



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 NOVEMBER 17, 2015
 City Hall Council Chambers

Mayor Gamba called the 2,210th meeting of the City Council to order at 6:04 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Community Development Director Alma Flores, Senior Planner Li Alligood, Building Official Samantha Vandagriff, and Planning Director Denny Egner

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award for November 2015 to Tiara Norman

Mr. Pinder introduced Ms. Norman and Council commented on her achievements.

CONSENT AGENDA

It was moved by Council President Batey and seconded by Councilor Parks to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. September 17, 2015, Study Session;
2. September 22, 2015, Special Session, Food Cart Forum;
3. October 6, 2015, Work Session;
4. October 6, 2015, Regular Session;
5. October 18, 2015, Council Retreat;
6. October 20, 2015, Work Session;
7. October 20, 2015, Regular Session; and
8. October 29, 2015, Special Session

B. Resolution 101-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, Extending the Municipal Court Judge Services Contract and Clarifying Payment Terms.

C. Resolution 102-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, Affirming the Appointment of a Ledding Library Board Member to Serve as the City of Milwaukie's Representative on the Clackamas County Library District Advisory Board.

D. Resolution 103-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, Increasing Parking Permit Fees.

E. Approve an Oregon Liquor Control Commission (OLCC) Application for Clackamas Distillery, LLC, 11630 SE 27th Avenue, New Outlet.

Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures, and **Mr. Monahan** noted staff follow-up from the November 3, 2015, Audience Participation.

Rika Warner, Milwaukie resident, discussed ongoing issues related to neighborhood cats and asked the City to address her concerns. **Mr. Monahan** reported that the Milwaukie Municipal Code (MMC) does not address neighborhood cats and noted that he would consult expert resources to identify options.

PUBLIC HEARING

A. Moving Forward Milwaukie (MFM): Neighborhood Main Streets Code Amendments, File #ZA-2015-002 – Ordinance

Mayor Gamba called the Public Hearing on the legislative Zoning Code Amendment, File #ZA-2015-002, initiated by the City to order at 6:22 p.m.

Mayor Gamba explained that the purpose of the hearing was to consider an Ordinance amending MMC Titles 14 Signs and 19 Zoning and the Zoning Map.

Mayor Gamba reviewed the order of business for the hearing. He explained that the Council decision would be the final decision of the City, all testimony and evidence must be directed toward the applicable substantive criteria, failure to address a criterion or raise any issue with sufficient detail precludes an appeal based on that criterion or issue, and any party with standing may appeal the decision of the Council to the State Land Use Board of Appeals (LUBA).

No member of Council declared any potential or actual conflict of interest as defined in Oregon Revised Statutes (ORS) § 244. No member of the audience challenged any Council member's ability to participate in the decision.

Ms. Alligood provided an overview of the Neighborhood Main Streets phase of the MFM project and identified the location of the Neighborhood Main Street areas. She summarized previous neighborhood commercial district planning efforts and the Neighborhood Main Streets visioning process. She noted that the proposed MMC amendments include a new Neighborhood Mixed Use Zone (NMUZ) and new approaches to Use Standards.

The group noted existing buildings that exceed the proposed 10,000 square-foot limit for commercial spaces and discussed the Conditional Use Review process.

Ms. Alligood reviewed the newly proposed approaches to the Development and Design Standards and Land Use Reviews, and noted that vehicle sales and adult businesses would continue to be prohibited.

Council President Batey and **Ms. Alligood** noted that the new approaches would render some existing buildings as non-conforming.

Ms. Alligood identified key issues for Council to consider, including cottage cluster housing, building size limits, and height bonuses.

Councilor Churchill and **Ms. Alligood** noted that a cottage cluster would require a lot division into at least 4 parcels under the proposed approach.

Ms. Alligood reviewed the questions for Council to consider regarding cottage cluster housing and size limitations. She noted the impacts of the proposed changes on large commercial buildings, and reported that Dieringer Properties Inc. had requested that the Safeway on King Road be exempted from the proposed size limits and that the maximum building size be tied to site size. She reviewed the questions for Council to consider regarding height bonuses and provided a summary of the concerns raised in public comments about the proposed Neighborhood Main Street approaches.

Mayor Gamba and **Ms. Alligood** noted that existing businesses could change names or owners but could not change from a conforming use under the proposed approaches.

Ms. Alligood summarized public comments regarding parking and noise concerns and reviewed Council's decision-making options.

Council President Batey and **Ms. Alligood** discussed the boundaries of the existing and proposed use zones on 42nd Avenue.

Correspondence:

Ms. Alligood reported that staff had received and forwarded to Council 2 pieces of correspondence since the Council Packet had been published.

Public Testimony:

Mayor Gamba reviewed the rules governing public testimony.

Testimony in Support:

None.

Neutral Testimony:

Karen Olsen, Milwaukie resident, noted an email she sent to Council and thanked staff for their assistance. She expressed concern about the impacts of noise and parking on residential areas and suggested that the City consider neighborhood livability issues.

Mayor Gamba and **Council President** noted that the City was working on a parking permit program that could be used as a tool on neighborhood streets.

Councilor Power asked if the expanded business hours of Liz's Creative Café had created any problems in the neighborhood. **Ms. Olsen** replied that she was not concerned about the Café's expanded hours and expressed concern about the use of the rear parking lot for non-parking activities that create noise.

Testimony in Opposition:

Gene Dieringer, Dieringer Properties Inc., expressed concern about the impacts of the proposed restrictions on re-tenanting and dividing large commercial buildings. He noted the value of a large anchor tenant in a shopping center and suggested that anchor tenants should be grandfathered into the proposed square foot restrictions.

Councilor Churchill and **Mr. Dieringer** discussed the impact of the proposed zoning changes on large commercial properties outside Neighborhood Main Street areas.

Mayor Gamba and **Ms. Alligood** noted that the proposed restrictions had been revised to extend the conditional use period, and **Mr. Dieringer** remarked that an extended conditional use period would not change his opposition to the proposed restrictions.

Mayor Gamba asked for Mr. Dieringer's input on height bonuses. **Mr. Dieringer** discussed why businesses would want taller ground floors and height bonuses, and noted differences between commercial sites on 32nd and 42nd Avenues.

The group discussed how the proposed restrictions could be modified to allow large anchor tenants to remain in place, and **Mr. Dieringer** suggested that Safeway should be grandfathered into the restrictions.

Staff Response:

Ms. Alligood clarified proposed use restrictions on parking lots and possible exemptions for the Safeway site. **Mayor Gamba** asked if a specific use could be exempted, and **Ms. Alligood** and **Mr. Ramis** remarked on the feasibility of drafting an exemption to match the policy decision made by Council.

Councilor Power, **Ms. Alligood**, and **Council President Batey** discussed the possibility of identifying other commercial corridors as Neighborhood Main Streets.

Close Public Hearing: It was moved by **Council President Batey** and seconded by **Councilor Power** to close the public testimony portion of the hearing. **Motion**

passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

The Council agreed to review each of the key questions in the order presented by staff.

Councilor Parks, Mayor Gamba, and Council President Batey discussed the unit size and characteristics of cottage cluster housing.

Councilors Churchill and Power expressed doubt about the feasibility and developer interest in building cottage cluster housing in the City.

Mayor Gamba summarized that Council unanimously agreed that cottage cluster housing should be allowed in the NMUZ.

Mayor Gamba and Councilor Parks noted the second key question for Council to consider regarding the application of size limits or exemptions on the Safeway site.

Councilor Power noted the need to retain a grocery store in the City and expressed support for the staff suggestion to exempt the Safeway site. **Mr. Ramis** clarified that staff had suggested exempting the Safeway site from the proposed size limit while leaving the other design standards in place.

Council President Batey expressed support for leaving the non-size related design standards in place at the Safeway site and limiting the site to grocery use.

The group noted commercial uses that could fill a Safeway-size site and **Councilor Churchill** commented on how well the Safeway site integrates with the community.

Mayor Gamba summarized that Council was supportive of a solution that would allow a grocery store the size of the current Safeway to continue to exist on King Road.

The group discussed granting a size exemption to non-grocery uses and noted the possibility of a Wal-Mart being built in the City. **Councilor Churchill** suggested that staff prepare size exemption options for Council to consider at a future meeting.

Mayor Gamba reviewed the third key question for Council to consider regarding height bonuses in the NMUZ. He commented that a 4th floor would be possible on 42nd Avenue but not on 32nd Avenue, and **Councilor Parks** concurred with Mayor Gamba's comments that a 4th floor would not be possible on 32nd Avenue.

The group discussed residential and commercial zoning in Central Milwaukie and on 42nd Avenue. **Councilor Churchill** expressed opposition to allowing 4 stories and a height bonus and extra height on the first floor of a 3 story building.

Council President Batey commented that the Safeway site was unlikely to change uses in the near future and suggested that the restrictions be left as proposed.

Councilor Power commented that the Neighborhood Main Street areas were different than other areas in the City and suggested it would be premature to add a height bonus.

Ms. Alligood reported that the existing and proposed allowed heights in commercial areas were the same and she noted residential height allowances.

Councilor Churchill suggested that a height bonus could be sought through a Planning Commission review and agreed with Councilor Power that it was premature to add a height bonus. **Mayor Gamba and Ms. Alligood** noted that a height bonus was not an allowable exemption. **Council President Batey and Councilor Churchill** suggested an exemption or re-zone could be sought through the Planning Commission.

Councilor Power noted there were new development and redevelopment opportunities that may occur with increased density and discussed the possibility of placing hours of operation restrictions on 32nd Avenue to encourage desired types of businesses. **Council President Batey, Mayor Gamba, and Councilor Parks** noted that hours of operation restrictions could be placed on new businesses including bars.

Mr. Egner, Council President Batey, and Mayor Gamba commented on Council's authority when considering OLCC applications.

Mayor Gamba and Ms. Alligood discussed the neighborhood-specific tone of paragraph C on Council Packet page RS78. They noted alternate language suggested by staff regarding the application of the proposed zoning in other areas of the City.

It was Council consensus that staff should revise the language in paragraph C on Council Packet page RS78 as noted by Ms. Alligood.

Mayor Gamba and Council President Batey discussed the inclusion of brew pubs as a restaurant and bar on Council Packet pages RS85 and RS91.

The group discussed brewpubs in the Neighborhood Main Street areas and the differences between brewpubs and restaurants that serve alcohol. **Ms. Alligood** reported that the City's conditional use definitions match the OLCC definitions and noted possible issues of tying zones to specific OLCC License types.

Mayor Gamba and Council President Batey discussed the list of recreational facilities found on Council Packet page RS85.

Mayor Gamba asked if Airbnb should be on the commercial lodging list and **Councilor Power** noted that the Planning Commission had not yet weighed in on Airbnb.

Mayor Gamba noted that commercial parking lots would be allowed in the Neighborhood Main Street areas but had not been allowed in Central Milwaukee.

Council President Batey reported that most of the Neighborhood Main Street areas are not within 1,000 feet of a school and could include medical marijuana outlets.

The group discussed commercial parking structures being built in the Neighborhood Main Street areas and the possibility of a central parking lot being built for all businesses to use. **Councilor Power and Council President Batey** noted that they would be okay with parking structures in the Neighborhood Main Street areas.

Mayor Gamba and Ms. Alligood commented on clarifying the language dealing with the orientation of entrances for corner developments on Council Packet page RS95.

Councilor Churchill expressed concern about the proposed changes to Development Standards and Land Use Review Procedures described on Council Packet page RS69. He noted his interest in encouraging more public input in the review process, and **Mayor Gamba** explained the purpose of Type II and III reviews.

Councilor Power, Ms. Alligood, and Mayor Gamba commented on the number of apartment units on 32nd Avenue. They noted that there were currently 25 units per acre and that the proposed NMUZ would limit the number of units per acre to 14.

The group discussed existing residential density and the impact of the proposed density limits on commercial and residential areas. **Councilor Churchill** stated his disagreement with the proposed units per acre limit and expressed concern that 25 and 14 units per acre are too dense for the surrounding neighborhoods.

The group noted the next steps in the public hearing process and agreed to continue the public hearing at the December 15, 2015, Regular Session.

Decision by Council:

It was moved by Council President Batey and seconded by Councilor Parks to continue the Neighborhood Main Streets (File #ZA-2015-002) Public Hearing to a date certain of Tuesday December 15, 2015. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

Mayor Gamba recessed the Regular Session at 7:59 p.m. and reconvened the Regular Session at 8:04 p.m.

OTHER BUSINESS**A. Bancroft Financing System Development Charges (SDCs) for Commercial Properties – Ordinance, 2nd Reading and Resolution**

Mayor Gamba noted that Council had approved the first reading of the proposed Ordinance at the November 3, 2015, Regular Session.

It was moved by Councilor Power and seconded by Councilor Parks to approve the second reading by title only and adoption of the Ordinance to amend Code Section 13.28.100 of the Municipal Code to allow Bancrofting of System Development Charges for Commercial Users. Motion passed with the following vote: Councilors Batey, Parks, and Power and Mayor Gamba voting “aye”, and Councilor Churchill voting ‘no’. [4:1]

Mr. Monahan noted the addition of an emergency clause to the Ordinance and read the Ordinance one time by title only.

Ms. DuVal polled the Council: Councilors Batey, Parks, Power and Mayor Gamba voting “aye”, and Councilor Churchill voting “no.” [4:1]

ORDINANCE No. 2108:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, TO AMEND CODE SECTION 13.28.100 OF THE MUNICIPAL CODE TO ALLOW BANCROFTING OF SYSTEM DEVELOPMENT CHARGES FOR COMMERCIAL USERS.

Mayor Gamba noted the proposed Resolution adopting an interest rate for SDC Bancroft financing.

It was moved by Councilor Power and seconded by Councilor Parks to adopt the Resolution adopting an annual interest rate to be utilized for System Development Charge Bancrofting Financing offered by the City. Motion passed with the following vote: Councilors Batey, Parks, and Power and Mayor Gamba voting “aye”, and Councilor Churchill voting “no”. [4:1]

RESOLUTION No. 104-2015:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING AN ANNUAL INTEREST RATE TO BE UTILIZED FOR SYSTEM DEVELOPMENT CHARGE BANCROFTING FINANCING OFFERED BY THE CITY.

B. Bancroft Financing for SDCs at 10560 SE Main Street – Resolution

Mayor Gamba noted the proposed Resolution to authorize SDC Bancroft Financing for 10560 SE Main Street.

Council President Batey and **Councilor Power** confirmed that Ms. Vandagriff had nothing new to add to the Staff Report before Council considered the Resolution.

It was moved by Councilor Power and seconded by Councilor Parks to authorize the City Manager to execute Bancroft Financing Agreement for System Development Charges on 10560 SE Main St incurred on Permit Number 601-15-000774. Motion passed with the following vote: Councilors Batey, Parks, and Power and Mayor Gamba voting “aye”, and Councilor Churchill voting ‘no’. [4:1]

RESOLUTION No. 105-2015:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AUTHORIZE THE CITY MANAGER TO EXECUTE BANCROFT FINANCING AGREEMENT FOR SYSTEM DEVELOPMENT CHARGES ON 10560 SE MAIN ST INCURRED ON PERMIT NUMBER 601-15-000774.

C. Management and Confidential Employee Cost of Living Adjustment (COLA) and Christmas Eve Holiday

Mr. Monahan explained that Council had typically made compensation adjustments for management and confidential employees following adoption of a new contract with the American Federation of State, County, and Municipal Employee (AFSCME), and he reviewed Council's options as laid out in the Staff Report.

Mayor Gamba asked about COLAs for management and confidential employees in future years. **Mr. Monahan** suggested that Council would want to consider future COLAs for management and confidential employees after the Milwaukie Police Employees Association (MPEA) contract had been negotiated in 2016.

Councilor Parks and **Mr. Monahan** discussed the possibility of staff providing options for Council to evaluate the compensation of non-represented employees. **Councilor Parks** asked for Council input on asking the Human Resources Director to provide options on evaluating non-represented employee compensation.

The group noted possible resources that could assist the City in evaluating the compensation of non-represented employees.

It was the consensus of the Council that the Human Resources Director should prepare options for evaluating the compensation and classification of non-represented employees at the January 21, 2016, Study Session.

It was moved by Councilor Parks and seconded by Council President Batey to approve a 2.5% management and confidential employee cost of living adjustment (COLA) effective retroactive to the first day of the pay period July 1, 2015, and approve the Christmas Eve holiday recently negotiated with the American Federation of State, County, and Municipal Employees (AFSCME) Local 350-5 for management and confidential employees. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

D. Council Reports

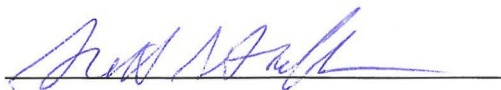
The group noted upcoming events including a work party at Spring Park, a special Thanksgiving Sunday Farmers' Market, fundraising events at Ardenwald Elementary School and the Portland Waldorf School, the Umbrella Parade and Christmas Tree Lighting, and the Winter Solstice event at Riverfront Park.

ADJOURNMENT

It was moved by Councilor Power and seconded by Councilor Churchill to adjourn the Regular Session. Motion passed with the following vote: Councilors Batey, Parks, Power, and Churchill and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the Regular Session at 8:34 p.m.

Respectfully submitted,



Scott S. Stauffer, Administrative Specialist II

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MILWAUKIE CITY COUNCIL
Office of the City Recorder

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

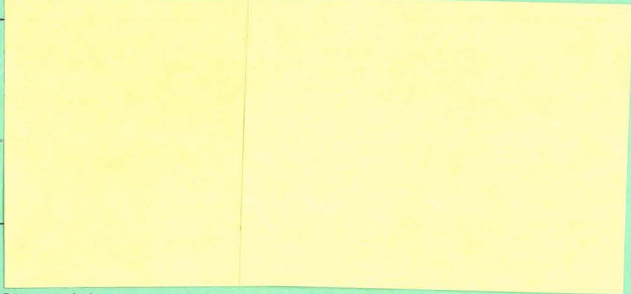
Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: *Rika Warner*
Organization: *self*

Address:
Phone:
Email:

Meeting Date: *11/17/15*



Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:

*RE: cat ordinance (lack thereof) }
cat feces - from - neighbor (cats)*



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Name: *KAREN OLSEN*
Organization:

Address
Phone:
Email:

⊗ Meeting Date: *Nov. 17*

Topic to Discuss:

Agenda Item You Wish to Speak to:

- #4 Audience Participation
- #5 Public Hearing - *MOVING FORWARD MILWAUKIE*
- #6 Other Business

You are Speaking...

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



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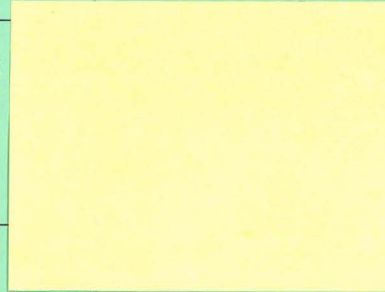
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Name: *Gene Dieringer*
Organization: *Dieringer Properties*

☒ Meeting Date: *11/11/2015*

Address:
Phone:
Email:



Topic to Discuss:

Agenda Item You Wish to Speak to: *NMLL zoning* You are Speaking...

- #4 Audience Participation
- #5 Public Hearing
- #6 Other Business

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

Comments:



PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

11/17/15

Moving Forward Milwaukie Neighborhood Main Street Code Amendments

Land Use File No. ZA-2015-002

NAME	ADDRESS	PHONE	EMAIL
KAREN OLSEN			
Gene Dieringer			

Stauffer, Scott

From: Alligood, Li
Sent: Monday, November 16, 2015 4:12 PM
To: Milwaukie OCR
Subject: FW: Nov. 17 meeting
Attachments: zoning concerns for city council.rtf

Here you go. Apparently she sent it directly to some or all Council members.

Li Alligood, AICP
Senior Planner

City of Milwaukie
6101 SE Johnson Creek Blvd | Milwaukie, OR 97206
T 503.786.7627 | F 503.774.8236
Community Development 503.786.7600

Join us on the [web](#), [facebook](#) and [twitter](#)!

From: Karen Olsen [<mailto:olsenkm@msn.com>]
Sent: Monday, November 16, 2015 2:44 PM
To: Alligood, Li
Subject: Nov. 17 meeting

Li,

Hi. Thank you for your time and information today. I very much appreciate it. Here is the attachment that I sent the members of the City Council.

Sincerely,
Karen Olsen

Before I begin, I would like you to know that I have no problem with revitalizing the business area on 32nd Ave. I applaud it. There can be thriving businesses on 32nd Ave. without compromising the immediate neighborhood's special character and livability. It doesn't have to be an either/or scenario. Presently, I don't think the proposed code amendments protect the interests of the immediate neighborhood, although I think it could be achieved fairly easily.

The goals of the Moving Forward Project list orienting business activity toward the main streets (32nd Ave.) and, I assume, away from the surrounding or adjacent residences. Also, the objectives have a policy to protect the residential areas adjacent to commercial areas. Visual buffers are mentioned but noise level is a huge part of livability as well as pedestrian safety, parking, etc.

The Planning Committee wants to treat 32nd and 42nd street areas the same. Although I understand wanting to achieve similar outcomes (vibrant business areas), the two areas are very different and the codes for achieving the goals need to be different. The 42nd Ave. area is a much larger commercial area and doesn't have near the impact on the surrounding neighborhoods. The 32nd Ave. area is a sliver of businesses in a residential area. The impact on the immediate residences is far greater than 42nd Ave. and the codes or regulations should have greater sensitivity in regard to the use of parking lots and choice of businesses. There is far less parking available in the 32nd Ave. area and noise/activity is far more impactful due to close proximity.

Using a less than perfect analogy, for a good education, it is the outcome that is the most important. The education process can be very different depending on the students - whether they are disabled in some way, gifted, average, learn better visually, or verbally, etc. The process is individual but the outcome can be the same. Though not a perfect analogy, it still illustrates that you can achieve the desired goal with different processes or code amendments.

Based on 20 years of observing how Malcolm St. is affected by changing businesses and practices, I can say that when recreational or additional activities are allowed in side and rear parking lots, livability goes down (sometimes to unlivable) and problems and conflict go up. There were many years of misery when the apartment complex between Malcolm and Boyd had a free-for-all parking lot. Neighbors had very little recourse. The blue awning building on 32nd and Malcolm also had some bad moments, although far less compared to the apartments. As soon as the parking areas were used exclusively for parking, our neighborhood collectively sighed relief and it was wonderfully livable again.

The use of rear and side parking lots are my first concern for 2 reasons apart from parking which is needed and appreciated.

1. Parking lots designated just for parking, as opposed to shared, additional, or accessory uses, protects the neighborhood from excessive noise and activity. According to the goals of the project, business is supposed to be oriented toward 32nd

Ave. and not back toward the abutting residences. Additional uses bring business activity toward the neighborhood and away from the main street. Historically, most businesses expect that parking lots are for parking. Although it doesn't appear in the code amendments, flexible and multi-use of parking lots is encouraged in the Moving Forward Recommendations. Although this idea sounds great for larger commercial areas, it could be potentially very detrimental on the 32nd Ave. area where residences are in such close proximity. Constant noise and activity could destroy livability.

Li Alligood voiced that she thought this was more a nuisance concern rather than a zoning issue. The goals say to orient business toward 32nd Ave. I am asking that the code amendments protect the immediate residences around the businesses. Having parking lots exclusively for parking prevents nuisance before it happens. Once problems are created, they are far more difficult and time-consuming to correct. In the meantime, there is conflict, grief and unlivability.

Having parking lots exclusively for parking in the code also saves the future businesses from disappointment, conflict, and potential economic loss if their plans had been based on accessory/additional use of the parking area. If there is new development involved, there is the yard exception for the front on 32nd Ave. for outdoor activity.

2. The second reason parking lots should be used exclusively for parking is the lack of available parking on Malcolm and Olsen streets in particular. There is currently no parking on 32nd Ave. I understand that some business parking might inevitably spill into the neighborhoods but Malcolm and Olsen streets are especially unable to absorb much without harming the neighborhood. The streets are very narrow and without curbs. The paved width of Malcolm St. ranges between <15' to 19'. Most people walk in the street and move into the right-of-way when traffic passes. Parked cars would make this difficult and dangerous as cars and pedestrians wouldn't have good and constant visual contact with each other. It would be worse for children and pets. Our streets need pedestrian safety as much or more than 32nd Ave. There have been a lot of complaints in the news about cars parking in the neighborhoods of Sellwood and Oak Grove. It would be worse on our streets as mailboxes are on the street and require 12' on either side of the mailbox for delivery. Also, without curbs, we put our garbage/recycling in the right-of-way for pick up. These also have to be away from mailboxes or there is no mail delivery. Malcolm and Olsen streets are just not suitable for heavy and/or constant parking. Parking permits wouldn't help that.

My remaining concern is with the types of businesses allowed. Again, 32nd Ave. is very different than the 42nd Ave. area. What might be a great addition in the 42nd St. area, might not be as good a fit for 32nd Ave.

1. Eating establishments/ drinking establishments.

The proposed codes describe an eating establishment as serving food with incidental sale of alcoholic beverages. In the codes, brewpubs are listed as CU but in an email from Li Alligood in response to a question, she said that if a brewpub fit the definition of an 'eating establishment', it would be accepted outright. Brewpubs may serve food but

serving alcohol is primary and not incidental. One of the reasons I bring this up is that at the Planning Committee meeting, it appears there is no real vetting process to confirm whether a business is truly an eating establishment and not really a bar or pub. Can this please be remedied? The designation of P and CU is meaningless if there is no real confirmation of what the establishment truly is. The example brought up at the meeting is Wichita Pub which is really a bar but was considered an eating establishment.

2. Distilleries, breweries, and wineries are listed in the manufacturing businesses as permitted. I have no problem with that except if they are going to be serving alcohol and are also a bar. That should then be considered a CU.

3. Indoor recreation. No problems with this except that it says it is primarily indoors. Could 'primarily' be crossed out? It implies that some activity is outdoors and I'm concerned about outdoor structures being built (ie. for racketball, basketball, etc). Short term noise from such activities by a family playing is fine but that type of noise can become very irritating if chronic and constant.

4. Hotels, motels. These don't really seem to fit the criteria of businesses for neighborhood convenience. It seems an odd choice.

In summary, I believe that there can be business revitalization on 32nd Ave. without diminishing the special quality of our neighborhood. We want to be part of the general enhancement of the Moving Forward Project, too, and not victims of it. I don't understand the reluctance to tweak some of the amendments and allowances to protect our neighborhood. I sympathize with the committees and councils for wanting to be done with a long-term process but a little more attention now could save a lot more time and grief in the future. Codes protecting the neighborhood give residents recourse if there is a genuine problem and not just a nuisance process that could drag on forever and not really end up pleasing anyone. As I have previously said, we can learn from the mistakes and problems from other areas such as Sellwood and Hawthorne and make Milwaukie better. Milwaukie could be a model of good and sensitive urban development where business can prosper and the neighborhoods are respected and preserved.

