 22 worksession, the Commission discussed potential limits on hours of operation. The Commission preferred that the facilities be given the flexibility to determine the hours of operation that best suit their customers' needs.

Response: No local regulations are required.

Facility Name – At the July 22, worksession there was a question as to whether the City could review and approve business names. This question was posed to the City Attorney who responded that this was a free speech issue and that it was not the type of regulation that could be easily defended.

Response: No local regulations are recommended.

Police Issues – Commissioners asked if the police chief had any comments or recommendations.

Response: At the time of the preparation of the staff report, the Police Chief had not responded.

Issues for Commission Discussion

- Should facilities be prohibited or limited in industrial areas (manufacturing and business-industrial districts)?
- Are regulations needed for co-located businesses?
- Are regulations needed for window displays?
- Are there any other locational or operational regulations that should be considered?

STAFF RECOMMENDATION

There is no staff recommendation at this time.

ATTACHMENTS

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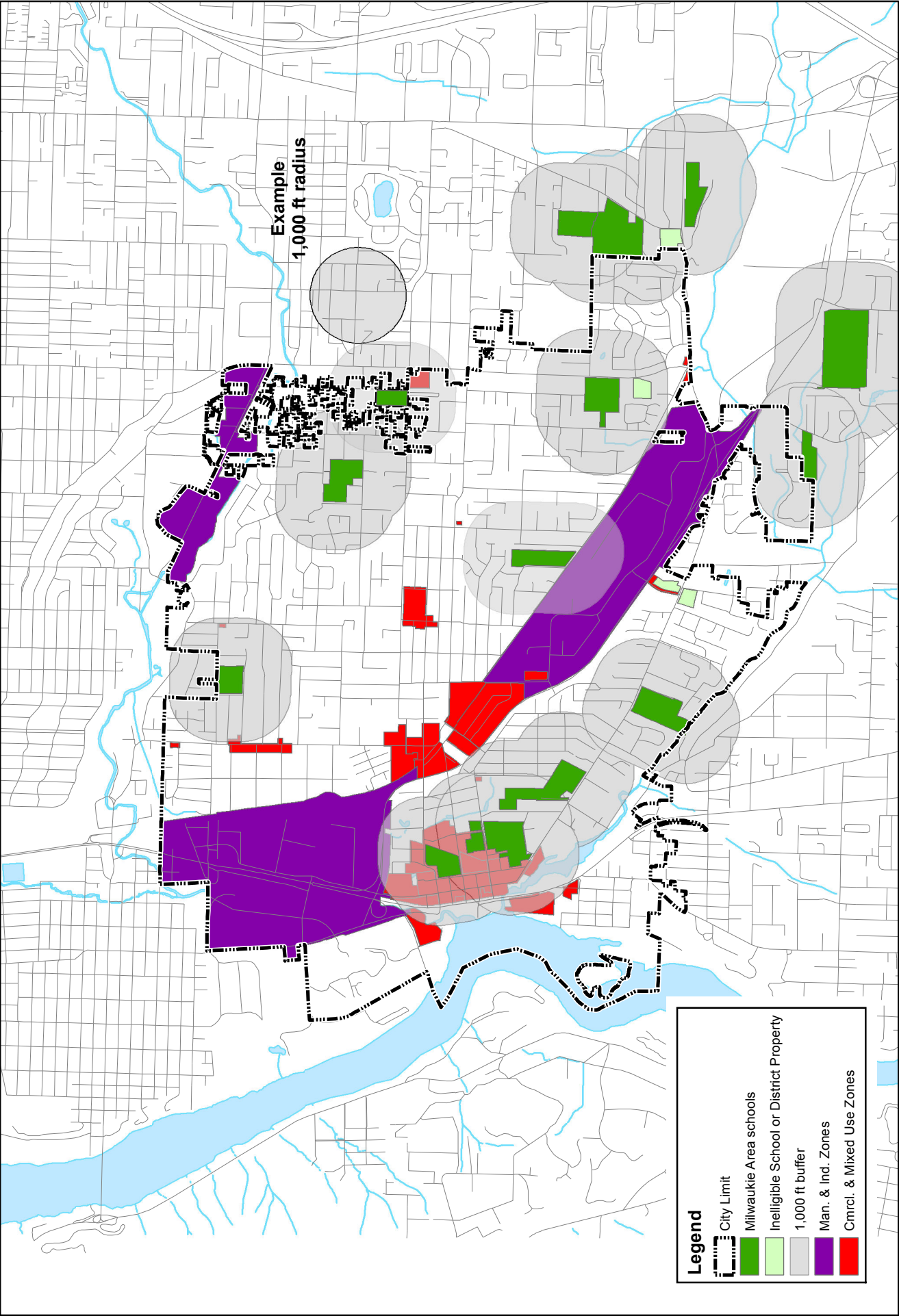
	PC Packet	Public Copies	E- Packet
1. Medical Marijuana Eligible Areas Map: 8-18-14 version	☒	☒	☒

Key:

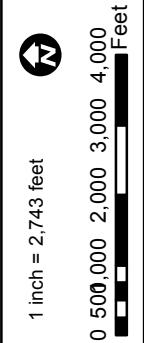
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The information depicted on this map is for general reference only. The City of Milwaukee does not accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product.



Milwaukee Planning Dept.
Data: City of Milwaukee GIS;
Metro RLIS
Date: 8/18/2014

Medicinal Marijuana Eligible Areas