Thank you for your time and consideration.
Karen Olsen

Nov. 17, 2015



DIERINGER'S PROPERTIES, INC.

10505 SE 44th Ave, Milwaukie OR 97222
503-659-1402 Fax 503-659-1625

November 13, 2015

Milwaukie City Council
c/o Dennis Egner, City of Milwaukie Planning Director
6101 SE Johnson Creek Blvd,
Milwaukie, OR 97206

RE: Testimony - Proposed Neighborhood Mixed Use Zoning
File #ZA-2015-002

Dear City Council & Planning Commission,

Dieringer's Properties, Inc. is part owner of the King Road Neighborhood Shopping Center at SE 42nd & King Road whose anchor business is currently Safeway. This Shopping Center along with the adjacent 42nd business district is proposed to change from its current C-G zoning to the new Neighborhood Mixed Use (NMU) zoning.

Conceptually and generally, we support the direction the City is moving to encourage neighborhood, pedestrian friendly main-street type development. That being said however, we also have concerns about the new NMU zone and the associated zoning codes, especially as they relate to our existing development at our King Road Shopping Center.

1. **Code Section 19.303.2** - Proposed amendments to this code restricts all non-residential uses to 10,000 sf or less. While it may not be their intent, what we hear the City and the community saying is that they do not want a grocery or other large retail type anchor in their community. Our shopping center already has a Safeway store that is over 45,000 sf. We realize that this automatically becomes a legal non-conforming use in the new NMU zone; however this restriction becomes problematic if the building would ever need to be re-tenanted. As you should know, after approximately 10 years we still have vacancies in our redeveloped center that have yet to have any tenant move in. It is our understanding that conditional uses expire one year after being vacant. Tenants, national or otherwise, are not waiting in line to move into our business district. Assuredly, it is not uncommon for owners of buildings of significant size (as the Safeway building), to take over a year to find and negotiate a new tenancy. We feel holding this existing site and/or building to the same standards for 're-tenanting' as for 'new development' is unfair and a hardship because a) it would take time & resources to apply for and go through a conditional use review for a new tenant to occupy an existing building (and potentially not be approved); and b) having to divide our building into 10,000 square foot or less spaces would be impractical and which could render the building obsolete. Holding the King Road Center to this standard could create a long term vacancy of a magnitude which would be considered a blight in the neighborhood as it could not be utilized to its highest and best use. This standard would decrease the value of the center to the value of the underlying land alone and thus making "redevelopment" the ONLY viable option which is costly and could be considered damaging to the property owner. Additionally, a long term anchor vacancy would decrease the attractiveness

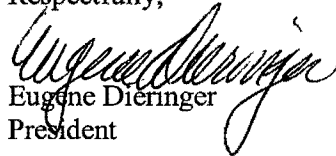
and values of the surrounding properties and businesses that rely on the draw of having an anchor in the vicinity as a major benefit and amenity to the business district and the residential community it serves. Specifically, we don't believe that properties with existing buildings with uses larger than 10,000 sf should be held to the same standards as 'new development'. This limitation to size of use should be grandfathered in until such time an owner is prompted for other economic reasons to redevelop the site.

We believe there is a solution. The King Road Center has significant existing dimension and size differences vs. the properties and parcels along 32nd St. and the other parcels in the 42nd St. Business District. The King Road Center is one of few larger retail sights in the City with the capacity to have a larger then 10,000 sf anchor to draw businesses the community wants to see in their NMU zone that serve the "daily needs" of the neighborhood. Placing maximum size restrictions on a development of this scale can put restrictions on the economic benefits the City and the neighborhood wants and hopes to see in the future. We believe that existing commercial parcels of a certain dimension and/or size that have the capacity to be a home to an anchor business over 10,000 sf should not be held to the same size limiting standards as properties of smaller size or of a new development. We believe codes and standards could be drafted to have an allowance for size of use in relation to the size of the site in consideration.

2. **Code Section 19.303.3 & Code Section 19.303.4** – The development standards in the NMU zone does not allow for Height Bonuses. In smaller developments we feel this is appropriate to maintain minimal impact and neighborhood scale. However, similar to our 'size of use' argument, larger sites have a greater ability to scale building sizes and heights to assure appropriate scale to fit the development. To encourage mixed use development on larger sites, we feel Height Bonuses should be allowed. However, we also believe that Height Bonuses could be conditioned on criteria that adds a public benefit and/or makes the development more appealing above the basic standards. Possible examples might be a) having a residential component, especially over active commercial space with taller retail ceiling heights, b) having publicly accessible gathering spaces or plazas, and/or c) having artistic features that add appeal (ie: water features or public art such as murals). We also believe that if Height Bonuses were considered for the NMU zone, then additional or overlay standards should be considered (ie: greater "setbacks" for property adjacent to residential zones, building articulations, or possibly 'step-backs' in building height to minimize size of the building's exterior wall plane.

Any initiative or code proposed should not be too prescriptive, but allow creative development that makes a neighborhood business district more interesting, enjoyable and attractive to patronize. Business derived from people inside AND OUTSIDE a neighborhood's boundaries is valuable for a healthier business district, and better ensures for success a "vibrant, convenient, attractive, pedestrian-friendly neighborhood commercial area" that the City, neighborhood, businesses and property owners want.

Respectfully,


Eugene Dieringer
President

Nov. 18, 2015**Stauffer, Scott**

From: DuVal, Pat
Sent: Wednesday, November 18, 2015 3:55 PM
To: Stauffer, Scott
Subject: FW: NMU Testimony

From: Egner, Dennis
Sent: Wednesday, November 18, 2015 3:33 PM
To: DuVal, Pat
Cc: Alligood, Li
Subject: FW: NMU Testimony

FYI

From: Gene Dieringer [<mailto:gene@dieringerinc.com>]
Sent: Wednesday, November 18, 2015 3:11 PM
To: Alligood, Li; Egner, Dennis; Gamba, Mark; churchhills@milwaukieoregon.gov; batyl@milwaukieoregon.gov; Parks, Wilda; Power, Karin
Cc: Dave Aschenbrenner
Subject: NMU Testimony

Dear City Councilors and Planning Staff,

Thank you for allowing me to testify at City Council mtg 11/17/2015. I appreciate all the work you do for the City in trying to make the City a better place to live and work.

I don't always think fast on my feet when responding to questions. I would like to respond in a little more detail with some thoughts I had after I left the meeting.

Regarding extension of expiration of any conditional use (or non-conforming use) - I believe there should not be an expiration. I reiterate: I believe **re-tenanting** is different from "development" or "redevelopment". I believe allowed uses should be allowed in existing buildings of any size.

The city should not be able to make an existing building obsolete due to changes made to a code or ordinance standards. Re-development of larger buildings should be *market and economic* driven and not forced by code changes made by the City after a building was constructed and approved under earlier codes or ordinances. Economics and the market will dictate value and viability of an existing building.

I appreciated Li's comment or suggestion that buildings constructed as of a certain date (I presume the date would be when codes and ordinances are adopted) would be exempt. This allows owners of current properties with larger buildings to utilize the buildings for the purpose (or similar purpose) for which they were constructed and for their highest & best use. Limiting a use to only a "grocery store" as was suggested is just as damaging as it can still make a building of a larger size obsolete if a grocery tenant is not attracted to the site... but wherein another retailer or allowed user may have an interest.

Buildings such as the Safeway building are almost impossible to carve up into 10,000 or less square foot suites and still have it make sense to the user, building owner and the community.

Thanks your for your time and consideration

Gene Dieringer
Dieringer's Properties, Inc.
10505 SE 44th Ave
Milwaukie, OR 97222
503-659-1402



RS Exhibit
Nov. 17, 2015

Moving Forward Milwaukie: Neighborhood Main Streets ZA-2015-002

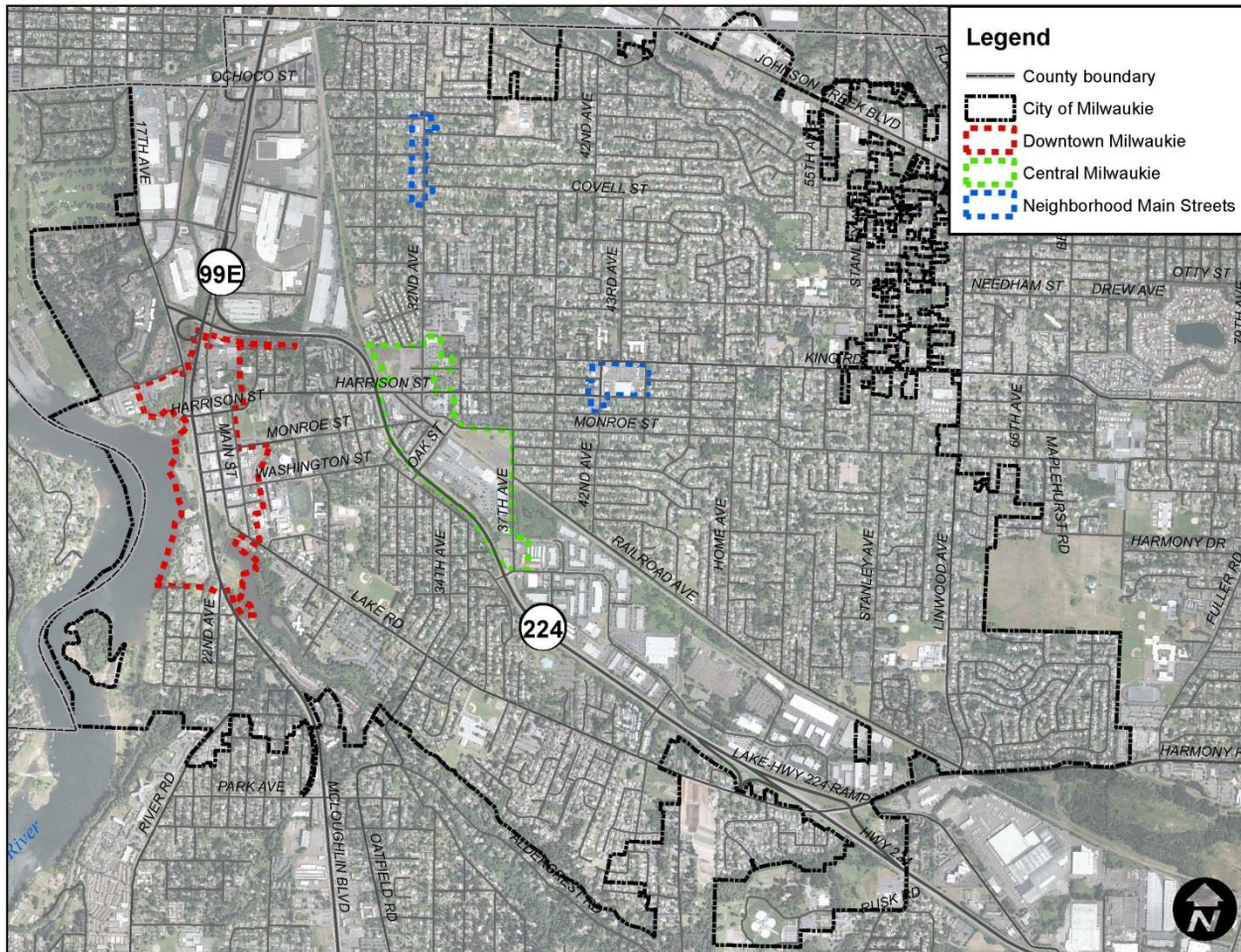
**Presentation to the
Milwaukie City Council
Li Alligood, Senior Planner
November 17, 2015**

Moving Forward Milwaukie

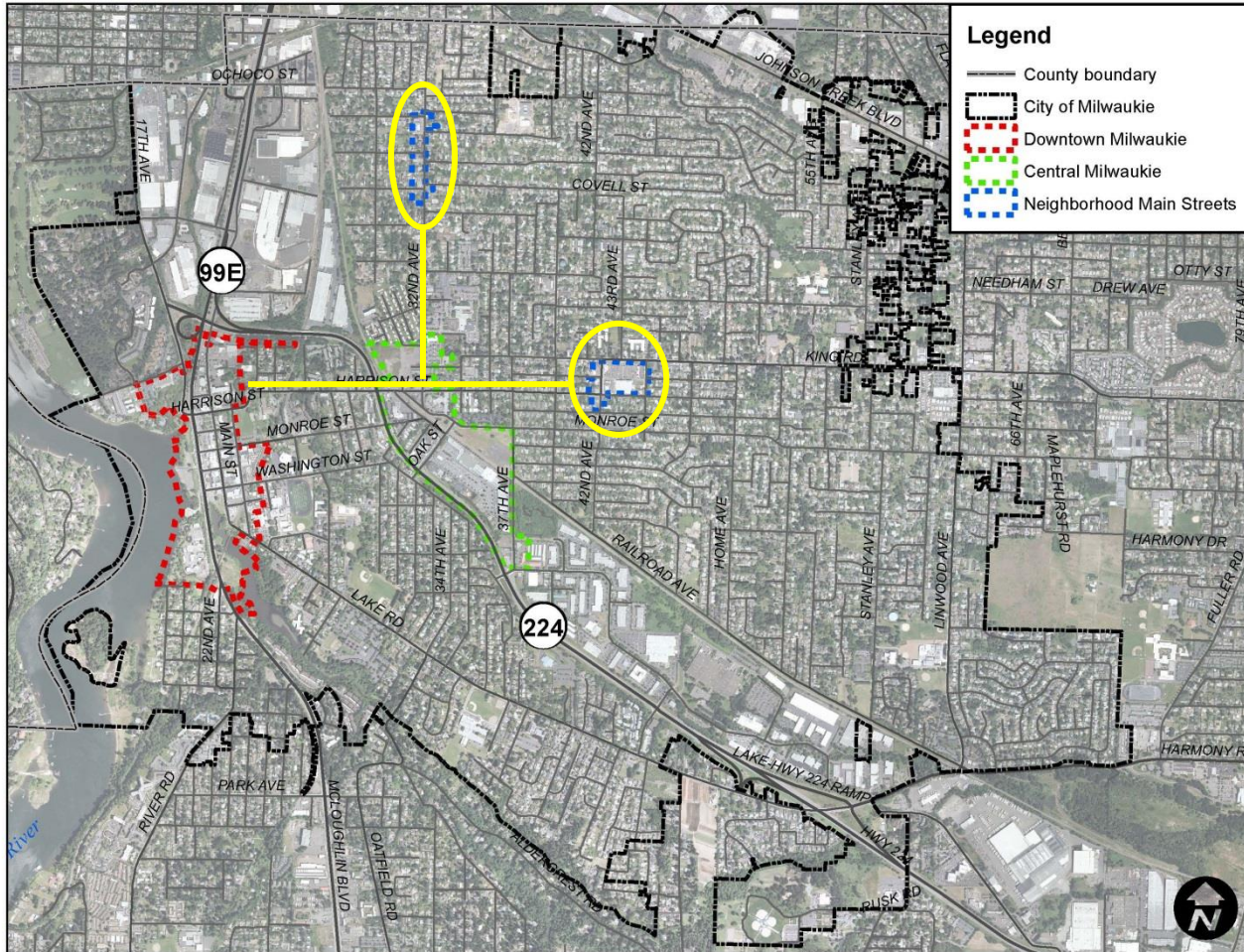
- Phase 1: Downtown plan and code amendments (*adopted September 1, 2015; effective October 31*)
- Phase 2: Central Milwaukie plan and code amendments (*scheduled for adoption December 1, 2015*)
- Phase 3: Neighborhood Main Streets plan and code amendments



Neighborhood Main Streets: Location



Neighborhood Main Streets: Location



Neighborhood Main Streets: What Are They?

- Small-scale commercial districts with potential to serve the every day needs of surrounding neighborhoods
- Surrounded by residential zones
- Linear form
- Substandard pedestrian facilities

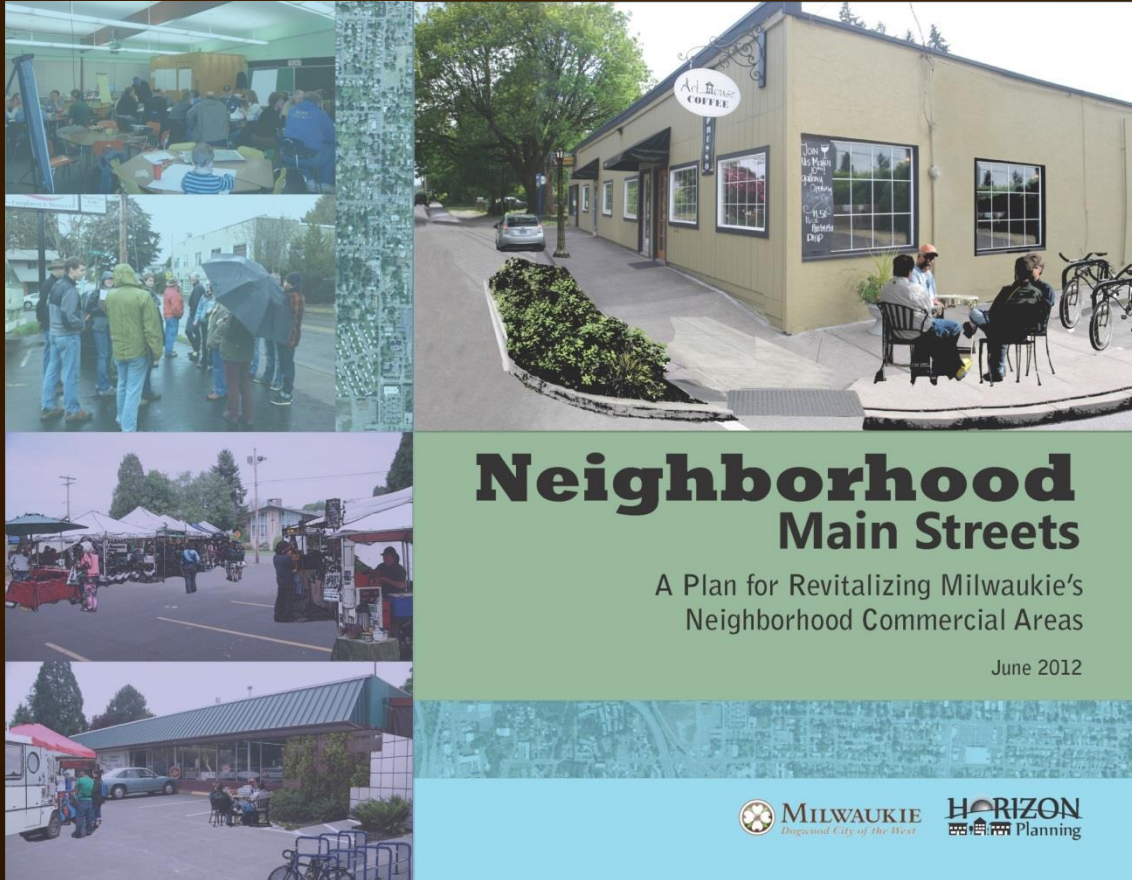


Neighborhood Main Streets: Previous Planning Efforts

- 1997 Removal of Code Obstacles to Smart Development
 - Recommended pedestrian-friendly standards to support the “main street” design of 32nd and 42nd Avenues
- 2000 King Road Concept Plan
 - Adopted Comp Plan concept and direction for future code updates for 42nd Ave “main street” area
- 2009 Smart Code Audit
 - Recommended revisions to commercial use and design standards to better serve neighborhoods
- 2012 Neighborhood Main Streets project
 - Recommended use, development, and design standards to encourage pedestrian-friendly neighborhood commercial districts



Neighborhood Main Streets: 2012 Recommendations



Neighborhood Main Streets: Vision

1. Vibrant, local economy
2. Safe, accessible streets
3. Neighborhood-scale identity



Neighborhood Main Streets: Implementation of the Vision

1. Create new neighborhood-scale commercial zone with uses specific to the neighborhood main streets
2. Establish development standards to ensure new construction projects are pedestrian-scale
3. Expand commercial zone



Neighborhood Main Streets: Implementation of the Vision

1. Create new neighborhood-scale commercial zone with uses specific to the neighborhood main streets
2. Establish development standards to ensure new construction projects are pedestrian-scale
3. *Expand commercial zone*
 - *Outside of the MFM scope of work*



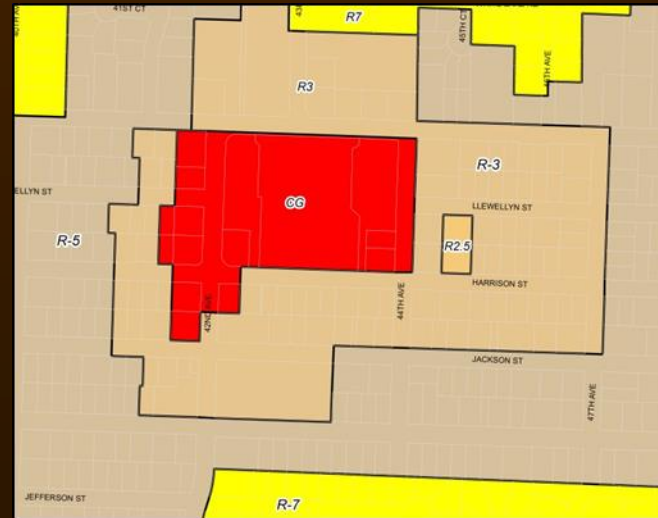
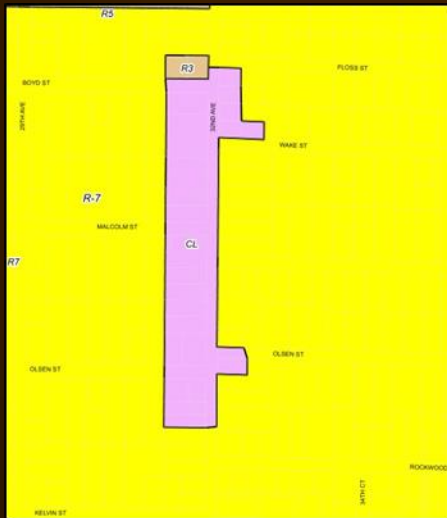
Neighborhood Main Streets: Implementation of the Vision

- Zoning
- Use Standards
- Development Standards
- Design Standards



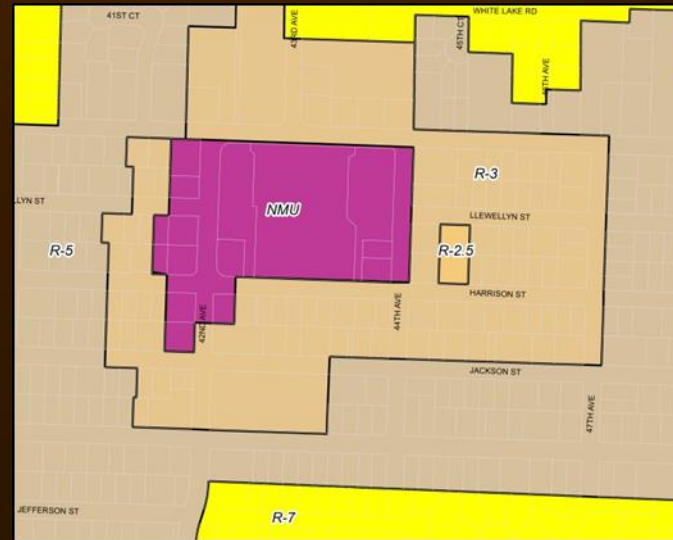
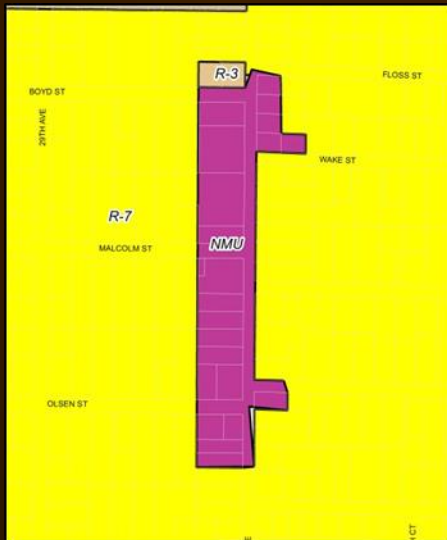
Proposed Approach: Zoning

- Apply new Neighborhood Mixed Use Zone NMU to both “Main Street” commercial areas



Proposed Approach: Zoning

- Apply new Neighborhood Mixed Use Zone NMU to both “Main Street” commercial areas



Proposed Approach: Use Standards

- Proposed approach:
 - Allow uses/businesses that serve everyday needs
 - Restrict uses that could have negative impacts
 - Prohibit uses that do not contribute to walkability
 - Restrict size of uses to ensure neighborhood-scale businesses



Proposed Approach: Use Standards

- Allow:
 - Mixed-use (commercial/residential)
 - Live/work
 - Wide range of commercial, office, and retail uses
 - Commercial lodging
 - Small-scale manufacturing or production



Proposed Approach: Use Standards

- Restrict (Type III Review):
 - Uses larger than 10,000 sq ft
 - Standalone residential (SFR/MFR)
 - Drinking establishments
 - Drive-thrus
 - Vehicle repairs and services



Proposed Approach: Use Standards

- Prohibit:
 - Vehicle sales and rentals
 - Adult oriented businesses



Proposed Approach: Development Standards

- Regulate size, location, and massing of new buildings
- Proposed approach:
 - Create a small-scale, pedestrian-friendly environment
 - Bring buildings close to the street
 - Put parking to the side or rear



Proposed Approach: Development Standards

- Key proposals:
 - Minimum floor area ratio (FAR)
 - Maximum setback
 - Primary entrances must face the street
 - Parking prohibited between building and street



Proposed Approach: Design Standards

- Regulate how new buildings look and interact with the street
- Proposed approach:
 - Create an attractive, pedestrian-friendly environment



Proposed Approach: Design Standards

- Apply GMU Zone standards:
 - Corners
 - Weather protection
 - Exterior building materials
 - Ground floor transparency
 - Roof design
 - Rooftop Equipment and screening
 - Ground floor screening



Proposed Approach: Land Use Review

- Allows review of impacts of proposed development or use
- Proposed approach:
 - Some existing uses and buildings will become nonconforming (“grandfathered”)
 - Type III review required to expand
 - Provide a streamlined process for uses or buildings that want to come closer to meeting the standards



Proposed Approach: Land Use Review

- New
 - Type II review option available for buildings/sites coming closer into conformance with development/design standards
 - Requires public notice and posting of a sign on site



Key Issues

- A. Should cottage cluster housing be allowed in the NMU Zone? If so, through what process?
- B. (NEW) Should size limits apply to the existing Safeway site?
- C. (NEW) Should a height bonus be permitted in the NMU Zone?



Key Issue A:

Cottage Cluster Housing

- Current:
 - Permitted in medium- to high-density residential zones (R-1 to R-3)
 - Requires subdivision into separate lots
 - Minimum of 4 and maximum of 12 cottages
 - Subject to minimum density requirements of the zone
- Proposed:
 - Was not originally included in use table



Key Issue A:

Cottage Cluster Housing

- Considerations:
 - NMU Zone does not contain many sites where cottage cluster housing could be developed
 - Standalone MFR and SFR proposed as conditional uses
- Question:
 - Should cottage cluster housing be permitted as a conditional use in the NMU Zone?



Key Issue B: Size Limitation

- Current:
 - No size limitations on uses
- Proposed:
 - Individual non-residential uses limited to 10,000 sq ft
 - Uses larger than 10,000 sq ft can be approved as conditional uses



Key Issue B:

Size Limitation

- Considerations:
 - Proposed size limitation of 10,000 sq ft per use would affect the Safeway site
 - Would become a “de facto” conditional use
 - Retains status unless:
 - A change of use to a conforming use occurs
 - Building is vacant for more than 2 years (exceeds time limit for nonconforming uses)
- Question:
 - Should Safeway be exempted from the proposed use size limits as requested?
 - Should another approach be considered?



Key Issue C: Height Bonus

- Current:
 - Maximum height 45 ft/3 stories
 - No height bonus
- Proposed:
 - No change



Key Issue B: Height Bonus

- Considerations:
 - Was not a recommendation of the 2012 *Neighborhood Main Streets* project
 - Was not discussed with PAC or Planning Commission
 - Existing and proposed maximum height in NMU Zone: 35 ft/3 stories
 - Maximum height in R-7 & R-7 Zones: 35 ft/2.5 stories
- Question:
 - Should a height bonus be applied in the NMU Zone?
 - If so, what should the maximum height be?



Comments Received

- 32nd Ave
 - *Karen Olsen (PC)*: Concerns about noise and parking
 - *Nick Haselwander* : Concerns about business types, noise, and parking
 - *Robert Hansen*: Concerns about noise
 - *Joaquin and Deborah Olsen*: Concerns about status of existing MFR
 - *Karen Olsen (CC)*: Concerns about noise and parking
- 42nd Ave
 - *Carl Jacob*: Concerns about prohibition on auto sales
 - *Larry Jakobsen* : Concerns about prohibition on auto sales
 - *Gene Dieringer* : Concerns about use size restrictions and proposal for height bonuses



Comments Received:

Key Concerns

- Impact on existing businesses that will become nonconforming
 - Size limitations, use prohibitions
- Parking impacts on surrounding areas
- Noise impacts on surrounding areas
 - Related to outdoor seating and activities



Comments Received:

Key Concerns

- Impact on existing businesses that will become nonconforming
 - Will be allowed to continue as long as desired
 - Can change ownership without affecting NCU status
 - Can expand through Type II or III NCU approval
 - Previously permitted uses that become conditional uses will become “de facto” CU rather than NCU

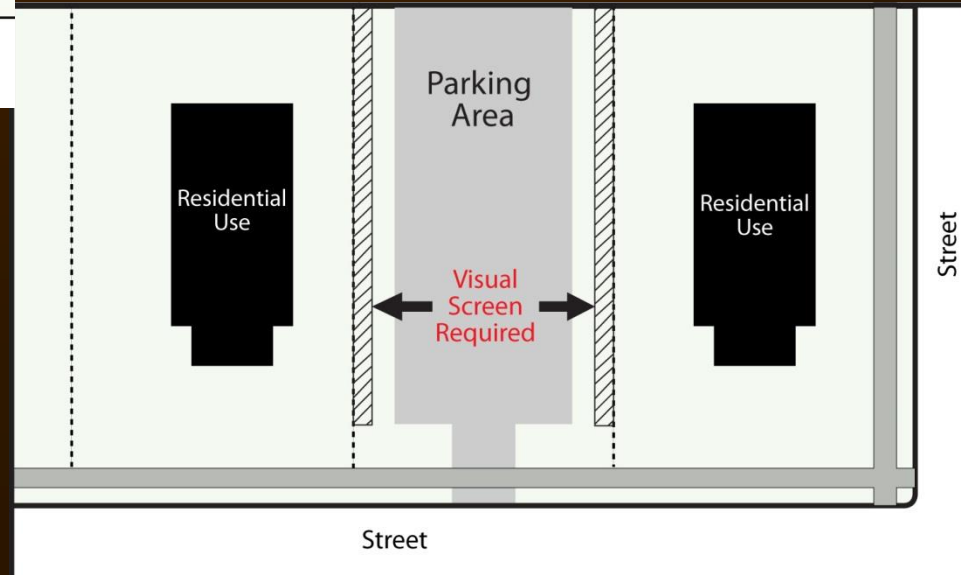
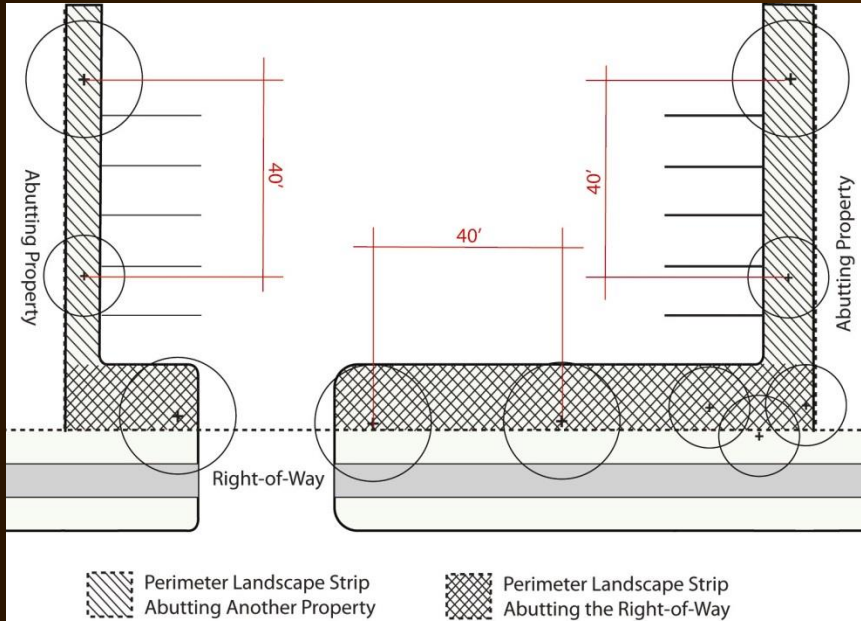


Key Concerns

- Parking impacts on surrounding areas
 - New development will be required to provide off-street parking
 - Parking regulations require buffering between commercial and residential properties
 - As properties along 32nd Ave develop, it will be widened to allow for more on-street parking
 - Residential parking permit program can be established if needed



Key Concerns



Key Concerns

- Noise impacts on surrounding areas
 - The types of businesses that are the cause of concern (taverns, bars, etc.) would only be allowed through conditional use review
 - Transition area measures – rear setbacks of 20 ft required adjacent to residential
 - Noise ordinance provides an avenue for complaints
 - Off-street parking areas must be used for required parking
 - *Note: noise ordinance or zoning ordinance violations go through the same code enforcement process*



Decision-Making Options

- A. Approval as proposed
- B. Approve with modifications
- C. Deny the proposal
- D. Continue the hearing



Questions?





Additional Information

Residential Density

- Proposed MFR: 11.6-14.5 du/acre
- Proposed mixed use: No min/max
- Existing MFR: 25 du/acre

- Comparison:
 - GMU Zone: 25-50 du/ac
 - R-1 & R-1-B Zones: 25-50 du/ac



Off-Street Parking

- “Neighborhood Main Streets” have a by-right 50% reduction to minimum parking
- Off-street parking requirements can be met through shared parking agreements
- Examples:
 - Retail: 1 space per 1,000 sq ft
 - Eating establishment: 2 spaces per 1,000 sq ft
 - Hair Salon: 2 spaces per 1,000 sq ft
 - Office: 1-2 spaces per 1,000 sq ft



Sign Regulations

- Commercial Zone Sign District
- Signs permitted:
 - Freestanding signs
 - Wall signs
 - Projecting signs
 - Roof signs
 - Awning signs
 - Marquee signs
 - Daily display signs
- Restrictions on illumination within 500 ft of residentially-zoned property





**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

**AGENDA
NOVEMBER 17, 2015**

2,210th Meeting

- 1. CALL TO ORDER** **Page #**
Pledge of Allegiance
- 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
- A. Milwaukie High School (MHS) Outstanding Student Achievement Award for November 2015 to Tiara McPherson-Norman**
Introduced by MHS Principal Mark Pinder
- 3. CONSENT AGENDA**
These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda.
- A. City Council Meeting Minutes:** **2**
- 1. September 17, 2015 Study Session;
 - 2. September 22, 2015, Special Session, Food Cart Forum;
 - 3. October 6, 2015, Work Session;
 - 4. October 6, 2015, Regular Session;
 - 5. October 18, 2015, Council Retreat;
 - 6. October 20, 2015, Work Session;
 - 7. October 20, 2015, Regular Session; and
 - 8. October 29, 2015, Special Session.
- B. Authorize the Extension and Amendments to the Municipal Court Judge Contract – Resolution** **39**
- C. Affirm Appointment of Library Board Member Karol Miller to Serve on the Library District Advisory Board (LDAC) – Resolution** **53**
- D. Approve Increase to the City's Parking Permit Program – Resolution** **56**
- E. Approve an Oregon Liquor Control Commission (OLCC) Application for Clackamas Distilling, LLC, 11630 SE 27th Avenue, New Outlet** **61**
- 4. AUDIENCE PARTICIPATION**
The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

5. PUBLIC HEARING

Unless the public testimony portion of the hearing was closed earlier, Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

- A. Moving Forward Milwaukie: Neighborhood Main Streets Code 63
Amendments, File # ZA-2015-002 – Ordinance**
Staff: Li Alligood, Senior Planner

6. OTHER BUSINESS

These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.

- A. Bancroft Financing System Development Charges (SDCs) for 157
Commercial Properties – Ordinance, 2nd Reading and Resolution**
Staff: Sam Vandagriff, Building Official
- B. Bancroft Financing for SDCs at 10560 SE Main Street – Resolution 163**
Staff: Sam Vandagriff, Building Official
- C. Management and Confidential Employee Cost of Living Adjustment 170
(COLA) and Christmas Eve Holiday**
Staff: Gary Rebello, Human Resources Director
- D. Council Reports**

7. INFORMATION

8. ADJOURNMENT

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.



**Regular Session
Agenda Item No.**

3

Consent Agenda



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

STUDY SESSION
September 17, 2015
City Hall Conference Room

Mayor Gamba called the Study Session to order at 6:05 p.m.

Council Present: Councilors Scott Churchill, Wilda Parks, and Karin Power

Council Excused: Council President Lisa Batey

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Mitch Nieman, Engineering Director Chuck Eaton, Civil Engineer Stacy Stubblefield, and Administrative Specialist III Hannah Wells

City Council Champion Goals

Mr. Nieman reviewed the 5 community champion goals adopted by Council and reported that Matt Menely had agreed to be the skate park development goal champion. He discussed the proposed skate park strategy, the use of public property to secure grant funding, and the trend of placing skate parks near police facilities.

Mayor Gamba, Councilor Churchill, and Mr. Nieman discussed micro skate parks and the feasibility of indoor skate parks.

Mr. Nieman reported that Mr. Menely, staff, and volunteers would reach out to other cities that have built skate parks and to Milwaukie community groups to gauge interest.

Councilor Churchill, Mr. Monahan, and Mr. Nieman discussed the liability risk of public skate parks and the role of insurance providers in designing skate parks.

Mr. Nieman asked for Council input on the proposed skate park strategy.

Councilor Churchill and Mr. Nieman discussed concerns about locating skate parks near heavy and high speed rail lines and the impact of protective barriers.

The group discussed how skate parks in the region were integrated into existing parks, and it was suggested that Stanley Park could be a good location for a micro skate park.

Mr. Nieman reviewed skate park funding strategies, and the group discussed pursuing grant and crowd funding, and the feasibility of do-it-yourself (DIY) park development. They noted the possibility of leveraging City resources and crowdfunding to develop a skate park on the City property at 40th Avenue and Harvey Street.

Councilors Churchill and Parks and Mr. Nieman noted the importance of community engagement, and **Councilor Power** expressed support for locating the first skate park east of Hwy 224 or on the north side of the City.

The Council concurred with the proposed skate park development strategy.

Mr. Nieman introduced Greg Hemer, Vice President of the Milwaukie Historical Society, and reported that the Historical Society had agreed to be the champion for the goal to document and celebrate City heritage. He explained that the proposed strategy was to document significant events, infrastructure, people, and places, and to celebrate heritage through education, events, and exhibits. He reviewed projects the City and Historical Society have collaborated on, noted possible project funding sources, and discussed how the City could work with the Historical Society in the future.

Councilor Power, Mr. Hemer, and Mr. Nieman discussed the collaboration between the City and Historical Society on the interurban trolley project, and the possibility of charging an event fee to support the museum and exhibits.

Mr. Hemer noted the Historical Society's efforts to support City projects and commented on the need to grow the Historical Society's membership.

Mayor Gamba and **Mr. Hemer** discussed the Historical Society's goal to reach out to other heritage groups like the Milwaukie Pioneer Cemetery Association.

Mr. Nieman asked for Council input on the proposed goal strategy, and **Councilor Parks** expressed her support for the strategy.

The group noted the growing tourist interest in Milwaukie and discussed events and programs the City and Historical Society could collaborate on.

Mr. Hemer thanked the City for allowing him to write an article in the *Pilot* newsletter on behalf of the Historical Society, and noted that City representatives were welcome to attend Historical Society meetings on the second Tuesday of each month at 3:30 p.m.

Mr. Monahan and **Mr. Hemer** commented on the City and Historical Society's mutual interest in continuing the relationship and collaboration.

Mr. Nieman discussed the Park and Recreation Board's (PARB) work with the North Clackamas Parks and Recreation District (NCPRD) and the Riverfront Park Taskforce (RTF) on interim landscape improvements and geese mitigation options. He reported that staff had been unable to identify community champions for the emergency preparedness program and plastic bag ban goals.

Councilor Power asked if any aspect of emergency preparedness was not being covered, and **Mr. Monahan** replied that the goal was well covered by the Community Emergency Response Team (CERT) and Emergency Operation Center (EOC).

Councilors Power and Parks suggested that goal updates should be posted online.

Mr. Nieman remarked on regional interest in emergency preparedness and reported that the City's CERT and EOC exceed minimum levels of preparedness training.

The group discussed the need to assess the resiliency of the City's sewer and water systems to identify changes to promote a quick recovery after an earthquake.

Mr. Nieman summarized the goal strategy and Council had no additional feedback.

Mayor Gamba reported that he had identified possible ban the bag goal champions who had asked for clarification on the goal. He suggested that the champions could start with the City of Portland's plastic bag ban ordinance and apply it to Milwaukie.

The group discussed how a community champion could approach the ban the bag goal; they noted regional and local interest in banning plastic bags and they agreed that the business community and grocery stores need to be engaged in the process. They talked about plastic bag recycling in the Portland metro region and the City's ability to assist community champions in connecting with business and community groups.

Mr. Nieman asked for further Council feedback on goal strategies, and **Councilor Parks** expressed her appreciation for the progress being made on Council goals.

Americans with Disabilities Act Compliance and Public Sidewalk Accessibility

Mr. Eaton introduced Ms. Stubblefield and Angel Falconer, Chair of the Public Safety Advisory Committee (PSAC), and provided background information on the Americans with Disabilities Act (ADA) public right-of-way (ROW) compliance requirements.

The group noted that sidewalks were required to meet ADA standards and that cities were required to evaluate accessibility barriers at public facilities.

Mr. Eaton explained that staff was looking for Council direction to begin working on an ADA compliance plan and he reported that the City does not have a plan in place.

The group discussed funding and implementing an ADA compliance plan. It was noted that other cities had plans that were being implemented over many years, and that key facilities such as schools and hospitals were required to be accessible by sidewalk.

Mr. Eaton reported that an initial inventory found that 60% of the City's sidewalks met ADA requirements, and the group noted ADA requirements regarding sidewalk width and clearances around obstacles such as utility poles.

Mr. Eaton explained that an ADA transition plan included a self-evaluation of existing barriers, action steps, a compliance schedule, and funding sources. He suggested that the City's Master Plan was a good starting point for a self-evaluation and noted that public participation in the review and planning process was required.

The group discussed hardships allowed under Title 2 of the ADA.

Mayor Gamba asked if the ADA required the City to build new infrastructure to meet ADA standards or if the City could repair existing infrastructure to meet ADA standards.

Mr. Eaton replied that the ADA required existing infrastructure to be retrofitted once key facilities were upgraded, and he noted the overlap between ADA improvement projects and potential Safe Routes to School (SRS) projects.

Ms. Falconer explained that the PSAC was looking for Council input on how to address sidewalk and bike path projects. She suggested that the ADA compliance process could provide the framework to accomplish ADA, SRS, and transit access projects.

The group discussed how ADA, SRS, and transit access projects were aligned but may have different prioritization requirements. They noted the fiscal impact of stormwater connections on sidewalk projects and how permeable sidewalks affect water quality.

Mr. Eaton suggested that the City's sidewalk corridors could be easily connected and that some sidewalk barriers could be addressed as the project progressed.

The group discussed ADA required sidewalk widths and resting areas.

Councilor Power asked about the process to draft a compliance plan. **Mr. Eaton** reported that staff was looking for Council direction to conduct a self-evaluation of existing barriers, and explained the self-evaluation process. He noted the possible consequences if the City failed to be ADA compliant.

Councilor Churchill expressed support for staff conducting a self-evaluation.

The group discussed the importance of making accessibility projects the City's top priority, and staff outlined the roles of the PSAC, Citizens Utility Advisory Board (CUAB), and Council in the ADA compliance process.

Mr. Eaton reviewed previous Council discussions regarding a public sidewalk program, which he noted would be connected to the 19th Avenue Woonerf project, the ADA compliance plan, and SRS projects. He discussed the role of Neighborhood District Associations (NDAs) in shaping sidewalk projects, the possibility of seeking grant funding, and the potential impact of sidewalk projects on staff time and other projects.

The group noted the types of street maintenance projects that required sidewalks to be upgraded to ADA standards. They discussed the financial impact of enforcing the ADA on other street maintenance projects and the challenges of working around utility poles.

Councilor Churchill remarked that it was appropriate to include bicycles in a sidewalk program and noted that bikes had access to alternate routes that pedestrians did not.

Mr. Eaton and **Ms. Stubblefield** discussed the financial impacts of adding bike lanes and accessibility ramps to Street Surface Maintenance Program (SSMP) projects.

Mr. Eaton and **Mayor Gamba** noted that the impact and needs of bikes would be included in the sidewalk analysis.

The group discussed prioritizing ADA compliance projects over other projects and balancing City resources between ADA and SRS projects. They noted that many potential SRS projects might also be ADA projects.

Councilor Churchill suggested that most infrastructure improvement projects should be aimed at meeting ADA compliance requirements.

The group discussed sidewalk project funding, if sidewalks along arterial corridors needed to be on both sides of the street, and noted the lack of sidewalks and crosswalks around Linwood Elementary School.

Mr. Eaton noted that cities were required to establish an accessibility grievance process. The group discussed how residential street grievances were prioritized with arterial corridor projects, and staff noted that the ADA required sidewalks to be built on streets with existing curbs as improvements projects were completed.

Councilors Parks and Power expressed support for creating an ADA transition plan, and **Councilor Churchill** and **Mayor Gamba** thanked staff for their report.

Mayor Gamba recessed the Study Session at 8:18 p.m. and reconvened the Study Session at 8:23 p.m.

Kellogg for Coho (KFC) Update

Mr. Nieman discussed the development a Federal and State level lobbying strategy to promote the KFC project, and recommended that a digital collateral package be assembled to highlight the costs and benefits of the project.

Councilor Power discussed recent conversations regarding the KFC project with Congressional staff and State Legislators. She noted that project funding would be impacted by other regional projects, the outcome of the 2016 election, and whether or not the project was included in Federal or State appropriation legislation. She suggested that Council should decide if the project was more about fish or the community in order to build an appeal strategy.

The group discussed KFC project Option 2 as outlined in the staff report, which suggested that the first step would be to drain the lake and clean the remaining lake and creek bed sediment. **Councilor Churchill** expressed concern about the unknown environmental and financial risks of cleaning the sediment.

Mayor Gamba and **Councilor Power** discussed how to define the project's target audience and how to market the project to the public. They noted that the strategy to-date had focused on the environmental impacts of the dam and they agreed that the impact on people needed be the focus. **Mr. Nieman** added that a messaging package needed to be developed to present the KFC story to Federal and State officials.

Councilor Power discussed the estimated cost and noted that the KFC project would be competing with the Monroe Street Neighborhood Greenway and Riverfront Park Phase III projects for funding. She expressed support for Option 2 and suggested that the work to restore the creek and clean the sediment would create a compelling argument for removing the dam.

The group discussed the amount of land that could be restored if the lake were drained and they noted that without a lake the dam removal would become more of a transportation project. They noted potential fiscal and environmental risks of cleaning the sediment and reviewed ways to identify funding opportunities from Federal and State government and non-profit organizations.

Councilors Power, Churchill, and Parks noted that the KFC project would be a lower regional priority because it would not create many economic incentives.

The group discussed the role of the Federal officials and staff in the KFC project and noted the general reduction in Federal funding for all projects.

Councilors Churchill and Power agreed that the strategy should be to focus on a single project audience and key project partners. They discussed the need to take a creative approach to the project noting concerns about the possible environmental hazards of cleaning the unknown lake and creek sediment.

Mayor Gamba and **Councilor Power** discussed an upcoming meeting Mayor Gamba had with Brad Hunter of Craft3, a non-profit community development loan corporation.

The group discussed previous Council support for Option 2 and why the Oregon Department of Fish and Wildlife (ODFW) had opposed that plan.

It was the Council consensus that Councilor Power and Mayor Gamba would act as the Council champions for the KFC project.

Councilor Power and **Mayor Gamba** discussed the use of drones and helicopters to capture aerial footage of the creek bed.

Councilors Power and Churchill and **Mayor Gamba** suggested that public access to reclaimed creek bed areas would increase community interest in the KFC project.

The group summarized that staff would look at breaking Option 2 into action steps and would investigate why the ODFW had previously objected to Option 2.

Mayor Gamba, Councilor Parks, and **Mr. Nieman** commented on the need to ensure that Federal officials and staff were aware of the KFC project.

It was the Council consensus that the project would continue to be called Kellogg for Coho (KFC).

The group discussed next steps for staff and Council to create a strategy and materials to promote the KFC project to Federal, State, and local partners. **Councilor Power** suggested that quarterly community project meetings be held, and **Councilor Churchill** expressed concern about marketing the project to too many groups.

Mr. Monahan noted that he would submit a list of possible retreat topics for Council consideration and feedback, and announced that City Recorder Pat DuVal was absent from the Study Session because she was receiving an award at the Oregon Association of Municipal Records (OAMR) conference in Seaside, Oregon.

Mayor Gamba adjourned the Study Session at 8:55 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



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SPECIAL SESSION
FOOD CART FORUM

September 22, 2015
Public Safety Building
Community Meeting Room

Mayor Gamba called the Special Session of the City Council to order at 6:00 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Mitch Nieman, City Recorder Pat DuVal, Community Development Director Alma Flores, Senior Planner Li Alligood, and Associate Planner Vera Kolias

Mayor Gamba said the purpose of this special meeting was to hear input on the proposal to place food carts on publicly owned land including the Triangle Site.

Ms. Flores explained her role in the City and talked about what food carts had to offer. Carts encouraged micro-entrepreneurs, generated pedestrian traffic, and provided a preview for those thinking about opening a restaurant in Milwaukie. She discussed the recent survey with 84% of the 228 respondents in favor of food carts. She introduced Roger Goldengay who built North Portland's Mississippi Marketplace and owner of Cartlandia on the Springwater Corridor near 82nd Avenue.

Mr. Goldengay discussed his experience with his two current food cart locations and commented on the potential of the Triangle Site with its convenient location and proximity to the MAX Orange Line. He discussed trash collection and other maintenance issues. The lot size and configuration set the design and the number of carts needed to meet expenses and investments in property improvements. When asked, Mr. Goldengay said he had had some retail carts, but they were not that successful. He noted that it took five years to fill Cartlandia.

Mayor Gamba called upon those who had registered to speak.

Alicia Hamilton, Milwaukie resident, thought food carts would help make a more vibrant and successful downtown and hoped they could be located to help draw people through the downtown.

Thomas Martinez, Rohst Coffee, just opened his shop on 21st Avenue. The MAX Orange Line would bring more people to the downtown, and he thought food carts were a good idea.

Denise Emmerling Baker, Milwaukie resident, was in favor of food carts but had some concerns about honoring existing businesses. The area needed to be safe and chemical free.

Larry Cole, Acme TV and DVD located on SE Monroe Street, thought the Triangle Site was a bad idea; people would just get on and off light rail and not come into the downtown. He was concerned local businesses would have to pick up the trash. Local businesses had already paid their dues.

Claire Fuchs, Milwaukie resident, spoke in favor of food carts and noted the increasing number of younger people moving to Milwaukie. She thought the incubator space would have a positive ripple effect in downtown Milwaukie. She asked if the City would charge rent. **Ms. Flores** said the City would likely contract with a third party to manage the food cart pod, so it would probably be revenue neutral for the City.

Gwen Laubach Alvarez, Milwaukie resident, thought the downtown was underdeveloped and felt unsafe. She and her family spent most of their money outside of the area. Food carts would be a good way to harness some new energy and diversify downtown.

Bryan Dorr, Milwaukie resident, supported the food cart concept and thought they would bring variety into the downtown.

Meg Elston, Milwaukie resident, supported food carts and noted she liked Milwaukie's downtown restaurants, and food carts would not prevent her from going to her favorite restaurants. She liked to spend her money in Milwaukie.

Sandi Simms, Spring Creek Coffee House on McLoughlin Boulevard, was concerned about the food carts at the Triangle Site because her business was on the north end.

Courtney Johnson, Milwaukie resident, was in favor of food carts because they offered variety and were gathering places. She also supported local businesses and encouraged waste reduction efforts.

Neil Hankerson, Dark Horse Comics, polled employees who unanimously supported the food cart proposal citing variety, quality, and price. Employees indicated they left the area for a greater variety of food. As a property owner, Mr. Hankerson had concerns about trash, health, and sanitation.

Kathy Lyle, Kathy Lyle's Place on Washington Street, spoke in opposition to the food cart proposal and light rail that had been voted down. She heard nothing but complaints about the lack of parking and trash.

Carmen Meyer, Cha Cha Cha on Main Street, expressed concern about restrooms, trash, and parking. She hoped that the food carts would not compete with existing businesses.

Chris Ortolano, Milwaukie resident, spoke in support of food carts and hoped they would bring vibrancy and variety and attract nonresidents to the downtown area to support existing brick and mortar businesses. He commented on the risk to the cart owners.

The group discussed the matter further, and **Mr. Monahan** said a work session was scheduled for October 6, 2015, to consider development options for publicly owned land.

ADJOURNMENT

Mayor Gamba adjourned the special session at 8:15 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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WORK SESSION
OCTOBER 6, 2015
City Hall Conference Room

Mayor Gamba called the Work Session to order at 4:00 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Assistant Finance Director Bonnie Dennis, Planning Director Denny Egner, Associate Planner Brett Kelder, Engineering Director Charles Eaton, Civil Engineer Stacy Stubblefield, Community Development Director Alma Flores, Administrative Specialist III Hannah Wells, Code Compliance Coordinator Tim Salyers, and Parking Enforcement Officer Ashton Johnson

City Manager's Report

Mr. Monahan reviewed the Work and Regular Session agendas and follow up actions from the September 15, 2015, Audience Participation. He commented on the parking permit program and the draft Council retreat agenda.

Community Development Update

Ms. Flores discussed the economic opportunities analysis (EOA) and the contract with Johnson Economics to prepare EOA policy direction to establish the economic development strategy.

Mr. Egner explained that the City was contracting with ECONorthwest to evaluate different approaches to using urban renewal in the City. He also discussed that the first of two public design workshops for the 19th Avenue woonerf was scheduled for October 21, 2015, and there was interest on City Council to encourage other Neighborhood District Associations (NDA) to attend. He also reviewed upcoming Planning Commission agendas.

Mr. Eaton provided an updated on the signal issues at 21st Avenue and Washington Street. He discussed the meeting with Oregon Department of Transportation (ODOT) regarding Washington and Adams Street crossings.. There were some short term fixes to help with the pedestrian issues, a mid-range fix to help with the timing that required software programming, and a long-range fix which was working with Union Pacific Railroad (UPRR) in order to get the gate time reduced.

The group discussed the existing issues, with **Mayor Gamba** noting the gates were down for 90 seconds before the train crossed. **Mr. Eaton** responded that it was a very complex intersection; there were three intersections, two rail crossings, freight, and light rail; and the 90 seconds was programmed in order to completely clear all intersections.

Mayor Gamba explained that the first step was to do automatic recall on pedestrians, meaning that the pedestrian light would turn on as soon as the lights turned red. He reported that TriMet put in a request to UPRR to reduce the 90 seconds to 60 seconds, which still needed to be long due to the length of the intersection. The two intersections in Milwaukie were the most complex controllers in the state.

Mr. Eaton reported that the rough timeline to solve the pedestrian problem should be about 2 - 4 weeks, and it would be 2 – 3 months for UPRR clearance adjustments.

Website Communications Refresh Project Plan

Mr. Nieman explained that it had been about seven years since the last website refresh was implemented. The current website was not optimized for mobile devices and was unable to interface with Google mobile searches.

Councilor Power clarified and summarized that the City website was usable only for tablets and desktops, and Google searches did not connect to the City's website.

Mr. Nieman described the different teams on the project, with Mr. Wheeler and Ms. Wells serving as the Project Leader and Core Team Member, respectively. Mr. Nieman, Mr. Monahan, and a member of City Council would make up the Project Sponsor group. He explained the basic goals of the plan, and how the limited budget would be used to focus on the refresh and responsive design phase, creating the responsive design on mobile devices and clearing up outstanding backend and data issues.

Ms. Wells explained that she and Mr. Wheeler had vendor meetings scheduled and were talking with local jurisdictions that have recently gone through website refresh projects.

Councilor Power and **Mayor Gamba** discussed the importance of the ease of use on the backend for staff to manage the website. **Mr. Nieman** noted that staff currently had a lot of "work arounds" when dealing with the website, and one of the main goals was to eliminate those.

Councilor Power agreed to represent the Council on this project. She had experience working on website refresh projects.

Mayor Gamba said that, moving forward, Council may want to develop a line item for the website in the next budget process.

Three Parks Master Plans

Mr. Kelver introduced Katie Dunham, Senior Planner with North Clackamas Parks and Recreation District (NCPRD). He explained this presentation was meant to prepare Council for the agenda item asking for the approval of the Three Parks Master Plans during the October 20th City Council Regular Session. The three parks included Balfour, Bowman-Brae, and Kronberg.

Mr. Kelver outlined the principals of a master plan: master plans showed basic park elements, established some certainty about park development, reflected public discussions, and were not intended to capture all detail.

Mr. Kelver showed Council the master plans for all three parks, with Ms. Dunham pointing out key elements and explaining the public input on each plan. **Ms. Dunham** pointed out that neither NCPRD nor the City currently had funds to build the parks, which was something to keep in mind while looking at the conceptual master plans.

Ms. Dunham outlined features included in the concept plan for Balfour Park, located in the Ardenwald area. Feedback from two neighborhood planning meetings included the desire for a gathering space for people that was less programed, a passive park experience with no active sports like basketball, a nature-play area, and space reserved for a community garden. Written into the master plan was that NCPRD would work with the community group to design, manage, and maintain a community garden. Ms. Dunham noted that the community garden spaces and the size were left fairly general for the concept plan, and could be clarified at a later time.

Ms. Dunham outlined the concept plan for Bowman-Brae Park, located in the Lake Road Neighborhood. The community provided feedback on features which included: a small space for gatherings; a lot of open lawn area, no basketball court, perimeter trees, and active uses located to the south on Bowman Street. Ms. Dunham explained that during the second community input session, the neighbors took it upon themselves to vote in a consensus that this was indeed the plan they wanted for the park.

Mayor Gamba asked about the ownership of the 13-foot private piece of property that kept the connection from being made between Where Else Lane and the park.

Mr. Kelver clarified that the property was owned by a now-deceased member of the community who owned several of the other parcels. When neighbors asked the County years ago, the County was unable to put them in touch with anyone. Mr. Kelver said that at some point, if the City wanted to try to acquire the strip or just get an access agreement across it, someone would need to be tracked down.

Mayor Gamba asked about the nearby pump house owned by Oak Lodge Water District. **Ms. Dunham** responded that while it was no longer being used, NCPRD would work with them moving forward if the Water District developed any future plans.

Mr. Kelver discussed the future proposed pedestrian connections around the park.

Ms. Dunham briefly discussed current maintenance concerns at the park, especially during the recent geocaching event.

Ms. Dunham outlined the concept plan for Kronberg Nature Park. It was very important to the community to designate the property as a nature park as opposed to a neighborhood park, in order to provide a space for habitat areas and improve the natural resources. The community also wanted to develop a multi-use trail throughout the site that would connect downtown Milwaukie and the new light rail pedestrian bridge, and connect the trail with the crosswalk at River Road and to the Trolley Trail. The trail would be elevated in some places for safety and would include lighting.

Councilor Power asked how much the elevated portion of the trail would cost. **Ms. Dunham** replied that the trail, including the elevated and non-elevated portions, was estimated at about \$1.3 million.

Councilor Power, Ms. Dunham, and Council President Batey briefly discussed other options to an elevated path, the challenges in that area, and the safety concerns involved.

Councilor Power discussed the option of building temporary sidewalks in the interim, in order to help create safe routes for pedestrians. **Mayor Gamba** discussed the costs associated with building temporary sidewalks and the involvement of ODOT.

The group discussed ADA compliance related to the trail.

Mr. Kelver explained that if Council decided to adopt the master plans, then it would be accepting the concept plan of Kronberg and also could identify the next steps and the interim strategy. There was no conflict between the concept plan and any interim efforts.

Ms. Dunham agreed with Mr. Kelver and summarized that after the master plans were approved, NCPRD and the City would move forward, working together with partners such as ODOT, TriMet, and others, on the next steps.

The group discussed interim needs and the importance of finding solutions.

Neighborhood Intersection Painting

Ms. Stubblefield asked for direction from Council about an intersection painting program in Milwaukie. If Council did want a program, would they like it similar to what was being done in the City of Portland as a community development program? Staff felt it was a viable program that could be created under the existing Right of Way (ROW) permit program.

The group expressed support.

Councilor Churchill felt the points about slip-resistance and road repairs were important to keep in mind.

Council President Batey did not think there would be a slippery surface issue.

Ms. Stubblefield said these were compiled concerns from City staff and things that needed to be considered as the program moved forward. She discussed what the City of Portland used and that the City of Milwaukie would need to make its own determination for what products would be used. Ms. Stubblefield wanted Council direction staff's recommendation that the Milwaukie Arts Committee (artMOB) review and approve the street murals.

The group agreed that the artMOB would be an appropriate review body, with the assurance that certain symbols, like offensive symbols, would be excluded.

Mr. Nieman noted that the artMOB had an ad hoc subcommittee for murals and could do something similar for the street painting.

Ms. Stubblefield asked if the Council felt the current \$30 ROW permit fee should be included or if a different fee structure was needed.

Councilor Churchill asked about staff time involved. **Ms. Stubblefield** responded that there were some concerns about maintenance or handling complaints. She did not see significant time in processing these permits.

Councilor Power felt as long as the City was clear upfront about the responsibilities and expectations, that \$30 was an appropriate fee.

The group discussed keeping the fees at a minimum. **Ms. Stubblefield** explained that Portland had minimal street closure fees. The group discussed the importance of incentives.

Mayor Gamba discussed the restriction that the murals could not be closer than 5 feet to a traffic control device. **Ms. Stubblefield** said it was important so that drivers knew where the stop bar was located.

Ms. Stubblefield understood from Council that the fee should be somewhere between \$30 to \$75 and adding an incentive by waiving the fee for the first one or two projects in each neighborhood. Council agreed that if possible TriMet should not have to reroute its buses.

Ms. Stubblefield provided a map of drainage basin areas and discussed pollutants potentially running into creeks. **Mr. Eaton** discussed the City did not want to violate Department of Environmental Quality (DEQ) permits, so murals may not be allowed in certain areas. Flaked paint was considered a pollutant, so it was important to select appropriate products.

Mayor Gamba would like to get to the point that nothing coming from the streets would go to creeks or rivers. His eventual goal for the City would be to somehow have all stormwater treated. He discussed the source of pollutants in stormwater.

Downtown Parking Permit Fees

Mr. Monahan said there had been concerns about the rates and how the permits were sold. He explained some of the longer term purchasers of parking permits would want direction about the future of the program by early November.

Councilor Power asked about permitted parking for employees of companies versus customer parking. **Ms. Dennis** explained there were 144 permitted parking spaces sold on a first come first serve basis for employees of downtown businesses for long term parking.

Mr. Salyers discussed the parking allocation in the City Hall lot and talked about the locations of the 144 spaces throughout the downtown.

Councilor Churchill asked about the spaces that had a four hour allowance. **Mr. Monahan** clarified that the purchase of a permit did not guarantee access to an available parking spot.

Councilor Power discussed the discrepancy between what the City charged for parking versus the cost of taking public transportation. She felt this incentivized car travel and would like to look at increasing the parking permit fee. If people were allowed to park all day in 4 hour spots, then it tied up the business parking. **Mr. Salyers** clarified the location of the 4 hour spots; noting that the City tried not to put them in front of retail operations.

Councilor Power wanted to make sure the City was responsive to the needs of the downtown. **Councilor Churchill** had concerns about putting pressure on the neighborhoods.

Councilor Parks agreed that the parking rental fees were extremely low and she was in favor of looking at spaces and if they still made sense. She was in favor of 3 month permits but not 6 month permits. The change in that equation would be beneficial.

Mr. Salyers said raising fees would still result in people moving their cars every two hours to avoid tickets.

Council President Batey would like to help fund more enforcement.

Councilor Power commented on the artificial competition created between employees and residents.

The group discussed the location of parking and the fees involved. **Mr. Monahan** suggested meeting in November with a proposal and a notice to those who are purchasing the permits about the possible rate increase and other changes. The group discussed how much to increase the fees and when to implement it; incentives; a limited number of certain permits; and the duration of permits. The group discussed employers who offered public transportation passes and the impacts on parking permits.

Ms. Dennis asked for clarification on the bulk 10% discount that currently existed. The group was in favor of eliminating that discount. **Mr. Salyers** explained the original reason for the bulk discount was to reduce staff time.

The group discussed the agenda order for the work session and the regular session, and decided to continue with the agenda as planned.

Publicly Owned Land Development Options

Mr. Monahan explained that the City was starting to see the results of the Moving Forward Milwaukie (MFM) Program with increased interest in City properties.

Ms. Flores said most of the background information was in the staff report. She wanted to delve into getting direction from the City Council on what to do with each of the sites. There had been some developer interest in the Texaco site and the Cash Spot site. Part of the reason for developing marketing materials was to give a full picture of the City and to introduce developers to the family they would be joining. She would like more Council direction on what to do when engaging with interested developers.

Ms. Flores explained that the Texaco site was a joint ownership with Metro and must be a transit oriented development (TOD) project. The Intergovernmental Agreement (IGA) with Metro expired in 2005 and needed to be updated to clarify roles and responsibilities. She discussed the ownership of the two properties.

Councilor Power said it had occurred to her that Milwaukie was land rich and cash poor. For the site across the street, she was concerned about the loss of parking with any development. Maybe the City could go in as a land partner and request that part of the agreement included structured or underground parking that was publicly accessible. People coming downtown would then have a place to park. This was a cornerstone property and a great anchor for the downtown.

Ms. Flores commented that land was a subsidy the City could offer. The City could do a Request for Qualification (RFQ) or go straight into the Request for Proposal (RFP) process with a pro forma that may include two floors of structured parking.

Councilor Churchill said he wanted control of the outcome architecturally. He would be in favor of retaining partnership on the Cash Spot; there was some value to being an equity partner. Councilor Churchill had Texaco site concerns; the City owned lot was really like the City plaza and he did not want to lose that value. He was concerned about the lack of space for the Sunday Farmers' Market on Adams Street and Dogwood Park, and would like to retain the parking lot. He looked at the Metro-owned Texaco site separately.

Council President Batey agreed that the City should retain the sites and use them to negotiate a development that the City liked. Discussions of the Texaco and Cash Spot were larger discussions. She felt the Texaco site should be developed as a full block, and she would like to move forward quickly. The Cash Spot needed more discussion, and she felt that site should be lower on the priority list. She had heard that earlier ideas for the Triangle Site did not pencil out. She proposed going forward with the food cart idea with a two year lease to determine if urban renewal funds would be available.

Councilor Power suggested a three year lease, due to the Planning Commission's requirements for structural elements. **Mr. Egner** clarified that the carts themselves were looked at as vehicles, but any seating structures or restrooms would go through a downtown Type II process.

Council President Batey and **Councilor Churchill** discussed space requirements for the Farmers' Market near the Adams Street Connector.

Ms. Flores clarified that a structure with two levels of structured parking would still be considered a TOD and would be subject to a maximum of five stories. **Ms. Flores** would market whatever parameters Council decided on and report back if those parameters were not working.

City Council gave direction for Ms. Flores to actively market the Texaco site, and start the RFP process, keeping it as generic as possible but saying the City wanted up to five stories. The triangle site would move forward with a 2 – 3 year lease and then open it up to developers.

Councilor Power understood the RFP would be open for a certain period of time with public hearings to follow.

Councilor Churchill was reluctant to give up the City's parking lot at the Texaco site. He had no qualms about the City's participation with a TOD on the Metro-owned site, but was quite reluctant on the City's site. For the Triangle Site, he would like to see a more detailed and iconic gateway location, which he felt the site begged. He thought there was a way to provide an iconic interim solution that allowed for covered food carts.

Councilor Parks commented on a food cart area in Bend that fit more with her vision that included restrooms and some kind of structure. **Mayor Gamba** liked the idea, but added that if a developer put money into the project, they would expect something.

Councilor Churchill suggested using the space behind Wine:30 and Odd Fellows, with smaller pods balanced throughout the City. **Ms. Flores** explained that would be part of a larger economic development conversation that included private land. **Council President Batey** commented on the need for a nice map of the downtown amenities.

The group discussed marketing the Cash Spot as well as the Texaco site. **Councilor Power** suggested marketing both, to do a volume of scale, in order to get people excited about investing in Milwaukie. **Council President Batey** asked if the RFP process meant the City was tied to selecting one for development. **Ms. Flores** commented that she would need to consult the City Attorney. She would move forward and come back with something that resembled the process Council determined.

Mayor Gamba adjourned the Work Session at 6:36 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



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REGULAR SESSION
OCTOBER 6, 2015
City Hall Council Chambers

Mayor Gamba called the 2,207th meeting of the City Council to order at 6:45 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Community Development Director Alma Flores, Finance Director Casey Camors, Program Services Specialist Jason Wachs, Associate Planner Vera Kolias, and Planning Director Denny Egner

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Fire Prevention Month Proclamation

Doug Whiteley, Clackamas Fire District #1 (CFD1) read the proclamation naming the month of October 2015 as *Fire Prevention Month* in the City of Milwaukie and encouraged residents to observe this month with applicable programs and activities.

B. National Archives Month Proclamation

Ms. DuVal read the proclamation naming the month of October 2015 as *National Archives Month* in the City of Milwaukie.

C. Community Planning Month Proclamation

Mr. Egner read the proclamation designating October 2015 as *Community Planning Month* in the City of Milwaukie in conjunction with the national celebration.

D. Adopt a Road Program

Mr. Wachs provided background on the program that encouraged and facilitated volunteer involvement in keeping roads litter free. The City provided the tools, materials and volunteer forms needed. The trash would be put in bags and left along the road sides for staff to pick up. He showed an example of signs that would be posted after the neighborhood, individual, or volunteer group had made a six month commitment for at least two clean up events per year. This was a pilot program, and the Lewelling Neighborhood District Association (NDA) and Milwaukie Rotary had stepped forward. In the future, the Program will be open to more NDAs and organizations.

E. Drive Less / Save More Milwaukie

Linn Davis, Metro, provided an overview of the program that helped residents explore travel options that supported a healthy lifestyle. There were 4,500 households in the Milwaukie target area, and the program would be actively marketed through October 2015. There was about 19% participation, and the community has responded positively. Mr. Davis gave an overview of community events. Participants would be surveyed to determine if travel habits had changed followed by a post program report in early 2017.

CONSENT AGENDA

It was moved by Councilor Parks and seconded by Council President Batey to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. July 21, 2015, Regular Session;
2. August 4, 2015, Work Session; and
3. August 4, 2015, Regular Session.

B. Resolution 96-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the Mayor to sign and extend the intergovernmental agreement (IGA) with the Tri-County Metropolitan Transportation District of Oregon (TriMet) to provide police services to the TriMet Police Division.

C. Resolution 97-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to enter into an IGA with Clackamas County for use of Youth Work Crews for the Project Payback Program.

D. Approval of an Oregon Liquor Control Commission (OLCC) Application for Applied Consulting, LLC, The Office, located at 10598 SE 32nd Avenue, New Outlet

Motion passed with the following vote: Councilors Parks, Power, Churchill, Batey and Mayor Gamba voting "aye." [5:0]

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures.

Mr. Monahan provided follow up to questions and comments from the September 15, 2015, Audience Participation portion of the agenda. American Federation of State, County, and Municipal Employees (AFSCME) provided input on current contract negotiations with the City, and 15 NOW requested Council support for a minimum wage increase. Mediation on the AFSCME contract was scheduled for October 27, 2015. Milwaukie resident Ed Zumwalt asked if the \$40 million savings from the Orange Line project could go toward additional parking near the light rail stations. The City requested a conversation with TriMet to find out what can be done using those savings. Mr. Monahan thought there were probably still some outstanding obligations that would reduce that amount, but staff would report back on the matter. Milwaukie resident Mary Weick requested that the City contact the Oregon Department of Transportation (ODOT) about the pedestrian situation at McLoughlin Boulevard and Washington Street. Engineering Director Chuck Eaton had contacted ODOT about possible solutions.

Ed Zumwalt, Milwaukie resident, thanked the City for its support for the First Friday events and particularly to Mr. Wachs and Mr. Nieman. Related to the recent Food Cart Forum, Mr. Zumwalt visited Cartlandia, and he was not impressed. The City needed a better vision than a shanty town and suggested putting the food cart pod at the north end of town.

Mike Abdich, Milwaukie resident, asked that the City Council reconsider Ordinance 19.607.2 dealing with pleasure craft and RV parking on private property. He just received a \$9,666 ticket for parking his motorhome on his mother's property. His mother also got a citation for a pile of dirt she was going to use in her flowerbeds. One was not allowed to park a recreational vehicle or a boat for more than 24 hours on property that was less than one half acre. Mayor Gamba noted that this topic was scheduled for discussion in the near future. Mr. Abdich sleeps in his motorhome because his mother's house was small, and she had a roommate. Code Enforcement cited his mother for the pile of dirt that had only been there for two weeks and called it debris. Mr. Monahan explained there was an appeal process for municipal court cases. The City Council may wish to review the Ordinance at some time.

Bill Lake, Milwaukie resident, was concerned about street conditions in the Lewelling Neighborhood. He described the area that included Harvey and Willow Streets, 49th and 50th Avenues, and Leone Lane. Senior citizens walk in the area as well as bicyclists and children learning to ride their bikes, and Mr. Lake was concerned about the potential for serious injuries. These streets had never been resurfaced and sharp aggregate was sticking up. People use the middle of the street because that was the smoothest part. He had a petition with 44 signatures of residents urging City leaders to act now to get the streets in that area resurfaced. How could 60 years have gone by without any repaving? He expressed concern about the cost of the Monroe Street Neighborhood Greenway Project and yet not doing anything with the local streets. He thought the streets were so bad that if someone were injured the City could be facing a lawsuit.

Mayor Gamba and **Mr. Monahan** described the Street Surface Maintenance Program (SSMP) that was implemented about nine years ago. The Program addressed the highest priority streets and did not include every street in Milwaukie. For the City to engage in a program to resurface all the streets in the City might mean the program would need to be enhanced. Funds for the Monroe Street Neighborhood Greenway would come from grants and not the SSMP. Talks were underway to determine how to meet the overall needs of the community.

Mr. Lake submitted the signed petition for the record.

Chip Addabbo, Milwaukie resident, owned a home on the corner of Guilford Court and Oatfield Road. The property was subject to many things whether it be stalled vehicles, trash, or cut through traffic. When he relandscaped his front yard, there had been boulders, shrubs, and trees. When he did so he thought the apron cut indicated the right of way. He moved it back two more feet and installed a wall that was two pavers high to provide a barrier to the street and the TriMet bus stop. His biggest question was “why me?” He could look around his neighborhood and find plenty of walls, trees, and shrubs in the right of way. When he measured from the street to his wall there was more than 9 feet. He said in the future if there was a need for the City or a utility they would not dig a 10 foot wide trench. His landscaper estimated it would cost \$4,000 to \$5,000 to move the wall one foot, after it had cost him \$6,000 to install it.

Councilor Power thought the point was that most people thought of this type of activity as a home improvement project and not an encroachment on the right of way. She understood the City had competing priorities those being the City did not have the money to build sidewalks that would act as a buffer from the street. In the meantime she hoped the City Council could talk about some kind of right of way permit. The public / private lines are unclear in many areas, and it was a case by case enforcement that seemed to be complaint driven.

Mayor Gamba said there would be a response for Mr. Addabbo at the next Council meeting.

Council President Batey commented that there are many areas that people think of as their front yards.

PUBLIC HEARING

A. Moving Forward Milwaukie (MFM): Central Milwaukie Plan and Code Amendments, File #s CPA-2015-001 and ZA-2015-001 – Ordinance

Mayor Gamba explained that at its September 1, 2015, meeting the Council voted to continue the hearing to October 6, 2015, and to accept public comments.

Ms. Kolias provided the staff report and continued the discussion about the Central Milwaukie Proposed Planning Code Amendments. Earlier discussions were about the Land Use and Transportation Plan, Comprehensive Plan Policies, the Zoning Code, and key questions. Direction received at the September 1, 2015, hearing was that

commercial parking lots and auto sales would not be permitted uses; residential cluster development will be a permitted use in the General Mixed Use (GMU) Zone, and trade schools will be permitted in Flex Space (FS) Overlay Zone if activities took place indoors. She noted that the City would not regulate parking associated with the business and made available to others as long as parking was satisfactory for the business use and met the parking quantity requirements. From the previous Council discussion about car and boat sales, Ms. Kolias understood auto sales would be prohibited, but that could be expanded to vehicles sales which would encompass boats. The current boat sales business would be a preexisting nonconforming use, but there would be some language in §800 related to expansion.

Council President Batey said in her mind the concern was not so much what was being sold but rather was it being done outside in an open lot. If there were an indoor showroom, then she did not think it was so much an eyesore.

Councilor Churchill said he wanted to make sure staff was given appropriate direction with boundaries for denying or approving applications.

Councilor Power said the enclosed / not enclosed question seemed to be one of economics and selling used cars versus nice expensive cars.

Council President Batey noted the design standards were fairly rigorous.

Ms. Kolias said if there was an appetite to allow vehicle sales under certain circumstances, then she would have to understand if the inventory needed to be inside a structure which could then be footnoted in the use table. Design standards would require a certain percentage of windows.

Council President Batey personally supported banning all vehicle sales rather than parsing things out. Hopefully, the property would be too expensive to put in car sales. Given the design standards, if the inventory had to be inside, then vehicle sales would not happen because of the cost.

Councilor Churchill just wanted to understand how the City Council intended to give Planning Department staff its direction. Anything registered by the Department of Motor Vehicles (DMV) was considered a vehicle.

The group agreed that the inventory would need to be inside a structure.

Ms. Kolias reviewed the key questions. Was warehousing an appropriate use in the FS Overlay Zone if it was accessory to an allowed use? The baseline understanding was that the City Council did not want standalone warehousing in the FS Overlay Zone, and the City Council seemed willing to consider warehousing as an accessory use to a permitted manufacturing use. It could be 25% of the floor area of the associated manufacturing building or 10,000 square feet (SF) whichever is less. Staff believed 25% – 30% was reasonable, and she suggested taking the 10,000 SF off the table. Daniel Heffernan, representing the Murphy Family suggested that 25% was limiting and that warehousing typically took up more SF in a manufacturing space. Ms. Kolias discussed vertical warehousing that used stacking and thereby reducing the footprint. Staff recommended using the percentage of the parent rather than the SF limitation.

Councilor Churchill noted he had done some research and found the ratio of warehouse to office and manufacturing was 30% – 40%, and he related it to International Way which was in the Business Industrial (BI) Zone.

Ms. Kolias said the intent was not to have standalone warehouses while wanting to reflect what was happening in the industries. The City did not wish to preclude businesses that had storage needs. It seemed like the warehousing space could go to 40%. The BI Zone on International Way was a good place to look, and she added the North Industrial area was predominantly wholesale and distribution.

Ms. Kolias reviewed the key question of maximum building height. At the September 1, 2015, hearing Council had indicated a willingness to talk about a maximum height of

five stories for buildings that were located far enough away from the street to avoid an out of scale experience or appearance. Staff was providing information on how the setbacks were figured and the appropriate ratio. She looked at street cross sections, and the three story or 45 foot buildings had 15 foot setbacks. The Code addressed the residential street edge and called for anything exceeding the base maximum height to have a 50 foot setback. She looked at that ratio and what someone across the street would see. Both 37th Avenue and Monroe Street were collector streets with a width of 60 feet which resulted in an effective setback of 75 feet for a three story building. Those 60 feet would apply if and when the Monroe Street Neighborhood Greenway came through. The question was what was that ratio and how it would apply to a four or five story building and how it would appear to a pedestrian on the other side of the street. The actual setback for that three story building would be 15 feet, 40 feet for a four story building, and 70 feet for a five story building. She had added a column that addressed setbacks as opposed to a setbacks and provided a diagram as an example of how a building might be constructed.

Ms. Kolias said the next key question was where the City Council wanted the height bonuses to be allowed. Should it be allowed only in certain locations such as the Murphy and McFarland opportunity sites which were large enough to provide some setbacks? She discussed the feasibility of making the height bonus available throughout the GMU Zone and noted criteria would have to be established for a Type III variance. The downtown exceptional design height bonus did not apply 1:1 in the GMU Zone.

Ms. Kolias reported the final issue with the building height were setbacks. As currently proposed in the residential street edge standards there was language about buildings within 50 feet of a residential zone to have to have a 6 foot setback. This standard had already been applied in certain areas, but the fourth and fifth stories could be available throughout the GMU Zone and not necessarily adjacent to a residential use zone. The City Council could decide to apply the 6 foot setback to any building that exceeded the base maximum height. The currently proposed code allows for a one story bonus either for residential or a green building. Five story buildings could be allowed throughout the GMU with a Type III building height variance or allowed only in certain locations such as the McFarland and Murphy sites.

John Murphy, owner of the Murphy property, spoke from a neutral position on the proposed amendments. His family had owned the property for 37 years, and they have always been good stewards that included a \$2 million cleanup of the site. The family was listening at this point and wished to participate in the development of the property. He felt Mr. Heffernan was a first class consultant who has been working with the City for 20 months during the MFM Project. The property was a real asset to the City, and he did not intend to do anything reckless and wanted do things right. He understood the Council wanted to do what was right for the City, but he hoped the City would keep an open mind. Development meant tax revenue for the City, and Mr. Murphy hoped to do a first class building. He acknowledged it was not a prime location with its proximity to the train. He said the Murphy's owned all the property west of the railroad tracks except the corner market. He had driven up from Eugene to assure the City Council that the family was not taking the situation lightly.

D.J. Heffernan spoke representing the Murphy Family. He emphasized a couple of points that Ms. Kolia had addressed. His was concerned that an opportunity might be lost, and the City did not want to lose an opportunity for jobs and improvement value on a property that has been there for 37 years. He discussed adopting a standard for warehousing as an ancillary that was not too restrictive and met developers' needs as well as the City's design standards. He encouraged going to 40% in order to provide the opportunity to market the property and say yes to someone who needed that amount of space. The Project Advisory Committee (PAC) spent a lot of time talking about creating a walkable community that had a strong face on 32nd Avenue. Now with buildings perhaps going taller he was concerned about setbacks and creating huge

dead zones. He thought the setback idea made more sense; otherwise developers would not go over three stories. There were challenges to buildings with that kind of setback because of load bearing walls. He was pleased that the 15 foot setback was being considered, but if he were arguing for it, it would be an eight foot setback. It was debatable whether or not this would pencil in a development project.

Karen Olsen, Milwaukie resident, wished to speak about 32nd Avenue and the fact that she was not aware of the zoning changes.

Mr. Egner said the Planning Commission will consider the Neighborhood Main Street portion of the MFM Project next week. He spoke with her about the process to address the Commission. Central Milwaukie code amendments did affect 32nd Avenue north of Providence Milwaukie.

Ms. Olsen provided the City Council with a list of her concerns for the record.

Council President Batey asked for clarification of Mr. Heffernan's comment that the setback did not apply to 32nd Avenue and it was only the streets with residential across the street.

Ms. Kalias said the McFarland site would be subject to it because of the residentially zoned area on Monroe Street and 37th Avenue and the Murphy site with the residentially zoned property on Meek Street.

It was the consensus of Council that accessory warehousing and distribution associated with a permitted use could occupy up to a maximum of 40% of the floor area of the associated manufacturing or industrial building. Reference to the 10,000 SF limitation for warehousing would be removed.

The group discussed building height. **Councilor Power** thought it might make more sense to treat the entire Murphy site as eligible for five stories. **Mayor Gamba** commented on redevelopment of the bowling alley as well as other properties in that area. For that reason, he did not wish to limit five stories to only the two opportunity sites.

Council President Batey said her first inclination was just the Murphy and McFarland sites, but leaned toward the GMU Zone.

Councilor Churchill supported just the Murphy and McFarland sites.

Councilor Power thought it made sense to support a larger opportunity from such a visible corner as part of a larger package.

There was a 4:1 agreement to extend the maximum building height beyond the two opportunity sites. There would be a Type III Review for five stories no matter where the development was located.

Ms. Kalias discussed the Type III process before the Planning Commission and developing criteria for five stories. She understood from the discussion that the fifth story was available throughout the GMU Zone and required a Type III Review.

Councilor Churchill and **Council President Batey** agreed that there should be a Type III Review for a development over three stories.

Mayor Gamba said the purpose of the MFM Project was to implement clear and objective standards to encourage development with good design standards and limiting certain uses.

Councilor Power recalled part of the fifth story trigger was because the City had a few four story buildings in these areas, so five stories was not totally out of character.

Councilor Parks agreed that five stories should trigger a Type III Review throughout the GMU Zone. She commented on the importance of having a strong foundation for a development to go through a Type II Review and Type III for five story buildings.

Council President Batey did not think a Type III Review would be onerous to professional developers. **Councilor Churchill** agreed and was concerned about opening the floodgates.

The straw poll indicated 3:2 that a Type III Review would be triggered in the entire GMU Zone at five stories with green or residential bonuses.

The group discussed the six foot stepback for floors above the base maximum height and setbacks where there was existing residential. The six foot setback was adopted in the Downtown Code. Stepbacks would apply on the fourth and fifth floors when facing residential, and the other additional setbacks would not apply.

The group agreed on this language that included a minimum 15 foot setback for a three story building, and 15 foot stepbacks applicable to four and five story buildings if the development faced existing residential.

Council President Batey was concerned about Milwaukie's being over retailled which might result in her voting "no" on the package. The group discussed vacancies in the Milwaukie Market Place and other shopping centers in the City. **Councilor Power** commented on the economic diversity of Milwaukie and noted the lack of visibility and the car dependency at the Market Place.

Mayor Gamba regretted the Market Place was not part of the MFM Project.

It was moved by Councilor Parks and seconded by Councilor Power to close the Public Hearing. Motion passed with the following vote: Councilors Parks, Power, Churchill, Batey and Mayor Gamba voting "aye." [5:0]

Mayor Gamba closed the public hearing at 9:20 p.m. **Ms. Kalias** said she would develop Type III Review criteria for Council consideration. The adoption hearing would be scheduled for October 20, 2015.

OTHER BUSINESS

A. Discussion of Bulky Waste Survey Results

Mr. Nieman provided information on the recent bulky waste pickup survey. The response rate represented about 0.58% of the total population and 1.4% of those residents receiving garbage bills. That was about 119 responses. Of those responding 51% favored an annual curbside pickup, 33% favored an annual centralized pickup, and 16% were not in favor of a cleanup. The cost of the pickup would be passed along to all solid waste customers with their monthly or bimonthly bills.

It was the consensus to hold a bulky waste curbside pickup every other year starting spring 2016.

Mr. Nieman discussed the feasibility of working with Metro on a hazardous material collection in Milwaukie.

Discussion of Council Retreat Agenda

Mr. Monahan reviewed the proposed agenda topics and draft agenda.

Councilor Power asked that a discussion of a Youth Advisory Committee be added to the agenda.

Council President Batey suggested discussing the order of the agenda.

Mayor Gamba wanted to add a discussion of how much time and effort went into making small decisions.

B. Council Reports

Councilor Power provided an update on the Library Service Expansion Task Force (LSETF) efforts with a poll likely in early 2016.

Council President Batey announced the Bike and Walk to School Day events the following morning.

Councilor Parks attended the League of Oregon Cities (LOC) Annual Conference which she found instructive, the Rotary Annual Gala where funds were raised for the Rowe Middle School snack program, and the economic development tour in the City of Wilsonville. She would be attending the Main Street Conference.

Mayor Gamba made a number of announcements including the dedication of the Haberman Mural and Adams Street Connector at the First Friday October event. Upcoming were Drive Less Save More events, the artMOB walking tour, Friends of the Ledding Library Christmas in October fundraiser, the scarecrow contest, the Sunday Farmers' Market pumpkin carving contest, the Davis Graveyard, and the addition of two new sculptures in the City Hall garden.

ADJOURNMENT

It was moved by Council President Batey and seconded by Councilor Power to adjourn the Regular Session. Motion passed with the following vote: Councilors Parks, Power, Churchill, and Batey, and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the regular session at 9:54 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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RETREAT
October 18, 2015
City Hall Conference Room

Mayor Gamba called the Retreat to order at 7:00 a.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan and City Recorder Pat DuVal

Mr. Monahan discussed the process for PowerPoint presentations during future work sessions and other related issues.

Communication Discussion

Mr. Monahan discussed communication with the public, City staff, and within the Council itself. The group talked about options for *The Pilot* and how the Neighborhood District Associations (NDA) could be actively involved using their email lists. One suggestion was to revisit the idea of eliminating the paper newsletter next summer and placing more reliance on the website and social media for dissemination.

Mr. Monahan suggested a study session with the end goal of getting rid of paper and processing information through the NDAs. He would assign staff to develop a migration plan with funding options. **Councilor Power** suggested a poll of how people use *The Pilot*.

Mr. Monahan said the next question was how the City communicates with the public and who was the appropriate source of information. **Councilor Parks** was concerned that she hears about executive session discussions from the public. The group discussed the significance of sharing regional agency and organization agendas and notes and what might be particularly relevant for the City. **Mr. Monahan** said there needed to be a process to direct that kind of information through him so the Council was not deliberating via email. **Mayor Gamba** said he attended a number of regional meetings and would send meeting packet links to the other Council members. The group discussed sharing information about smaller projects.

Councilor Power suggested that the City Council hold town halls or listening posts with one or two members present, and the group agreed to start a pilot program in January 2016.

Boards, Commissions, and Committees (BCCs) and Neighborhood District Associations (NDAs) – What are Council’s expectations?

Mr. Monahan discussed the BCC work plans and how those could be drafted to ensure they supported the Council’s goals. These might include performance measures, and he suggested a reporting back during an annual volunteer recognition event to inform the public of each group’s responsibilities and accomplishments. The Council discussed having the BCCs review their bylaws annually and to update them when needed.

The City Council agreed to host an annual volunteer recognition in April and recognize the Ed Zumwalt Volunteer of the Year recipient at that time.

The group discussed a check in with the Public Safety Advisory Committee (PSAC) to revisit its work plan and steps to encourage collaboration among the Park and Recreation Board (PARB), the Riverfront Task Force (RTF), and the Kellogg Good Neighbor Committee.

Mr. Monahan discussed adding a new Youth Advisory Committee and what parameters might be considered. **Councilor Power** understood the most successful age group was 13 – 21. The best youth engagement included not only volunteering but also exposure to city decision making and sharing information with others in their communities. She would plan on getting the Youth Advisory Committee up and running without using a lot of staff time. Her goal would be to have the program in place this summer. The Council agreed to go forward with adding a Youth Advisory Committee.

Mr. Monahan moved on to the discussion of the NDAs and how the City Council wanted to communicate its expectations to them. Council was not involved with the quarterly NDA leadership meetings, and **Council President Batey** said she would be happy to attend. **Councilor Power** suggested a study session with the NDA chairs to discuss recruitment, how things were and were not working for them, and if the City could do more to support their efforts. She pointed out the importance of NDAs sharing information and felt steps should be taken to encourage diversity.

Visioning – should the City engage in a visioning program?

Mr. Monahan said the City's current vision had been adopted a long time ago with the Comprehensive Plan.

Mayor Gamba discussed his vision for the City with the intent of viewing all the Council decisions through the lens of making Milwaukie a livable, equitable, and sustainable community. He was interested in Council's opinions and how the City would go through a visioning process.

The group discussed demographics and how to deal with displacement of the working class. One of the things **Mayor Gamba** wanted to do was to work on affordable housing and to adopt a 90 day notice requirement when rents were to be increased. **Mr. Monahan** said Ms. Flores would start working on this incrementally and could begin with an update of the Vision Statement. **Councilor Power** said for her the main issues were bike and pedestrian safety and the condition of the City's streets. **Council President Batey** wanted a realistic timeline for the Comprehensive Plan update that included the vision statement.

Mr. Monahan discussed revising the white paper that Planning Director Egner prepared on the Vision Update which could be reviewed by the City Council in a work session or study session. He briefly discussed the timing of the next goal setting session and suggested a March date.

Mayor Gamba would explore potential Comprehensive Plan Review funding sources with Metro.

Mayor Gamba recessed the Retreat at 10:23 a.m. and reconvened the Retreat at 10:32 a.m.

Council Meeting Issues and Other Short Items (Speed Round)

Mr. Monahan introduced the topics of the speed round.

1. Starting times of work sessions and regular sessions: Issue: having adequate time to devote to all the topics coming before the City Council. Temporary solution: cut the City Manager's Report and Community Development Update from the work session agenda for the next two months to determine if that made a difference and to reduce the number of work session topics. Mayor Gamba would work on timekeeping.
2. One hour rule: Issue: questions came to multiple staff members and there was a concern about effective use of time. Solution: if the question required some research, then it should go through Mr. Monahan and/or the director; copy Mr. Monahan if it's a simple question.

3. Order of business is in the code but can be adjusted at the meeting by the presiding officer or a majority of Councilors. Consider putting proclamations in consent.
4. Council dinners: Solution: build your own salad buffet; no more pizza.
5. Positions: Solution: approval to hire Sustainability Director and Right of Way Manager.
6. Clackamas Cities Association Dinner: Solution: Milwaukie would host on January 28, 2016, and would consider venue and speaker options.
7. Ed Zumwalt Volunteer of the Year Award: Solution: schedule for the April 2016 volunteer recognition event.
8. Video study session: Solution: continue.
9. Volunteers and interns. Solution: look for volunteer opportunities with defined projects and outcomes. Offer letters of recommendation.
10. Status of Triangle Site acquisition: Unresolved at this time. Mr. Monahan still did not have a firm price and was waiting for a second opinion.

Council Training/Conference Budget

Mr. Monahan said typically the City Council budget was prepared by the City Manager and the Finance Director without much consultation with the Mayor and Councilors. It was suggested that the budget be brought forward earlier in the process so Council could provide direction.

The group discussed an increase to the education and training line item and to the Council stipend. Councilor Churchill did not support any increase in the Council budget. Mr. Monahan would ask Ms. Camors to provide more information on the line items and suggested partnering with other communities on advocacy.

Process to Recruit a City Manager in 2016 (for October 2016)

Mr. Monahan commented on the timeline and current vacant city manager positions in the region. He discussed the recruitment process and services provided by various firms. It could easily take six months to go through the process. The group discussed residency requirements. It was agreed that the request for qualifications (RFQ) process for a recruitment firm should begin. Human Resources Director Rebello would be scheduled to meet with Council in November or December.

Other Topics and Next Steps

Council President Batey requested a discussion about the City's involvement with the Regional Water Providers Consortium. She also commented on Kronberg Park and the interim plan for connection to the bike / pedestrian bridge.

Councilor Power had a question about the budget and what the process was for contractual service. The group briefly discussed the Beacon Program.

Mr. Monahan commented on the use of the TriMet gravel for a temporary path along Kronberg Park and site restoration. He read comments from the Milwaukie Planning Department and North Clackamas Parks and Recreation District (NCPRD) which addressed potential issues such as contamination and liability.

Council President Batey discussed the feasibility of partnering with the Portland Bureau of Transportation (PBOT) on a Sunday Parkways event next year. Mr. Monahan suggested adding the topic to the October 29, 2015, study session agenda.

Mr. Monahan distributed the draft budget schedule for the upcoming biennium.

Mayor Gamba adjourned the Retreat at 1:00 p.m.

Respectfully submitted,

Pat DuVal, Recorder



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WORK SESSION
OCTOBER 20, 2015
City Hall Conference Room

Mayor Gamba called the Work Session to order at 4:00 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Peter Watts, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Finance Director Casey Camors, Planning Director Denny Egner, and Community Development Director Alma Flores

City Manager's Report

Mr. Monahan announced that future City Manager's Reports and Community Development Updates would be delivered to Council electronically.

The group discussed the proposed resolution that would set the minimum wage for City employees at \$15 an hour, and noted the economic impacts of the resolution on independent contractors, seasonal employees, and interns.

Mr. Monahan previewed his Regular Session Audience Participation follow-up report.

Community Development Update

Ms. Flores provided updates on the Request for Quotes (RFQ) for food carts on the Triangle Site, the Request for Proposals (RFP) for Block 14 and the Cash Spot sites, and the intergovernmental agreement (IGA) with Metro regarding the North Milwaukie Industrial Area (NMIA) Plan. She discussed business partnerships the City had developed and reported that Clackamas Community College (CCC) had not approached the City regarding annexation of the Harmony Road Campus. She noted that the Planning Commission would be holding a hearing on short-term rentals.

Councilor Power commented that the website FoodCartsPortland.com had expressed interest in writing an article on the Triangle Site RFQ.

Water Environment Services (WES) Presentation

Greg Geist, WES Director, noted previous Council and WES discussions. He reviewed capacity and refurbishment projects under way at the Kellogg Treatment Plant and reported that the Plant's new name is the Kellogg Creek Water Recovery Facility (KCWRF). He discussed the KCWRF's capacity, treatment processes, and ability to handle future population growth.

The group discussed digester sludge retention and pathogen reduction technology.

Mayor Gamba asked if WES was able to build the infrastructure needed to handle the anticipated capacity growth. **Mr. Geist** noted short-term solutions and reported that WES would be considering a co-investment strategy in the near future.

Council President Batey and **Mr. Geist** discussed the capacity infrastructure built by Clackamas County Service District #1 (CCSD1) and the membrane liquid treatment process at the Tri-City Treatment Plant.

Mr. Geist provided a summary of options to increase system capacity and recommended that CCSD1 and the Tri-City District co-invest in expansion projects.

The group discussed the costs and challenges of building a new treatment plant.

Mr. Geist presented a schematic view of the KCWRF facility, noted WES' commitment to rehabilitate the facility, and discussed future upgrade projects.

Council President Batey and **Mr. Geist** noted pending outfall projects at the plant.

Mr. Geist presented a KCWRF site map and discussed yard piping projects.

The group discussed the possibility of the KCWRF producing gray water to irrigate adjacent parks. They noted that gray water production was expensive and that there was a lack of interest in water reuse in the region. **Councilors Churchill** and **Power** remarked on the possibility of WES developing a small scale gray water project.

Mr. Geist continued to review pending refurbishment projects at the KCWRF and **Councilor Power** explained the involvement of the Kellogg Good Neighbor Committee (KGNC) in determining the order of refurbishment projects.

Council President Batey and **Mr. Geist** discussed the dewatering project and the inclusion of the noted refurbishment projects in WES' Capital Improvement Plan (CIP).

The group discussed ongoing pilot projects to reduce certain gasses and bacteria.

Mr. Geist explained that WES would be developing an asset management program and addressing wet weather flows. **Council President Batey**, **Mayor Gamba**, and **Mr. Geist** discussed pipe infiltration and infill (I&I) monitoring and WES' plans to create Collection System Master Plans.

Councilor Churchill and **Mr. Geist** noted the status of WES' iodide project.

Mr. Geist and **Councilor Power** reported that the Clackamas Board of County Commissioners (BCC) had agreed to use the Oregon Consensus process to consider WES, CCSD1, and Tri-City long term governance issues.

Right of Way (ROW) Encroachment and Code Enforcement Discussion

Mr. Monahan introduced City Attorney Peter Watts and reviewed ongoing ROW encroachment issues. He explained that in the past the Engineering Department had issued ROW permits to resolve public safety issues, and **Council President Batey** described her personal experience in applying for a ROW permit.

Mr. Monahan reported that the City had stopped issuing ROW permits and that recent Council discussion suggested that ROW permits may be a temporary solution for handling encroachment issues. He noted how other communities handled ROW enforcement and suggested that criteria should be developed for staff to consider when issuing ROW permits. **Councilor Churchill** and **Mr. Monahan** commented on how ROW permits would be similar to the permits issued under the old parklet program.

Mr. Monahan and **Mr. Watts** discussed the City of Gearhart's ROW review process and suggested that Milwaukie could pursue a similar process. They explained how Gearhart's process determines compensation amounts and handles liability issues, and they noted that it is not a mandatory program.

The group discussed the uncertainty about the City's liability exposure for structures in the ROW. **Mr. Monahan** noted several approaches to ROW encroachment and asked for Council feedback on the City's current ROW enforcement practices.

Council President Batey commented that Council may want to discuss the street vacation process and asked about the City's liability risk and protection for permitted work in the ROW. **Mr. Watts** discussed issues related to the ROW when property changed ownership under an ad hoc ROW program.

The group discussed the feasibility of recording and pursuing long-existing and new ROW encroachment cases. **Council President Batey** noted the lack of staff to pursue

existing structures and the likelihood that ROW issues would be brought up during the consideration of projects like the Monroe Street Neighborhood Greenway Concept Plan.

Council President Batey, Mr. Watts, and Mr. Monahan discussed ways the City could allow property owners to access the ROW and they noted the potential costs and processes involved in recording ROW property with Clackamas County.

Mr. Monahan summarized that Council would like staff to develop a ROW permit program and consider ways to enlarge the City's Code Enforcement efforts.

Councilor Power suggested that the ROW permit program be reinvigorated and that an appropriate setback distance be identified to allow property owners and the public to use the ROW while the City pursued funding for a sidewalk program. **Mayor Gamba** and **Council President Batey** remarked that safety parameters would have to be identified for a ROW permit program.

Councilor Power proposed that Council start a community conversation about the possibility of forming local improvement districts (LID) and how to address non-remonstrance agreements. **Mayor Gamba** and **Council President Batey** commented on the need for a larger conversation on LIDs and non-remonstrance agreements.

The group discussed how the City should address the current Code Enforcement case involving Chris Addabbo and other ROW encroachment situations across the City.

It was the Council consensus that staff be directed to suspend enforcement of ROW encroachment and not take any Municipal Court action on ROW encroachments until the City developed a ROW permit program.

Mayor Gamba adjourned the Work Session at 5:45 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



MINUTES
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REGULAR SESSION
OCTOBER 20, 2015
City Hall Council Chambers

Mayor Gamba called the 2,208th meeting of the City Council to order at 6:12 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Attorney Peter Watts, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Community Development Directory Alma Flores, Planning Director Denny Egner, Associate Planner Vera Kolias, Associate Planner Brett Kelder, and Public Works Director Gary Parkin

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award for October 2015 to Julia Rivers

Principal Mark Pinder introduced Julia Rivers and highlighted her achievements at Milwaukie High School notably in the areas scholarship, athletics, and volunteerism. Mayor Gamba and the Councilors congratulated Ms. Rivers on her selection as the Outstanding Student Achievement Award recipient for October 2015.

Mayor Gamba brought forward a resolution regarding a \$15 wage for all employees of the City of Milwaukie.

It was moved by Councilor Power and seconded by Councilor Churchill to adopt a Resolution committing the City to pay at least \$15 per hour for all employees of the City of Milwaukie. Motion passed with the following vote: Councilors Powers, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

RESOLUTION No. 98-2015:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, COMMITTING THE CITY TO PAY AT LEAST \$15 PER HOUR FOR ALL EMPLOYEES OF THE CITY OF MILWAUKIE.

B. Milwaukie Center Update

Milwaukie Center Community Advisory Board Member Siri Bernard and Milwaukie Center Supervisor Marty Hanley provided the City Council with an update. Mr. Hanley provided a brief overview of the Milwaukie Center located in North Clackamas Park that served not only seniors but the entire community. About 1/3 of the users of the Center were Milwaukie residents. Main components were recreation and learning, as well as social services, a nutrition program, a transportation program, and older adult assessments.

Ms. Bernard said the Center was owned by the City and operated by the North Clackamas Parks and Recreation District (NCPRD). She discussed the Sara Hite Memorial Rose Garden and noted that inscribed bricks could be purchased as gifts.

The Meals on Wheels program served about 230 people per day, and volunteers were always needed. The Center provides “animeals” for pets as well.

CONSENT AGENDA

It was moved by Councilor Parks and seconded by Council President Batey to approve the consent agenda as presented.

A. City Council Meeting Minutes:

1. August 18, 2015, Work Session;
2. August 18, 2015, Regular Session;
3. August 27, 2015, Study Session; and
4. September 1, 2015, Work Session.

B. Approval of an Oregon Liquor Control Commission (OLCC) Application for the Beer Store Milwaukie, 10560 SE Main St, New Outlet.

Motion passed with the following vote: Councilors Powers, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures.

Mr. Monahan provided follow up from the October 6, 2015, audience participation; there were three citizen statements. Mike Abdich received a ticket for living in a recreational vehicle on a property, and the outcome was that the Council asked the Planning Department to look at some level of review of the codes. Staff will be developing a work program for code enforcement review and will notify Mr. Abdich at the time of the discussion and at this time no violation had been sent to the Municipal Court. Bill Lake had raised concerns and requested the resurfacing of a number of roads. The Engineering Department communicated with Mr. Lake that the Street Surface Maintenance Program (SSMP) focused on collector streets and higher capacity streets, and the earliest the program may be expanded to include residential streets would be 2020. There was also the opportunity for consideration as a Capital Improvement Project (CIP). Finally, Mr. Addabbo raised an issue with a violation he received for putting a structure in the right-of-way. The Council reviewed other communities’ permit programs for allowing encroachments into the right-of-way, and Council gave direction to pursue gathering additional information and to put any citation of that sort on hold until further study.

Bill Lake, said he did not receive any return information from City staff. He had emailed Chrissy Dawson who said the last time his street was repaired was in 1970 and has had no reply since then. Mr. Lake said he would continue to come to the City Council meetings. The Neighborhood District Association (NDA) did not seem able to do anything except agree that these were some of the worst streets in the City of Milwaukie. **Mayor Gamba** said in the future, City Council will talk more about funding the transportation system in general. Mr. Lake suggested looking at a gas tax like the City of Portland in order to get the streets fixed.

Councilor Power said many cities were struggling with how to deal with infrastructure needs. The gas tax had not gone up, and the State had failed to pass a transportation funding solution. While she noted that solutions would take time, she was committed to finding a solution and appreciated Mr. Lake’s coming to Council.

Jan Zumwalt, a 20 years employee and AFSCME union member. At one time she was furloughed, and at times employees have gone without a cost of living increase. She loved working for the City in the Library. More young families were moving to Milwaukie, and staff knew many patrons by name. The contract had expired, and it was the time to

talk about fair wages and benefits. It was difficult to feel valued and respected by City administrators who forced the Union into mediation and using taxpayer money to pay for it. She urged the City Council to direct Mr. Monahan to meet with Union members as partners and valued employees.

Chrissy Dawson, City employee in the Engineering Department for just over a year. In the short amount of time she has worked for the City, the Engineering Department has seen a 60% turnover. Valuable institutional knowledge is lost when employees leave to seek better jobs elsewhere. The constant turnover means that the Department has been short staffed but has also had the most productive construction season seen in many years. She listed multiple recent projects that were delivered within their budgets. Employees work hard to make the City safe, livable, and enjoyable for residents. City staff was working hard to keep up with the booming housing market. She asked Council to direct City administration to settle the contract so everyone can continue to work together and serve Milwaukie.

Diana Pei-Wu, Executive Ddirector of Portland Jobs with Justice. Her organization works for worker rights and economic justice throughout the Metro area. They have a list of over 5,400 workers and over 100 live in Milwaukie. She thanked the Council for passing the \$15 Resolution, and asked them to support the employees' struggle for a fair contract.

Kathy Lyle, member of the Milwaukie Public Safety Foundation, announced a dinner to benefit the Milwaukie Community Emergency Response Team (CERT) at the Milwaukie American Legion Post 180.

Bill Magorian, long-time Milwaukie resident, Milwaukie High School Class of '67. He was concerned to find out that City employees had gone months without a contract. He would like elected officials to know exactly what was going on. Times were tough, with more homeless children and rents going through the roof. He urged the City Council to participate in the sessions and get this moving.

Willie Miller, AFSCME Local President and long-time Milwaukie resident. It was the 111th day of working without a contract, and employees were running out of patience. It was time for Mr. Monahan and the City Council to get this done. The employees bring the same level of commitment and dedication that they have in their jobs to advocating for fair treatment. He heard a rumor that demands on the table were not their own, but that was not true. It was their Union and demands of the employees. They quickly got a 50% sign up for a strike pledge. The Union kept making concessions on its demands, but the City continued to say "no. " He learned yesterday that the City Council wanted more money for education and training and an increase in their stipends. This was not about money. Each Council member should go on record: did they support the workers and their interests or not?

Councilor Churchill heard clearly enough that the Union was asking for a fair contract. Council needs to think about the work force, that does the majority of the heavy lifting work in the City. He moved within the next 48 hours to close the gap in the labor negotiations. He looked to the Mayor and his fellow Councilors to do this immediately.

Jane Hartle, 15 Now, Portland resident. Read a statement from Sara Koesky, City of Portland employee, regarding the importance of paying public servants fairly.

Deborah Barnes, Milwaukie resident, former City Councilor. When she was a Councilor she worked hard with employees to have a good working relationship. She explained interest based bargaining (IBB). She has helped North Clackamas School District use IBB to encourage real conversations. City employees wanted the same chance to talk with the Council. She was concerned and did not understand why the City would rather go to mediation when they could sit down for free and have conversations with their employees.

Alex Roller, worked for Milwaukie for 6 years, and has worked in the Engineering Department for the last two years. In two years he has seen six employees leave a

department of five people. There was now zero institutional knowledge in the department, and it took longer to search for simple answers than it should. Most people have left the City because of pay issues. It was frustrating bargaining has gone on too long, and employees were just asking to feel appreciated.

Deirdre Mahoney-Clark, long-time Milwaukie resident, AFSCME union member in Multnomah County. It was sad to hear about the Engineering Department. The respect that the employees were asking for was returned to the citizens of the community. Hearing about the Engineering Department changed what she wanted to say to Council. She discussed how expensive it was to hire people, and other cities were taking the best employees from Milwaukie. This was disrespectful to hard-working employees.

Jamie Partridge, chief petitioner on \$15 minimum ballot initiative, member of the steering committee of 15 Now in Portland, chair of Living Wage campaign. Tax dollars should not pay poverty wages. He appreciated the Resolution that Council passed, and was here to support City workers in their struggle for a fair contract. The Resolution raised the bar, but 15 Now also stood with the Milwaukie employees asking for a fair contract.

Mayor Gamba asked **Mr. Miller** to come back to the testimony table. Mayor Gamba said this was a pretty green Council that has not been through this kind of negotiation. To a great degree Council trusts Mr. Monahan and Mr. Rebello, the Human Resources Director for the City. He felt the process was awkward and that the process did not lend itself to negotiations. He asked Mr. Miller to help the Councilors understand the specific concerns about mediation. **Mr. Miller** replied that if one side did not want to negotiate any more before going to mediation, then the presence of a mediator would not affect any change in an outcome. **Councilor Churchill** addressed Mayor Gamba, stating that they were so close to getting this done. **Mayor Gamba** urged the union let the Executive Session, scheduled after this meeting, happen and that the Council has heard the employees loud and clear. Mayor Gamba would contact the union tomorrow morning.

PUBLIC HEARING

A. Moving Forward Milwaukie (MFM): Central Milwaukie Plan and Code Amendments, File Nos. CPA-2015-001 and ZA-2015-001 – Ordinance

Mayor Gamba said the City Council voted at its October 6, 2015, meeting to continue the hearing to October 20, 2015, and to accept public testimony. He restated the ground rules for public testimony

Ms. Kalias provided the staff report that discussed the proposed amendments. She summarized Council's directions to staff from the October 6, 2015, meeting. These included warehouses, vehicle retail sales, five story buildings, and setbacks with no change to setbacks. The key question was: what were the appropriate approval criteria for the proposed Type III Review of five story buildings? Staff proposed to create a Type III General Mixed Use (GMU) zone specific building height variance with criteria. The current building height variance was specific to downtown, so staff would like to create a parallel process that was less downtown-specific and could accommodate the GMU process. The proposed approval criteria avoided or minimized impacts to surrounding properties. Language was adapted from the downtown plan to be consistent with approval criteria elsewhere in the code, with an alternatives analysis of exceptional design. The key question was if those were the appropriate criteria.

Councilor Churchill noted the subjectivity of the criterion that the proposed project be creative and exceptional in quality.

Ms. Kalias stated that it was intentionally vague and discretionary but additional details could be added if needed.

Close Public Hearing: it was moved by Council President Batey and seconded by Councilor Power to close the public hearing. Motion passed with the following

vote: Councilors Powers, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba closed the hearing at 7:31 p.m.

It was Council consensus to move forward with the code package.

It was moved by Council President Batey and seconded by Councilor Churchill to continue the public hearing to a date certain of November 3, 2015. Motion passed with the following vote: Councilors Powers, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba recessed the Regular Session at 7:34 p.m. and reconvened the Regular Session at 7:43 p.m.

B. Three Parks Master Plans, File No. CPA-2015-002 – Ordinance

Mayor Gamba called the public hearing on the legislative Comprehensive Plan Amendment CPA-2015-002 initiated by the City of Milwaukie to order at 7:45 p.m.

The purpose of the hearing was to consider an Ordinance amending the Comprehensive Plan: the Land Use Map and ancillary documents (new Balfour Park Master Plan, Bowman Brae Park Master Plan, and Kronberg Park Master Plan).

This was a legislative decision by the Council and was based on statewide planning goals, applicable federal or state laws or rules; any applicable plans and rules adopted by Metro; applicable Comprehensive Plan policies; and applicable provisions of implementing Ordinances. Mayor Gamba reviewed the order of business.

The City Council decision would be the final decision of the City. All testimony and evidence was to be directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail precluded an appeal based on that criterion or issue. Any party with standing could appeal the decision of the City Council to the State Land Use Board of Appeals (LUBA) according to the rules adopted by that Board. Persons with standing were those who submitted written comments or testified and signed the City Council Attendance sign-up sheet.

No member of the Council declared a potential or actual conflict of interest as defined in ORS §244. **Councilor Churchill** commented that he did an early sketch plan for Kronberg Park, but did not consider that a conflict of interest. No member of the audience challenged any Council member’s ability to participate in the decisions.

Mr. Kelter provided the staff report with NCPRD Senior Planner **Katie Denham**. The principles of a Master Plan were to establish some certainty about park development, reflect public process and discussion, and show basic park elements. A Master Plan was meant to be conceptual and not intended to capture all of the details. Each of the three parks would go through additional public process and review as they moved toward construction. There would be an opportunity for a Type III Review by the Planning Commission where the details were determined. In addition to the three park plans, staff was also amending the land use map for Balfour and Bowman Brae Parks both located in residential neighborhoods.

Mr. Kelter explained the relationship between the City and NCPRD.

Ms. Denham said the development of the master plans was identified as a priority by the City and NCPRD years ago and was reflected in the NCPRD budget. NCPRD worked with Lango Hansen Landscape Architects and the City during the planning process. She explained the multiple community engagement sessions as well as the partnership with the Milwaukie Park and Recreation Board (PARB). NCPRD met with the Planning Commission and received approval on the plans.

Mr. Kelter showed a slide of Balfour Park. **Ms. Denham** explained that the community already loved the site and had worked on early concept plans. Community members wanted space to gather but also wanted an area less programmed than Ardenwald

Park; they did not want a basketball court, skate park, or similar noisy activities. The community wanted native landscaping and to keep the topography of the site in order to have some kind of nature play. The Plan also had an area reserved for a community garden plus an open greenspace area. The cost estimate for the site was \$590,000 which included right-of-way improvements. There was no funding at the time by either the City or NCPRD.

The Bowman-Brae Park concept included small spaces for gatherings, perimeter trees, and active uses closer to south end of the site. People were interested in space for children to run and play in an open lawn. The cost estimate for the project was \$377,000.

The Robert Kronberg Nature Park concept was based on conversations with neighbors about whether it should be a neighborhood park or nature park. The neighborhood wanted it called a nature park with habitat as a priority. The connectivity to downtown, nearby residences, and the Trolley Trail was important as well. Habitat restoration and preservation were important, and an area on the south end of the site was marked as a preservation area that included interpretive signage. There was a desire that the pathway be elevated and lighting added for safety. \$2.14 million was the conceptual cost estimate for the project, including the multiuse trail and lighting.

Mr. Kelder reviewed the approval criteria and the staff recommendation to approve the Plans as an important step in the process of actualizing the parks.

Mayor Gamba asked if there was anything the City Council needed to do in the process if it wanted to put in a temporary trail in Kronberg Park.

Mr. Kelder thought answer was no; he did not think there was a problem or anything else to do as part of the current process. The master plan was a placeholder, and the issue of any next steps would use the master plans as guides during a higher level of review.

Ms. Denham agreed and explained that this was a vision and master plan for future actions. If any management decisions needed to be made in the interim, they could be discussed at that time.

Correspondence: None.

Public Testimony: None.

Close Public Hearing: it was moved by Council President Batey and seconded by Councilor Power to close the public testimony portion of the hearing. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Decision by Council:

It was moved by Council President Batey and seconded by Councilor Churchill for approve the first and second readings by title only and adoption of the Ordinance amending the Comprehensive Plan: the Land Use Map and ancillary documents (new Balfour Park Master Plan, Bowman-Brae Park Master Plan, and Kronberg Park Master Plan) (File #CPA-2015-002). Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Mr. Monahan read the Ordinance two times by title only.

Ms. DuVal polled the Council: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

ORDINANCE No. 2107:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN: THE LAND USE MAP AND ANCILLARY DOCUMENTS (NEW BALFOUR PARK MASTER PLAN,

BOWMAN-BRAE PARK MASTER PLAN, AND KRONBERG PARK MASTER PLAN) (FILE #CPA-2015-002).

Mayor Gamba read the Land Use Board of Appeals (LUBA) appeal information.

OTHER BUSINESS

A. Energy Savings Performance Contracting Evaluation Phase Report

Mr. Parkin explained the background of the program and asked for Council direction on moving forward with the contracting process of the water tower painting. He introduced **Jason Carver** and **Joe O'Donnell** with Ameresco, Inc.

Mr. O'Donnell provided background on Ameresco, which is an Energy Services Company (ESCO) company. He explained Energy Savings Performance Contracting (ESPC), and provided a brief review of the process.

Mr. Carver was the boots on the ground, working with staff to identify opportunities to provide benefits to the City. He explained the lighting improvements that could be implemented for the five City buildings. He identified \$150,000 of lighting improvements, with a payback in fewer than 10 years, noting that it was scalable.

Mr. O'Donnell added that there were savings in maintenance and labor as well.

Mr. Carver discussed programmable thermostats. He also discussed a measure to convert the Library air handling unit (AHU) from constant volume to variable volume. The group discussed the potential Library expansion in relation to the repair needs of the current system. Mr. Carver pointed out that if the current system failed, a replacement system would not be eligible for Energy Trust savings.

Mr. Carver discussed updating HVAC (heating, ventilating, and air conditioning) controls, and the maintenance savings involved.

Mr. O'Donnell said the great advantage was that Ameresco was going to handle all the facets and be the point of contact.

Mr. Carver reviewed some of the items that did not make the list. He discussed the water meter audit results, noting that there was 10% of water unaccounted for. In the lab testing, the old meters were greater than 98% accurate, and Mr. Carver noted that new meters were guaranteed at 98% as well. The independent lab noted that it had never seen such old meters in the ground that were that accurate. Therefore, there was no immediate need to replace the existing meters.

Mr. O'Donnell concluded that the existing meter population was good. The 10% unaccounted for water was likely a combination of real losses such as leaks and apparent losses like head water meter inaccuracy. The recommendation was to leave existing meters in place and budget for eventual capital improvement upgrades.

Mr. Carver discussed the elevated water tower capital improvement project. Important points of the project were to protect and extend the life of a vital utility asset, remove the lead based primer from the tanks, and improve the appearance of the water tower. He discussed a similar project completed in Vancouver, Washington.

Mr. O'Donnell discussed the sustainability plan which was to reduce energy consumption of electricity and gas, as well as reduce greenhouse gas emissions.

Mr. Parkin explained the need to contract with Ameresco for the reservoir tower painting project.

B. Council Reports

Council President Batey noted that Sunday was the last Farmers' Market of the season. She toured work being done in Spring Park and invited others to mark their calendars for the November 21st planting party.

Councilor Power was speaking at the upcoming Emerging Local Government Leaders (ELGL) conference.

Mayor Gamba announced the City Council would meet in Executive Session immediately following the Regular Session pursuant to ORS 912.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

ADJOURNMENT

It was moved by Council President Batey and seconded by Councilor Churchill to adjourn the regular session. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the regular session at 8:54 p.m.

Respectfully submitted,

Amy Aschenbrenner, Administrative Specialist II



MINUTES
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SPECIAL SESSION
OCTOBER 29, 2015
City Hall Conference Room

Mayor Gamba called the Special Session to order at 6:00 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill (phone), Wilda Parks, and Karin Power

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, and Human Resources Director Gary Rebello

Approve the 2015-2018 Collective Bargaining Agreement between the City and the American Federation of State, County, and Municipal Employees (AFSCME) Local 350-5 – Resolution

Mr. Rebello reported that the City and AFSCME had tentatively agreed on a collective bargaining agreement and that the union membership had voted to ratify the proposed agreement. He noted that should Council ratify the agreement a signing ceremony would be held during the November 3, 2015, Work Session.

It was moved by Councilor Parks and seconded by Council President Batey to ratify the labor agreement. Motion passed with the following vote: Councilors Churchill, Batey, Parks, and Power and Mayor Gamba voting “aye.” [5:0]

RESOLUTION NO. 99-2015:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR, CITY MANAGER, AND HUMAN RESOURCES DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 350-5 FOR A THREE-YEAR COLLECTIVE BARGAINING AGREEMENT.

Mr. Rebello explained that many of the language changes were made because the contract had not been negotiated in over five years.

Councilor Parks, Mr. Monahan, and Mr. Rebello noted that Council would consider compensation and holiday adjustments for unrepresented City employees at the November 17, 2015, Regular Session.

Mayor Gamba adjourned the Special Session at 6:06 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Personal Services Agreement Extension and Clarification for City Municipal Judge Services**

From: Casey Camors, Finance Director
Date: November 17, 2015

ACTION REQUESTED

Adopt a resolution extending the personal service contract with Municipal Judge Kimberly M. Graves and clarify contract payment terms by amendment.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

January 2014 – City Council adopted resolution 07-2014 directing staff to execute a personal service agreement with Kimberly Graves for City Municipal Court Judge Services.

February 2014 – City Staff executed the approved personal service agreement with Kimberly Graves for City Municipal Court Judge Services.

September 2015 – City Council delivered a satisfactory performance review to Municipal Judge Graves.

BACKGROUND

In 2014, the City welcomed a new Municipal Court Judge, Judge Graves, and entered into a two year personal services contract with the Judge. Over the past two years, Judge Graves has made many positive changes to the Municipal Court and in September, the City Council delivered a satisfactory performance review to Judge Graves. The existing personal service agreement expires on February 1, 2018 and includes two, two-year contract extension options. The City wishes to continue to contract with Judge Graves and activate the first two-year contract extension, extending the existing contract to February 1, 2018.

Additionally, the City has experienced a significant decrease in the volume of tickets issued by enforcement. The decrease in ticket volume reduced the need for Municipal Court sessions and the time needed from the Municipal Court Judge. Graciously, the Judge has reduced the number of court sessions held and therefore reduced contract payments. The existing contract however does not clarify that contract payments are based on sessions scheduled, verses an annual not to exceed amount. Staff recommends that the extension contract amendment include clarifying language specifying that the Municipal Judge will be paid \$900 per regular court session, \$100 per truancy court session, and up to \$5,000 per year for service performed outside of

court sessions, for a total not to exceed \$42,000 (same not to exceed amount as specified in the original agreement).

FISCAL IMPACTS

Compensation for City Municipal Court Judge is not to exceed \$42,000 per year.

WORK LOAD IMPACTS

None.

ALTERNATIVES

The City Council may wish complete a new request for proposal process for a new judge or not modify the existing compensation information in the Municipal Judge personal services contract.

ATTACHMENTS

1. Resolution
2. Existing Personal Services Agreement
3. Amendment #2 to Personal Service Agreement



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
EXTENDING THE MUNICIPAL COURT JUDGE SERVICES CONTRACT AND
CLARIFYING PAYMENT TERMS**

WHEREAS, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

WHEREAS, the City requires Municipal Court Judge Services for the operations of the City's Municipal Court; and

WHEREAS, the City is currently contracted with Kimberly M. Graves to provide Municipal Court Judge Services and the City is satisfied with performance under the contract to date; and

WHEREAS, the City desires to activate the first of two contract extension provisions, extending the existing contract to February 1, 2018; and

WHEREAS, the City desires to make minor modifications to the existing contract clarifying payment terms as depended on court sessions held.

Now, Therefore, be it Resolved that the City Council directs staff to extend the personal service contract with the existing Municipal Court Judge to February 1, 2018 and to clarify contract payment terms by amendment.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



Amendment to Personal Services Agreement with the City of Milwaukie, Oregon for Municipal Court Judge Services

This agreement hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, the original compensation amount of which was \$37,000 per year for performance of services.

This amendment is as follows:

1. To change the compensation amount by adding \$5,000 per year making contract amount for up to \$42,000 per year.
2. To change scope of work to include, but not limited to, services performed outside of court sessions, such as meetings with other professionals, review of court procedures and fees, and meetings with court staff and management.

Except for the above, all other conditions remain in full force and effect.

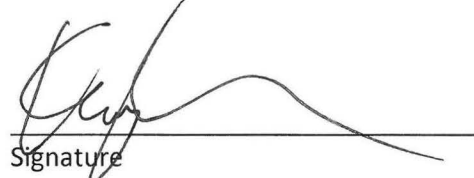
In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

City of Milwaukie

Kimberly M. Graves



 Signature



 Signature

Casey Camors, Finance Director

 Print Name & Title

Kimberly M. Graves, Judge

 Print Name & Title

April 2, 2014

 Date

April 2, 2014

 Date



**PERSONAL SERVICES AGREEMENT
WITH THE CITY OF MILWAUKIE, OREGON
FOR MUNICIPAL COURT JUDGE SERVICES**

THIS AGREEMENT made and entered into this 1st day of February, 2014 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and Kimberly M. Graves, hereinafter called Contractor.

RECITALS

WHEREAS City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

WHEREAS City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

1. SERVICES TO BE PROVIDED

Contractor shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

2. EFFECTIVE DATE AND DURATION

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, by February 1, 2016. The City reserves the right to extend this contract for two (2) two-year periods. Any extensions of the contract will require City Council authorization. All work under this Agreement shall be completed prior to the expiration of this Agreement.

3. COMPENSATION

City agrees to pay Contractor not to exceed Nine Hundred Dollars (\$900) per regular court session and One Hundred Dollars (\$100) per truancy court session for a total of \$37,000 per year for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor

must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. OWNERSHIP OF WORK PRODUCT

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

5. ASSIGNMENT/DELEGATION

Except for the appointment of municipal judges pro tem, neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.
- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor is an independent contractor for purposes of the Public Employees Retirement System and will not work for City more than 600 hours in any calendar year.
- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

8. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, email or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

City	Contractor
City of Milwaukie	Company: Kimberly M. Graves
Attn: Accounts Payable	
10722 SE Main Street	Address: 17967 South Lake Vista Drive
Milwaukie, Oregon 97222	Oregon City, OR 97045
Phone: 503.786.7523	Phone: 503.816.9015
Fax: 503.786.7528	Fax:
Email Address: finance@milwaukieoregon.gov	Email Address: kimberlymartingraves@yahoo.com

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

9. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

10. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

11. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:
 - 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
 - 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

12. ACCESS TO RECORDS

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

13. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

14. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

15. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statues, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

16. ERRORS

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

17. EXTRA (CHANGES) WORK

Only the City Council, City Manager or Finance Director may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

18. ATTORNEY'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

19. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

20. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement.

21. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

22. AUDIT

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

23. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

24. COMPLETE AGREEMENT

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

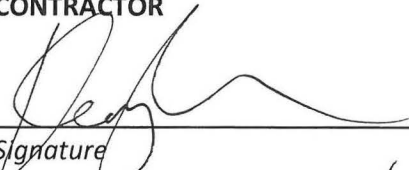
IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

CITY OF MILWAUKIE

CONTRACTOR



Signature



Signature

William Monahan, City Manager

Printed Name & Title

Kimberly Graves, Judge

Printed Name & Title

2/10/14

Date

2/2/14

Date

EXHIBIT A
SCOPE OF WORK (SERVICES TO BE PROVIDED)

1. Act as the judicial officer of the City. The Municipal Court Judge shall be appointed by and hold office during the pleasure of the Council.
2. Be a member in good standing of the Oregon State Bar during the entire term of office. Disbarment shall be a basis for removal from office.
3. Hold a court within the City, which shall be known as the Municipal Court for the City of Milwaukie, Clackamas County, Oregon.
 - a. Court shall be open for transaction of judicial business most Wednesdays. Truancy court shall be open for transaction Monday evenings for the months of October through June unless changed by City Council.
 - b. The Court may be open for transaction of judicial business at such other times as the Municipal Court Judge, with the concurrence of the City Manager and Finance Director, determines to be necessary for the proper functioning of the court.
4. Conform to the general laws of the State of Oregon governing cities and the judiciary, including justice courts except as the City Charter or Code prescribes to the contrary.
5. The Municipal Court has original jurisdiction of all offenses defined and made punishable by ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by any ordinance of the City. The Municipal Court Judge may:
 - a. Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
 - b. Order the arrest of anyone accused of an offense against the City;
 - c. Commit to jail or admit to bail anyone accused of such an offense;
 - d. Issue and compel obedience to subpoenas;
 - e. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
 - f. Penalize contempt of court;
 - g. Issue process necessary to effectuate judgments and orders of the court;
 - h. Issue search warrants; and
 - i. Perform other judicial and quasi-judicial functions prescribed by ordinance.
6. The Municipal Court Judge may appoint municipal judges pro-tem, which judges shall serve at the pleasure of the Council.
7. Notwithstanding this section, the Council may transfer some or all of the functions of the municipal court to an appropriate state court.



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No. 07-2014

A resolution of the City Council of the City of Milwaukie, Oregon, directing staff to execute a Personal Service Agreement with Kimberly Graves, for City Municipal Court Judge Services

WHEREAS, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

WHEREAS, the City requires Municipal Court Judge Services for the operations of the City's Municipal Court; and

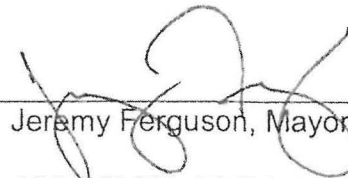
WHEREAS, the City has issued and received proposals responding to a request for proposal;

WHEREAS, the City's selection committee has reviewed such proposals and interviewed the qualified candidates and recommends Kimberly Graves as the City Municipal Court Judge;

Now, Therefore, be it Resolved that the City Council directs staff to enter into an agreement with Kimberly Graves, for City Municipal Judge Services for the term of two years.

Introduced and adopted by the City Council on January 23, 2014.

This resolution is effective on January 23, 2014.



Jeremy Ferguson, Mayor

APPROVED AS TO FORM:
Jordan Ramis PC

ATTEST:



Pat DuVal, City Recorder



City Attorney



Amendment #2 to Personal Services Agreement with Kimberly M. Graves for Municipal Court Judge Services

This agreement hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, the original compensation amount of which was \$42,000 per year for performance of services.

This amendment is as follows:

To change the compensation amount to “Nine Hundred Dollars (\$900) per regular court session and One Hundred Dollars (\$100) per truancy court session, and up to \$5,000 per year for service performed outside of court sessions, for a total not to exceed Forty-Two Thousand Dollars (\$42,000)”

To extend the term of the agreement to February 1, 2018 by exercising the first of two two-year extensions.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

City of Milwaukie

Kimberly M. Graves

Signature

Signature

William Monahan, City Manager

Print Name & Title

Print Name & Title

Date

Date



**MILWAUKIE CITY COUNCIL
STAFF REPORT**

Agenda Item: **RS 3. C.**
Meeting Date: **Nov. 17, 2015**

To: Mayor and City Council
Through: Bill Monahan, City Manager
Subject: **Appointing LDAC member**
From: Katie Newell, Library Director
Date: November 4, 2015

ACTION REQUESTED

Adopt resolution affirming the appointment of Library Board Member Karol Miller to serve on the Library District Advisory Committee (LDAC).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

City Council affirmed Mark Docken as the first representative from the Ledding Library Board to serve on LDAC, Resolution 67-2009, November 3, 2009. Upon Mr. Docken's resignation from the Library Board and LDAC, Melissa Perkins was affirmed by City Council to serve from the Ledding Library Board as the LDAC representative, Resolution 72-2013, September 17, 2013..

BACKGROUND

The Library District in Clackamas County (LINCC) was formed in November 2008 by the voters of Clackamas County. LDAC was formed as the advisory board to the Clackamas County Library District Board. Each member library is represented on LDAC by a member of their library's board.

Due to the resignation of Melissa Perkins from the Library Board and LDAC, the Ledding Library Board is recommending Library Board member Karol Miller as the City of Milwaukie's representative to LDAC.

CONCURRENCE

The Library Director concurs with this recommendation.

FISCAL IMPACTS

None.

WORK LOAD IMPACTS

The Library Director will attend the LDAC meetings with Ms. Miller.

ALTERNATIVES

None.

ATTACHMENTS

1. Resolution to affirm the appointment of Karol Miller.



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AFFIRMING THE APPOINTMENT OF A LEDDING LIBRARY BOARD MEMBER TO SERVE AS THE CITY OF MILWAUKIE'S REPRESENTATIVE ON THE CLACKAMAS COUNTY LIBRARY DISTRICT ADVISORY BOARD.

WHEREAS, on November 4, 2008, the electors of Clackamas County approved creation of the Clackamas County Library District; and

WHEREAS, among the statements made in the ballot measure Explanatory Statement was the following: "Each of these libraries would be required to ensure representation of both city and unincorporated residents on their local library board, whose designated member will then serve and represent their library on the District Advisory Board;" and

WHEREAS, Section 1.2 of the Cooperative Intergovernmental Agreement (IGA) between the Library District of Clackamas County and Member Cities sets forth the process for appointment of District Advisory Board members as follows: "The District Board shall organize and appoint a District Advisory Committee consisting of one nominee from each Library City consistent with the policies and procedures of Clackamas County and/or the District for advisory committees. The District Board shall appoint the individual nominated by the Library City governing body to fill the service area's seat;" and

WHEREAS, the City of Milwaukie conformed its process by modifying MMC Chapter 2.28 by adding section 2.28.020E that allows the Library Board to appoint one of its members to the District Advisory Board, with the City Council responsible for affirming that action and forwarding it to the District governing body; and

WHEREAS, on September 17, 2013, through Resolution No. 72-2013, the City Council appointed Melissa Perkins to serve as the City of Milwaukie's representative to the District Advisory Board, however, Ms. Perkins has submitted her resignation to that Board; and

WHEREAS, the Ledding Library Board on October 26, 2015, appointed member Karol Miller to serve as the City of Milwaukie's representative to the District Advisory Board.

Now, Therefore, be it Resolved that the Milwaukie City Council pursuant to Milwaukie Municipal Code Section 2.28.020 affirms the Ledding Library Board's appointment of member Karol Miller to represent the City of Milwaukie on the District Advisory Board of the Library District of Clackamas County.

Introduced and adopted by the City Council on November 17, 2015.

This resolution is effective immediately upon adoption.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. D.**
Meeting Date: 11/17/2015

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Downtown Parking Permit Fees**

From: Bonnie Dennis, Assistant Finance Director

Date: November 17, 2015

ACTION REQUESTED

Adopt a resolution increasing the City Parking Permit fees.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

1993 – Parking permit program established.

1993 - 2012 – Various fees implemented for parking permits.

June 2013 – Council approved the Master Fee Schedule for FY14 including an increase in parking fees and introducing quarterly passes, semi-annual passes and a bulk purchase discount.

June 2014 – City Council approved the Master Fee Schedule for FY15, increasing the quarterly fee from \$68.50 to \$70.00. All other fees remained the same.

June 2015 – City Council approved the Master Fee Schedule for FY16. Parking fees remained the same.

October 3, 2015 and November 3, 2015 – City Council discussed Parking fees and directed staff to draft a proposed fee increase.

BACKGROUND

The City's fiscal policies state that the City will periodically and systematically review user fees and charge to take into account the effects of additional service costs and inflation. Through this review process, the parking permit program and proposed changes to the fees were discussed with City Council on November 3rd. Council gave direction to make the following changes to the Parking Permit program effective January 1st, 2016:

Administrative changes:

- Limit advance sales to one-month
- Eliminate semi-annual passes

Updates to the Master Fee Schedule (requiring Council action):

Permit	Old Fee	New Fee
Monthly	\$ 25.00	\$ 40.00
Quarterly	\$ 70.00	\$ 115.00

The Parking Permit program will be discussed on an ongoing basis with the intent of determining how the fee increase and administrative changes impact the program. Additionally, Council gave direction to increase the monthly fee to \$50 and quarterly to \$140 effective January 1, 2017, but these increases will be brought back to Council for future action.

CONCURRENCE

N/A

FISCAL IMPACTS

Increasing parking permit fees could increase or decrease revenues depending on the customers need.

WORK LOAD IMPACTS

Changes to the current program will require additional staff time for implementation, system updates and the reordering of parking permits to accommodate changes. Additionally, the elimination of semi-annual passes will increase staff administration time in pass processing.

ALTERNATIVES

Maintain current rates.

ATTACHMENTS

1. Resolution increasing parking permit fees
2. Master Fee Schedule, page 25 redline version
3. Master Fee Schedule, page 25 clean version



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, INCREASING PARKING PERMIT FEES.

WHEREAS, it is the policy and practice of the City of Milwaukie to require the discernment and recovery of certain City costs from fees and charges levied for the provision of various City services and products; and

WHEREAS, the City Manager shall periodically cause a review of City fees and charges to recover City costs in providing City services and products, and recommend adjustments to the City Council; and

WHEREAS, the City Manager has caused a review of the Parking Permit program fees, received guidance from City Council and determined the cost for such fees and charges to be increased; and

Now, Therefore, be it Resolved that the Master Fee Schedule will be update as follows:

Section 1. The City of Milwaukie Parking Permit Fees for monthly passes will increase from \$25 to \$40.

Section 2. The City of Milwaukie Parking Permit Fees for quarterly passes will increase from \$70 to \$115.

Section 3. The City of Milwaukie Parking Permit Semi-Annual passes will be omitted.

Section 4. The fee increase is to commence on January 1, 2016.

Section 5. This resolution supersedes previously adopted fee resolutions for Parking Permit program fees.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

10. MOTOR VEHICLE FUEL TAX

10.1 Penalties (each day that a violation exists is a separate offense)

	<u>Fee</u>
Failure to secure motor vehicle fuel sales permit (Ord. #1970, adopted 2007)	200% penalty on tax owed and \$250.00
Failure to file monthly motor vehicle fuel sales report (Ord. #1970, adopted 2007)	10% penalty on tax owed and \$50.00
Late payment of motor vehicle fuel sales tax (Ord. #1970, adopted 2007) (depending upon length of delinquency)	1% or 10% of tax

11. PARKING

11.1 Parking Permit Fees

	<u>Fee</u>
Monthly	\$ 25.00 40.00
Quarterly	70.00 115.00
Semi-Annual	125.00
Discount for Bulk Pass Purchase (>10)	10%
Replacement Pass (each)	5.00

11.2 Parking Bail Schedule (Res. #46-2009, adopted 2009)

	<u>Fee</u>
Abandoned Vehicle	\$ 80.00
Angle Parking	40.00
Bicycle Lane	80.00
Blocking Driveway	50.00
Block Rule	40.00
Blocking Disabled Parking Space	250.00
Bus Zone/Taxi Zone	50.00
Double Parking	50.00
During Prohibited Times	50.00
Emergency/Safety Zone	80.00
Fire Hydrant	80.00
Five or More Unpaid Violations	60.00
Head in Only Parking	50.00
Loading Zone	50.00
No Parking Zone/Tow Away Zone	80.00
On Crosswalk/Sidewalk	80.00
Over 1 Ft. from Curb	40.00
Over Space Line	40.00
Overtime Parking	40.00
Permit Only Parking	40.00
Tow Away Zone	80.00
Traffic Hazard	80.00
Trucks—2 Hr. Limit	50.00
Disabled Parking Space	450.00
Wrong Side of Street	50.00
Where Prohibited	80.00

Per Milwaukie Municipal Code §10.20.090E, fine amount shall increase by 50% of that violations bail amount. If bail is not posted by the court date the fine will be doubled. (Ord. #2005, adopted 2009, Ord. #1997, adopted 2009, Ord. #1728, adopted 1993, and Ord. #1361, adopted 1977)

10. MOTOR VEHICLE FUEL TAX

10.1 Penalties (each day that a violation exists is a separate offense)

	Fee
Failure to secure motor vehicle fuel sales permit (Ord. #1970, adopted 2007)	200% penalty on tax owed and \$250.00
Failure to file monthly motor vehicle fuel sales report (Ord. #1970, adopted 2007)	10% penalty on tax owed and \$50.00
Late payment of motor vehicle fuel sales tax (Ord. #1970, adopted 2007) (depending upon length of delinquency)	1% or 10% of tax

11. PARKING

11.1 Parking Permit Fees

	Fee
Monthly	\$ 40.00
Quarterly	115.00
Discount for Bulk Pass Purchase (>10)	10%
Replacement Pass (each)	5.00

11.2 Parking Bail Schedule (Res. #46-2009, adopted 2009)

	Fee
Abandoned Vehicle	\$ 80.00
Angle Parking	40.00
Bicycle Lane	80.00
Blocking Driveway	50.00
Block Rule	40.00
Blocking Disabled Parking Space	250.00
Bus Zone/Taxi Zone	50.00
Double Parking	50.00
During Prohibited Times	50.00
Emergency/Safety Zone	80.00
Fire Hydrant	80.00
Five or More Unpaid Violations	60.00
Head in Only Parking	50.00
Loading Zone	50.00
No Parking Zone/Tow Away Zone	80.00
On Crosswalk/Sidewalk	80.00
Over 1 Ft. from Curb	40.00
Over Space Line	40.00
Overtime Parking	40.00
Permit Only Parking	40.00
Tow Away Zone	80.00
Traffic Hazard	80.00
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Where Prohibited	80.00

Per Milwaukie Municipal Code §10.20.090E, fine amount shall increase by 50% of that violations bail amount. If bail is not posted by the court date the fine will be doubled. (Ord. #2005, adopted 2009, Ord. #1997, adopted 2009, Ord. #1728, adopted 1993, and Ord. #1361, adopted 1977)

RS 3. E.
Nov. 17, 2015



To: Mayor Gamba and Milwaukie City Council

Through: Bill Monahan, City Manager

From: Steve Bartol, Chief of Police

Date: October 29, 2015

Subject: O.L.C.C. Application – Clackamas Distilling LLC – 11630 SE 27th Ave.

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Clackamas Distilling LLC – 11630 SE 27th Avenue.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.



**Regular Session
Agenda Item No.**

5

Public Hearing



MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY

Agenda Item: **RS 5.A**
Meeting Date: **11/17/15**

Title: **ZA-2015-002 – Neighborhood Main Streets
Amendments**

Prepared By: Li Alligood, Senior Planner

Department Approval: Dennis Egner, Planning Director

City Manager Approval: Bill Monahan

Approval Date: 11/5/15

ISSUES BEFORE COUNCIL

Review and adoption of amendments to the Zoning Ordinance and Zoning Map.

STAFF RECOMMENDATION

Approve application ZA-2015-002 and adopt the Ordinance found in Attachment 1.

KEY FACTS & INFORMATION SUMMARY

The Neighborhood Main Streets code update is the third and final phase of the *Moving Forward Milwaukie: Enhancing Our Commercial Districts* (MFM) project. The draft code amendments are based on recommendations from the 2012 *Neighborhood Main Streets Project*, which was completed by Horizon Planning, a group of graduate planning students from Portland State University. The purpose of the project was to develop a community vision for the commercial areas around 32nd and 42nd Avenues and provide recommendations for solutions to implement the vision.

OTHER ALTERNATIVES CONSIDERED

None. Council may direct staff to consider alternate approaches to proposed regulations

CITY COUNCIL GOALS

2012 Council Goal 2.B: Pursue economic development initiatives; promote development of neighborhood-centered commercial centers, including 20-minute walking neighborhoods.

FISCAL NOTES

These amendments are part of the Moving Forward Milwaukie project scope.

ATTACHMENTS

1. Ordinance
 - Exhibit A. Recommended Findings in Support of Approval
 - Exhibit B. Proposed Code Amendments – Underline/Strikeout Version
 - Exhibit C. Proposed Code Amendments – Clean Version
 - Exhibit D. Proposed Zoning Map Amendments
2. Comments Received



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: 5.A RS
Meeting Date: 11/17/15

To: Mayor and City Council
Through: Bill Monahan, City Manager
Alma Flores, Community Development Director
Dennis Egner, Planning Director
Subject: **ZA-2015-002 – Neighborhood Main Streets
Amendments**
From: Li Alligood, Senior Planner
Date: November 10, 2015, for November 17, 2015, Public
Hearing

ACTION REQUESTED

Approve application ZA-2015-002 and adopt the Ordinance found in Attachment 1. This action would adopt amendments to the Milwaukie Zoning Map and Milwaukie Zoning Ordinance.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

May 2013: Council approved an intergovernmental agreement (IGA) with Metro to accept Construction Excise Tax (CET) grant funds for the Moving Forward Milwaukie: Enhancing Our Commercial Districts project (MFM), which was intended to address barriers to development in downtown, central Milwaukie, and the "neighborhood main streets" of 32nd and 42nd Avenues, and authorized the Council President to sign the agreement on behalf of the Mayor (Res. 36-2013). The IGA was executed on May 21, 2013.

June 2012: Horizon Planning, a group of graduate urban planning students from Portland State University, presented the Neighborhood Main Streets Project and recommendations for the "neighborhood main streets" of 32nd and 42nd Avenues.

January 2010: Council passed Resolution #06-2010, authorizing application for a Metro Construction Excise Tax (CET) grant. Part of the work proposed in the grant included revisions to the zoning for commercial areas within Milwaukie's residential areas. The CET grant was unavailable between 2010 and 2013 due to ongoing litigation with the Home Builders Association of Metropolitan Portland.

BACKGROUND

A. Project Initiation

The Neighborhood Main Streets code update is the third and final phase of the *Moving Forward Milwaukie: Enhancing Our Commercial Districts* (MFM) project. The draft code amendments are based on recommendations from the 2012 [Neighborhood Main Streets Project](#), which was completed by Horizon Planning, a group of graduate planning students from Portland State University. The purpose of the project was to develop a community vision for the commercial areas around 32nd and 42nd Avenues and provide recommendations for solutions to implement the vision.

The PSU project team conducted public outreach through an online community survey, a public open house, a community visioning workshop, and interviews with business owners. The outreach was synthesized into a vision statement for the neighborhood main streets:

"In the future, the commercial areas on 32nd and 42nd Avenues in Milwaukie are Neighborhood Main Streets. They are hubs of activity – places where local residents gather to shop, dine, and socialize. Tree-lined streets and attractive storefronts create a pleasant environment, and a mix of small-scale and locally-owned businesses fit in well to their established residential neighborhoods. Connections to these main streets from the surrounding areas allow people to safely and easily reach their destinations whether on foot, by bicycle, or by car."

The vision also includes three major goals for the neighborhood main streets:

- Goal 1: a vibrant, local economy
 - A variety of locally-owned, small businesses to meet every day shopping and convenience needs for neighborhood residents
 - A few specialty retailers to draw from a larger area
- Goal 2: safe, accessible streets
 - Safe and comfortable pedestrian environment
 - Safe routes for walking, driving, bicycling, and public transportation
 - Adequate parking for businesses (but not too much)
- Goal 3: Neighborhood-scale identity
 - Small-scale businesses oriented toward the "main streets"
 - Gathering places for nearby residents
 - Attractive streetscapes

The 2012 Neighborhood Main Streets Project team prepared a number of recommendations to implement the vision and goals for these areas; the recommendations address policy, land use, economic development, and transportation issues. This project focuses on implementation of the recommended land use revisions:

1. Create a new neighborhood commercial zone with uses that are specific to Milwaukie's small-scale commercial areas
2. Establish development standards in the new commercial zone to ensure that new construction projects are pedestrian-scale
3. Expand the new commercial zone along 42nd and 32nd Avenues

During the latter half of 2012, there were several vacancies in the Planning Department and the implementing amendments were placed on hold. In May 2013, Council approved

an IGA for a grant to fund the MFM project, which focuses on key commercial areas in the city: downtown Milwaukie; central Milwaukie; and the "neighborhood main streets" areas.

The proposed amendments focus on implementation of the zoning recommendations, with the exception of expanding the new commercial zone. This expansion may be appropriate to implement in the future, when underutilized properties within the existing zone have been repurposed, but expanding the commercial zones would require a policy discussion that is outside of the scope of the Moving Forward Milwaukie project.

B. Public Involvement

In addition to implementing the recommendations of the 2012 Neighborhood Main Streets Project, the proposed code amendments reflect input received from the public and the MFM project advisory committee (PAC) during the MFM project. The MFM project team discussed the project recommendations and draft proposals with the PAC on April 1, 2015; held a kickoff event to receive feedback from the public on May 6, 2015; discussed the public feedback and direction with the PAC on May 21, 2015; and presented the draft amendments to the public at an open house on June 3, 2015.

Key comments and recommendations from the PAC included:

- Limit the size of individual uses to 10,000 sq ft
- Allow some uses that may be appropriate under certain circumstances, such as drinking establishments, as conditional uses rather than prohibiting them outright
- Prohibit uses, such as automobile sales, that are inefficient uses of the limited area within the commercial zones

The Planning Commission reviewed the draft amendments at a worksession on September 8, 2015, and recommended approval of the amendments as proposed on October 13, 2015. No changes have been made to the amendments since the Planning Commission recommendation.

A Measure 56 notice was sent to affected property owners and tenants on September 8, 2015. Notice was posted in public facilities and e-mailed to the Ardenwald, Hector-Campbell, and Lewelling Neighborhood District Association (NDA) board members on September 11, 2015. Notices were sent to properties within 400 ft of the affected properties on September 23, 2015. See Attachment 2 for comments received during the public hearing process.

See below for details regarding proposed amendments to the zoning, use standards, development standards, and design standards in these areas.

C. Existing Code History

Commercial zones within the "neighborhood main street" areas of 32nd Ave and 42nd Ave include Limited Commercial (C-L) and General Commercial (C-G). These zones were adopted in 1968. Council adopted minor revisions to the C-L Zone in 1977,¹ and moved single-family dwellings, duplexes, and multifamily dwellings from "outright permitted" to

¹ Ordinance #1354, adopted January 17, 1977.

"conditional uses" in response to concerns about development of the limited C-L Zone area with residential rather than commercial uses.

Amendments to the C-G Zone were adopted by the same ordinance, and moved public, institutional, and government uses from "outright permitted" to "conditional uses."

In 2000, Council adopted the King Road Subarea Plan, which set out considerations for zoning map or text amendments for the area zoned C-G, including:

1. A mix of neighborhood scale retail, professional services, eating establishments, and entertainment uses;
2. Development standards that encourage building design and placement that enhances pedestrian access;
3. A mix of housing types;
4. Development standards that ensure adequate parking will be provided; and
5. Incentives for transit oriented development.

The C-L zone is applied to the commercial area of 32nd Ave roughly south of Boyd St and north of Rockwood St. The zoning is primarily applied on the west side of 32nd Ave. Outright permitted uses in the C-L zone are quite limited and include offices, retail, and personal/business service uses.

Development in the C-L and C-G zones is subject to limited development standards that result in suburban development types, and is not subject to design standards.

D. Proposed Amendments

The City is proposing amendments to the zoning, use, development, and design standards applicable to the "neighborhood main street" commercial areas of 32nd and 42nd Avenues to: apply a new mixed-use zone that supports small businesses that meet everyday shopping and convenience needs for neighborhood residents; ensure that new development or significant remodels are pedestrian-friendly in design; and streamline the review process for nonconforming uses, structures, or development. The amendments are intended to implement the vision of the 2012 *Neighborhood Main Streets Project Plan* and the recommendations of the 2000 King Road Subarea Plan. Generally, permitted uses in the 32nd Ave commercial area will be expanded, and uses in the 42nd Ave commercial area will be revised to reflect the neighborhood service function of the businesses there. A key exception is the Safeway store, which pulls from a larger geographic area but also serves surrounding neighborhoods.

The following is a summary of the key aspects of the proposed amendments for discussion on October 13. See Attachment 1 Exhibits B, C, and D for details.

Changes to Zoning

Key proposals include the following:

- Establish a new Neighborhood Mixed Use Zone NMU with consistent use, development, and design standards for both commercial areas. The proposed NMU

Zone would bring the 32nd and 42nd Avenue commercial areas closer together in terms of use allowances and development and design standards. The desired outcome is to ensure that these areas redevelop as vibrant, convenient, attractive, pedestrian-friendly neighborhood commercial areas.

Changes to Use Standards

Key proposals include the following:

- Revisions to permitted uses:
 - New uses are limited to 10,000 sq ft; larger uses can be permitted through Type III Conditional Use review. The existing Safeway use will become legally nonconforming and would require Conditional Use approval for expansion.
 - Eating establishments (restaurants or cafes) are now permitted outright in both areas.
- Several new types of uses are added as permitted uses, including:
 - Mixed-use development that include residential uses.
 - Live/work units.
 - Indoor recreation. Currently these uses are permitted in the C-G Zone as Conditional Uses and are not permitted in the C-L Zone.
 - Day care of up to 5,000 sq ft. Currently day care is permitted only as a home occupation or a conditional use.
 - Commercial lodging. This type of lodging includes hotels, motels, and bed and breakfasts.
 - Boarding, lodging, or rooming house.
 - Manufacturing and production which it is associated with, and accessory to, a retail oriented sales or eating/drinking establishment use.
- Several types of uses are added as conditional uses or shifted from permitted to conditionally allowed, including:
 - Standalone residential development that is not part of a mixed use development (single-family, multifamily, etc.)
 - Drinking establishments, such as bars or taverns.
 - Vehicle repairs and service. Existing vehicle repair and service businesses will become de facto conditional uses.
 - Parking facilities that are not developed to serve a specific use.
 - Drive-through facilities (banks, restaurants, gas stations, etc.). Existing drive-through facilities will become legally nonconforming.

- Vehicle sales and rentals will be prohibited in the new NMU Zone. The existing vehicle sales business will become legally nonconforming.

Changes to Development Standards

Key proposals include the following:

- Minimum lot size of 1,500 sq ft (reduced from 5,000 sq ft in the C-L Zone)
- Reduced minimum street frontage of 25 ft
- New minimum floor area ratio (FAR) of 0.5:1
- New maximum setback of 10 ft
- New primary entrance requirements
- Parking must be next to or behind the building (not in front)
- New residential density requirements of 11.6-14.5 dwelling units per acre for residential development permitted through a conditional use review
- Development in the NMU Zone is exempt from the Transition Area Measures of Subsection 19.504.6 when it is separated from a lower-density residential zone (R-10, R-7, or R-5) by a public right-of-way. This exemption will allow development in the 32nd Ave NMU Zone.

Changes to Design Standards

Key proposals include the following:

- Design standards adopted with Central Milwaukie amendments would apply, including requirements for ground floor transparency and pedestrian-friendly design

Changes to Land Use Review Procedures

Key proposals include the following:

- Allowance for a more streamlined review process that allows the alteration or expansion of a nonconforming use, structure, or development that brings the nonconformity closer to compliance to be reviewed through Type II rather than Type III land use review.

KEY QUESTIONS

Summary

Staff has identified the following key issues for the Council's discussion. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1 Exhibit A) and generally require less analysis and discretion by the Commission.

A. Should cottage cluster housing be permitted in the NMU Zone?

During the Central Milwaukie amendment hearings, Council added "cottage cluster housing" as a permitted use in the General Mixed Use Zone GMU.

During discussions with PAC and with the public, there was hesitation to permit residential uses outright in the 32nd Ave and 42nd Ave commercial areas, due to the small size of the areas in which commercial development is permitted. Ultimately, the draft amendments included single-family residential and multifamily residential development in the proposed NMU Zone as conditional uses (these uses are currently allowed in the C-L Zone along 32nd Ave as conditional uses and are not permitted in the C-G Zone of 42nd Ave).

There has been no discussion with the public (including the PAC or Planning Commission) about the introduction of cottage cluster housing in the proposed NMU Zone. However, as the NMU Zone amendments are based on the GMU Zone to be adopted, "cottage cluster housing" is a use that is now listed in the use table for the NMU Zone.

Staff is seeking Council direction about whether to include "cottage cluster housing" as a Conditional Use in the NMU Zone.

CONCURRENCE

The Community Development and Engineering Departments participated in the drafting of the amendments. The Moving Forward Milwaukie PAC directed and reviewed the proposed amendments and concurred. The Planning Commission unanimously recommended approval of the amendments as proposed on October 13, 2015.

FISCAL IMPACTS

These amendments are part of the Moving Forward Milwaukie project scope.

WORK LOAD IMPACTS

These amendments are part of the Planning work program for 2015.

ALTERNATIVES

None. Council may direct staff to consider alternate approaches to proposed regulations.

ATTACHMENTS

1. Ordinance

Exhibit A. Recommended Findings in Support of Approval

Exhibit B. Proposed Code Amendments – Underline/Strikeout Version

Exhibit C. Proposed Code Amendments – Clean Version

Exhibit D. Proposed Zoning Map Amendments

2. Comments Received



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE (TITLES 14 SIGNS AND 19 ZONING), AND AMENDING THE ZONING MAP (FILE #ZA-2015-002).

WHEREAS, it is the intent of the City of Milwaukie to support neighborhood-serving small businesses and pedestrian-scale development in the "neighborhood main streets" of 32nd and 42nd Avenues; and

WHEREAS, the City Council approved Resolution 53-2013 to execute an intergovernmental agreement with Metro's Construction Excise Tax grant program to provide resources to the City to encourage appropriate development in these areas; and

WHEREAS, the *Neighborhood Main Streets and Moving Forward Milwaukie: Enhancing Our Commercial Districts* projects have identified zoning code and map revisions to encourage small businesses and pedestrian-scale development in these areas; and

WHEREAS, all affected property owners and tenants were notified of the amendments and opportunity for public input has been provided at multiple public meetings and through the City website; and

WHEREAS, the City has prepared amendments to the Municipal Code and Zoning Map that will result in updated use, development and design standards that reflect the community's vision for future development in the "neighborhood main street" commercial areas; 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 with duly advertised public hearings on the proposed amendments before the Planning Commission and City Council; and

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code is amended as described in Exhibit B (Titles 14 and 19 underline/strikeout version), Exhibit C (Titles 14 and 19 clean version), and Exhibit D (Zoning Map).

Section 3. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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 _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

EXHIBIT A

Recommended Findings in Support of Approval File #ZA-2015-002, Neighborhood Main Streets Code and Map Amendments

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, proposes to amend various commercial regulations that are contained in Title 14 Sign Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC) and the Zoning Map. The land use application file number is ZA-2015-002.
2. The purpose of the proposed code amendments is to encourage appropriately-scaled, pedestrian friendly development and uses in the city's "neighborhood main street" commercial areas. While the proposed amendments are located in several titles of the municipal code, the most substantive amendments are proposed to the following chapters of Title 19:

- Chapter 19.303 General Mixed Use Zone
- Chapter 19.500 Supplementary Development Regulations

Additionally, amendments are proposed to Title 14 to coordinate with the proposed amendments to Title 19.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1008 Type V Review
4. 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 are proposed by the City of Milwaukie and were initiated by the Planning Director on August 28, 2015.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
 - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. Staff held a public open house on June 3, 2015, for review of the draft amendments. The Planning Commission has had 1 worksession about the proposed amendments. The draft amendments were sent to members of the project steering committee, for review on May 14, 2015. In addition, property owners within 400 ft of the affected properties received mailed notice. Comments received are summarized in Finding 6.

- (2) 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 October 13, 2015, hearing was posted as required on September 11, 2015, at City Hall, Leding Library, Public Safety

Building, and Johnson Creek Facility. A notice of the City Council's November 17, 2015, hearing was posted as required on October 16, 2015, at the same locations.

- (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The proposed amendments will apply to properties in the 32nd Ave Limited Commercial Zone C-L roughly between Boyd St to the north and Kelvin St to the south; and the 42nd Ave General Commercial Zone C-G between King Rd to the north, 44th Ave to the east, Jackson St to the south, and 1-2 parcels west of 42nd Ave to the west. Although specific property owner notice is not required, given the scope of these amendments, all affected property owners were notified of the hearing date via the Measure 56 notice (see Finding 4.b.6). In addition, property owners within 400 ft of the affected properties received mailed notice.

- (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

The first evidentiary hearing was held before the Planning Commission on October 13, 2015. Notice of the proposed amendments was sent to DLCD on September 8, 2015.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

The first evidentiary hearing was held before the Planning Commission on October 13, 2015. Notice of the proposed amendments was sent to Metro on August 28, 2015.

- (6) 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.

The proposed amendments would affect uses and development on properties in the proposed Neighborhood Mixed Use Zone NMU. The City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all property owners in the proposed NMU Zone on September 8, 2015.

- (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015.

5. MMC Chapter 19.902 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. The City Council finds that these requirements have been met as follows.

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments expand the permitted uses and establish pedestrian-friendly development and design standards for new development and significant renovations in the proposed NMU Zone. The amendments do not conflict with any provision of the Milwaukie Municipal Code. All other code provisions remain effective and can be enforced..

- (b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The proposed amendments are consistent with the relevant goals and policies of the MCP, which are contained in Chapter 4: Land Use.

Economic Base and Industrial/Commercial Land Use Element

- *Objective #9, Policy 3*

This policy establishes protections for residential areas adjacent to commercial areas. The proposed land use changes will not change the existing transition area measures, which provide adequate visual buffers to adjacent residential areas, including devices such as landscaping and fencing.

Neighborhood Element

- *Objective #2, Neighborhood Area 2, Guideline #4*

This policy supports the rehabilitation of existing buildings in the existing 32nd Ave C-L Zone area. The proposed amendments will provide additional flexibility for property and business owners, which could encourage rehabilitation of existing buildings.

- *Objective #3, Policy 6*

This policy recommends zoning regulations to support the King Road Neighborhood Center vision to encourage land uses that will enhance its value as a commercial and residential neighborhood center. These recommendations include a mix neighborhood scale uses, pedestrian-friendly development standards, and a mix of housing types. The proposed amendments establish pedestrian-friendly development and design standards and allow housing as part of mixed-use development, as well as single-family and multifamily development as conditional uses.

- (c) 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 Urban Growth Management Functional Plan is Section 3.07 of the Metro Code. The plan provides tools to meet goals of the 2040 Growth Concept, Metro's long-range growth management plan for the Portland metropolitan area. The proposed amendments are consistent with Functional Plan and relevant regional policies, which are contained in Title 1 and Title 8.

- *Title 1: Requirements for Housing and Employment Accommodation*

The proposed amendments would not reduce the City's housing capacity or the region's employment capacity. The new NMU zone replaces a commercial-only zone and allows mixed-use development (commercial and residential) and live/work units, which has the effect of increasing the City's housing capacity.

- *Title 8: Compliance Procedures*

The City's land use regulations and Comprehensive Plan are in compliance with the Functional Plan. The proposed amendments shall be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by MMC Subsection 19.1008.3.C, the City provided notice of the proposed amendments to Metro's Chief Operating Officer at least 45 days prior to the initial evidentiary hearing on the proposed amendments.

In processing the proposed amendment, the City followed its own requirements for citizen involvement as described in Finding 4.

- (d) 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. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

Relevant Statewide Planning Goals include Goal 10 Housing. The proposed amendments clarify that standalone residential development in the proposed NMU Zone (including multifamily, rowhouse, and live/work unit development) is subject to the clear and objective multifamily design standards of MMC 19.505.3 Design Standards for Multifamily Housing; 19.505.5 Standards for Rowhouses; and 19.505.6 Design Standards for Live/Work Units.

The proposed amendments are consistent with the Milwaukie Transportation System Plan (TSP), which is in turn consistent with the Regional Transportation Plan (RTP) and the Transportation Planning Rule (TPR). The TSP projects future travel demand based on land uses and projected development. The existing zoning in the proposed NMU Zone areas is commercial, which permits a range of commercial, retail, and office uses. The proposed amendments introduce residential uses, which generate less traffic than currently permitted commercial uses, and do not

affect project development patterns or introduce additional traffic generation.

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

No federal regulations are relevant to the proposed zoning text amendment.

- b. MMC 19.902.5 establishes requirements for amendments to the Zoning Map. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.6.A states that changes to the Zoning Map shall be evaluated through either a Type III or a Type V review.

The Zoning Map amendments involve approximately 63 properties and 45.4 acres. The amendments are legislative in nature and subject to Type V review.

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.6.B contains approval criteria for changes to the Zoning Map.

- (a) The proposed amendment is compatible with the surrounding area based on the following factors:

- a. Site location and character of the area.

The NMU Zone areas are commercial in nature and permit a broad range of commercial and office uses. The proposed amendments would retain and enhance the commercial character of the areas while ensuring that new development is attractive and pedestrian-friendly. Both commercial areas are well-served by public transit.

- b. Predominant land use pattern and density of the area.

The predominant land use pattern of the NMU Zone areas is medium and large parcels developed with small- and medium-scale buildings. The proposed amendments would encourage a more compact and pedestrian-friendly land use pattern that would complement the surrounding residential areas.

- c. Expected changes in the development pattern for the area.

The development pattern for the area is expected to intensify as Milwaukie's high quality of life and affordability continue to attract residents. The NMU Zone will shape this new development so that it supports a pedestrian-friendly commercial district.

- (b) The need is demonstrated for uses allowed by the proposed amendment.

The existing regulations of the C-L Zone restrict potential uses, while the C-G Zone allows a broad range of uses that are not appropriate in a neighborhood commercial district. The proposed amendments are intended standardize the regulations and allow a broad range of uses that serve the daily needs of the surrounding neighborhoods. The proposed amendments

retain the current mix of uses and add additional uses requested by the community, including live/work units and eating establishments.

- (c) The availability is shown of suitable alternative areas with the same or similar zoning designation.

The most suitable area in Milwaukie for the application of the proposed NMU Zone are the "neighborhood main street" commercial areas of 32nd and 42nd Avenues as identified by the 2000 King Road Neighborhood Center Concept and 2012 Neighborhood Main Streets Project. There are no suitable alternative areas that are intended to serve the daily needs of the surrounding neighborhood residents.

- (d) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The public transportation facilities, public utilities, and services in the proposed NMU Zone are adequate to support both the current and proposed uses. The proposed amendment does not intensify the development potential of the NMU Zone areas, and the existing level of development intensity has been evaluated by the Transportation System Plan and the Regional Transportation Plan. The proposed amendments introduce residential uses, which have lower demand on infrastructure than commercial uses, and so would not increase the demand on the facilities, utilities, or services in the proposed NMU Zone.

- (e) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The proposed amendment does not intensify the development potential of the NMU Zone areas, and the existing level of development intensity has been evaluated by the Transportation System Plan, and a transportation impact study is not required. The proposed amendment may have the effect of reducing vehicle usage in the subject areas through the encouragement of mixed-use development.

- (f) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The subject area is designated Commercial C. The proposed amendments are consistent with the relevant goals and policies of the MCP related to commercial uses, which are contained in Chapter 4: Land Use.

Economic Base and Industrial/Commercial Land Use Element

- *Objective #9, Policy 1*

The proposed NMU Zone will support the continuation of the 42nd and King Rd area as a District Center and one of the primary commercial areas in the City, and provide for the day-to-day shopping needs of City residents.

- *Objective #10, Policy 2*

Application of the NMU Zone to the "convenience center" of 32nd Ave as well as the "district center" of 42nd Ave will allow the uses and development of these areas to support and complement each other by providing day-to-day needs for surrounding property owners.

Neighborhood Element

- *Objective #3, Policy 6*

This policy recommends zoning regulations to support the King Road Neighborhood Center vision to encourage land uses that will enhance its value as a commercial and residential neighborhood center. The NMU Zone will allow a range of neighborhood scale uses, pedestrian-friendly development standards, and a mix of housing types. The proposed amendments establish pedestrian-friendly development and design standards and allow housing as part of mixed-use development, as well as single-family and multifamily development as conditional uses.

- (g) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

See Finding 4.c.2.c.

- (h) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

See Finding 4.c.2.d.

6. The application was referred to the following on September 23 and October 16, 2015:

- Ardenwald, Hector-Campbell, and Lewelling Neighborhood District Association Chairpersons and Land Use Committees
- Property owners and tenants within 400 ft of affected properties

The comments received are summarized as follows: Concerns about conversion of existing uses to nonconforming uses; concerns about noise due to increased outdoor seating and activity; concerns about parking impacts from new businesses along 32nd Ave.

Underline/Strikeout Amendments

Title 14 Signs

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

The following words and phrases where used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this section:

"Other commercial zones" means the C-L, Limited Commercial; ~~DMU, Downtown Mixed Use~~; C-CS, Community Shopping Commercial; GMU, General Mixed Use; NMU, Neighborhood Mixed Use Zone; and C-G, General Commercial, Zones, as defined in the Zoning Ordinance.

CHAPTER 14.16 SIGN DISTRICTS

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040
Standards for Signs in Commercial Zones C-L, C-CS, NMU, and GMU

Zoning Ordinance

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Transient occupancy" means a period of occupancy that does not exceed 30 days.

CHAPTER 19.300 BASE ZONES

19.303 ~~GENERAL~~COMMERCIAL MIXED-USE ZONES GMU

19.303.1 Purpose

- A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.
- B. The Neighborhood Mixed Use Zone is intended to recognize 32nd and 42nd Avenues as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the ~~GMU commercial mixed-use~~ Zzones are listed in Table 19.303.2 with a "P." These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as "CU" are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the ~~GMU commercial mixed-use~~ Zzones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and ~~FG~~ below, are prohibited. Uses listed with an "N" in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. ~~For the purposes of this section, drive-through facilities are considered accessory uses and must conform to Subsection 19.606.3.~~

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

FG. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2			
<u>Uses Allowed in General Commercial Mixed-Use Zones Uses</u>			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
<u>Single-family detached</u>	<u>N</u>	<u>CU</u>	Subsection 19.505.1 Single Family Dwellings Section 19.905 Conditional Uses
Rowhouse ¹	P	<u>CU</u>	Subsection 19.505.5 Rowhouses
Multifamily	P	<u>CU</u>	Subsection 19.505.3 Multifamily Housing
Cottage cluster housing	P	<u>CU</u>	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	<u>P</u>	
Live/work units	P	<u>P</u>	Subsection 19.505.6 Live/Work Units
Senior and retirement housing	P	<u>CU</u>	Subsection 19.505.3 Multifamily Housing
<u>Accessory dwelling units</u>	<u>N</u>	<u>CU</u>	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Commercial³			
General office General office means professional, executive, management, or administrative offices of firms or organizations. Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; and medical and dental clinics.	P	<u>P</u>	
<u>Drinking establishments</u> <u>Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption.</u> <u>Examples include taverns, bars, brewpubs, or cocktail lounges.</u>	<u>P</u>	<u>CU</u>	Section 19.905 Conditional Uses

Proposed Code Amendment

<p>Eating and drinking establishments</p> <p>Eating and drinking establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. <u>Eating establishments may include incidental sales of alcoholic beverages.</u></p> <p>Examples include restaurants, delicatessens, retail bakeries, taverns, brewpubs, coffee shops, concession stands, and espresso bars.</p>	P	<u>P</u>	
<p>Indoor recreation</p> <p>Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature.</p> <p>Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; and movie theaters.</p>	P	<u>P</u>	
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media. May also include vehicle sales and other auto-oriented retail uses, including boats, RVs, and motorcycles.²</p>	P	<u>P</u>	
<p><u>Vehicle sales and rentals⁴</u></p> <p><u>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</u></p>	<u>P</u>	<u>N</u>	
<p>Personal-service-oriented</p> <p>Personal-service-oriented firms are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.</p>	P	<u>P</u>	

<p>Repair-oriented³</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers; and some automobile and boat service and repair.</p>	<p>P</p>	<p><u>P</u></p>	
<p>Vehicle repair and service⁵</p> <p><u>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</u></p> <p><u>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</u></p>	<p><u>P</u></p>	<p><u>CU</u></p>	<p><u>Section 19.905 Conditional Uses</u></p>
<p>Day care.⁴⁶</p> <p>Day care is the provision of regular childcare, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before- and after-school care facilities, and child development centers.</p>	<p>P</p>	<p><u>P</u></p>	
<p>Commercial lodging.</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.</p>	<p>P</p>	<p><u>P</u></p>	

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<p>Boarding, lodging, or rooming house</p> <p>Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.</p> <p>Examples include boarding house and cooperative housing.</p>	<p>CU</p>	<p><u>CU</u></p>	<p>Section 19.905 Conditional Uses</p>
<p><u>Parking facility</u></p> <p><u>Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</u></p> <p><u>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</u></p>	<p><u>N</u></p>	<p><u>CU</u></p>	<p>Section 19.611 Parking Structures</p>
<p>Medical marijuana facility</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	<p>P</p>	<p><u>P</u></p>	<p>Subsection 19.303.6 Standards for Medical Marijuana Facilities</p>

Manufacturing and Production			
<p>Manufacturing and production.⁵⁷</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	<u>P</u>	
Institutional			
Community service uses	CSU	<u>CSU</u>	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive rowhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.

2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.

24. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).

35. ~~Repair oriented~~ Vehicle repair and service uses are permitted in the ~~GMU Zone~~ commercial mixed-use zones only when conducted within a completely enclosed building.

46. Day care and childcare uses are limited to 5,000 sq ft.

57. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve 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 a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the ~~GMU Zone~~ commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Proposed Code Amendment

Table 19.303.3 summarizes some of the development standards that apply in the ~~GMU Zone~~ commercial mixed-use zones. Development standards are presented in ~~full detail~~ in Subsection ~~19.303.3 (B)~~ 19.303.4.

Table 19.303.3 General Commercial Mixed Use Zones—Summary of Development Standards			
Standard	GMU	<u>NMU</u>	Standards/ Additional Provisions
A. Lot Standards			
1. Minimum lot size (sq ft)	1,500	<u>1,500</u>	
2. Minimum street frontage (ft)	25	<u>25</u>	
B. Development Standards			
1. Minimum floor area ratio	0.5:1	<u>0.5:1</u>	Subsection 19.303.4.A Floor Area Ratio
2. Building height (ft)			Subsection 19.303.4.B Building Height
a. Base maximum	45	<u>45</u>	Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
b. Maximum with height bonus	57–69	<u>Height bonus not available</u>	
3. Street setbacks (ft)			Subsection 19.303.4.C Street Setbacks
a. Minimum street setback	0–15 ¹	<u>None</u>	Section 19.501.2 Yard Exceptions
b. Maximum street setback	10–20 ²	<u>10</u>	
c. Side and rear setbacks	None	<u>None</u>	
4. Frontage occupancy	50%	<u>None</u>	Subsection 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	<u>85%</u>	
6. Minimum vegetation	15%	<u>15%</u>	Subsection 19.504.7 Minimum Vegetation
7. Primary entrances	Yes	<u>Yes</u>	Subsection 19.303.4.E Primary Entrances
8. Off-street parking required	Yes	<u>Yes</u>	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	<u>Yes</u>	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	<u>Yes</u>	Subsection 19.504.6 Transition Area Measures
C. Other Standards			
1. Residential density requirements (dwelling units per acre)			Subsection 19.202.4 Density Calculations
a. Stand-alone residential			Subsection 19.303.4.F Residential Density
(1) Minimum	25	<u>11.6</u>	Subsection 19.501.4 Density Exceptions
(2) Maximum	50	<u>14.5</u>	
b. Mixed-use buildings	None	<u>None</u>	
2. Signs	Yes	<u>Yes</u>	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.
2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- 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.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

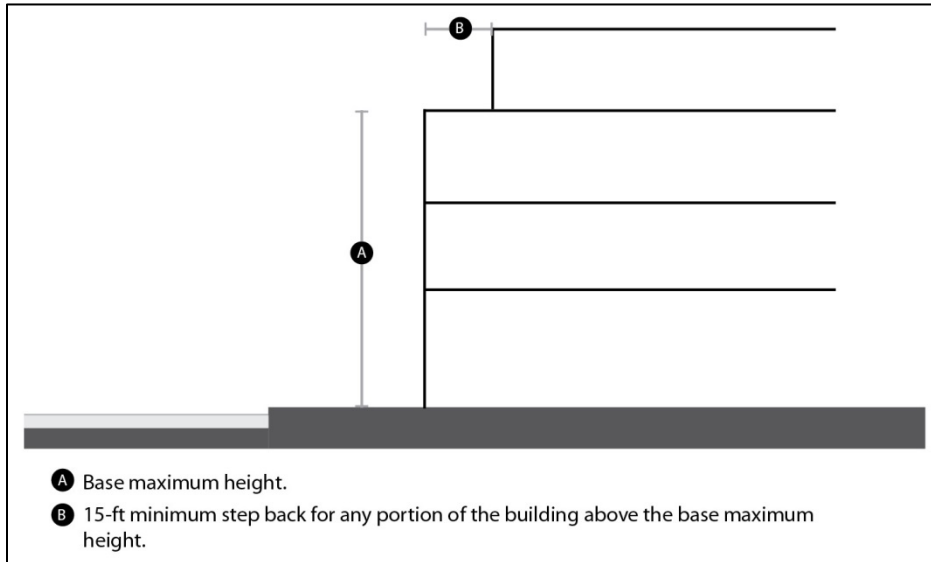
1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- c. The maximum building height in the NMU Zone is 3 stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

**Figure 19.303.4.B.2.b
Building Height Standards**



3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components; increase area vibrancy; and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and 3.b, for a total of 2 stories or 24 ft of additional height, whichever is less, above the base height maximum. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

a. Residential

New buildings that devote at least 1 story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

b. Green Building

Project proposals that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Green Globes, or Earth Advantage) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

C. Street Setbacks

1. Intent

Buildings are allowed and encouraged to build up to the street right-of-way in the commercial mixed-use zones ~~GMU Zone~~. This ensures that buildings engage the street right-of-way.

2. Standards

- a. No minimum street setbacks are required, except for residential street edges per Subsection 19.303.5.
- b. In the GMU Zone, mMaximum street setback is 20 ft. For properties shown as having a commercial edge on Figure 19.303.4.C.2.b, the following standards apply:
 - (1) No minimum street setback is required. Maximum street setback is 10 ft.
 - (2) The area within the street setback, if provided, shall be landscaped.
- c. In the NMU Zone, the maximum street setback is 10 ft unless the yard exception standards of Subsection 19.501.2 apply.
- ed. The setback area may include usable open space such as plazas, courtyards, terraces, and small parks.
- de. Usable open space may be counted toward the minimum vegetation requirement in Subsection 19.303.3.B.6.
- ef. No vehicle parking is permitted between the building and the street. Vehicle parking must be located behind and/or to the side of buildings, except in cases of a through-lot or lots which front on 3 or more streets, in which case this standard applies to 2 streets.

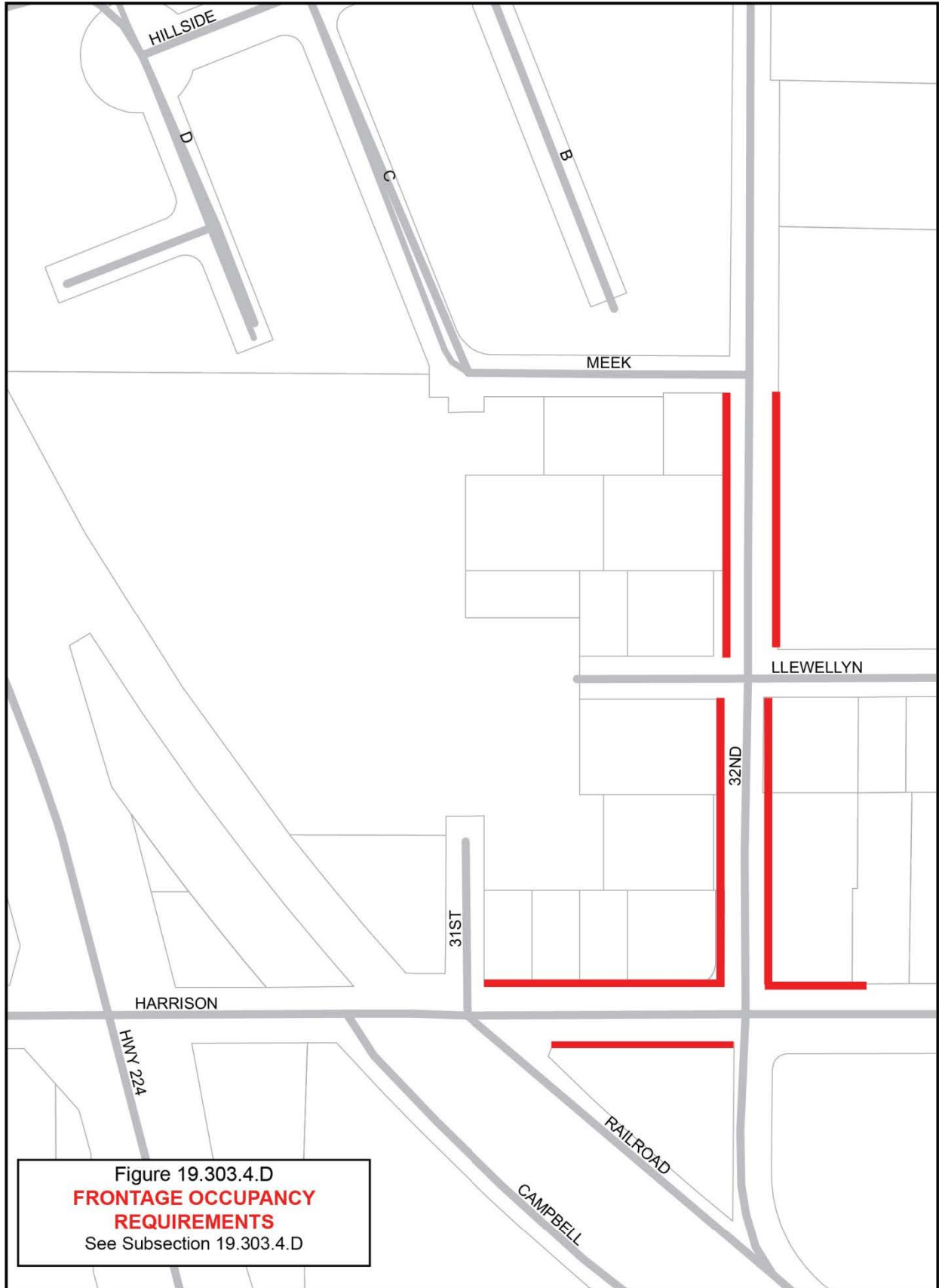
D. Frontage Occupancy Requirements

1. Intent

The intent of this standard is to establish a consistent street wall along key streets. Minimum frontage occupancy requirements are established for block faces identified on Figure 19.303.4.D.

2. Standards

- a. For block faces identified in Figure 19.303.4.D, 50% of the site frontage must be occupied by a building or buildings.
- b. If the development site has frontage on more than 1 street, the frontage occupancy requirement must be met on 1 street only.



E. Primary Entrances

1. Intent

To promote pedestrian-friendly development by providing building entrances that are oriented to the sidewalk or other public space and connected with clearly marked pedestrian walkways.

2. Standards

- a. All new buildings shall have at least 1 primary entrance facing an abutting public street (i.e., within 45 degrees of the street property line); or, if the building entrance must be turned more than 45 degrees from the public street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.
- b. Where a development contains multiple buildings and there is insufficient public street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to a plaza, courtyard, or similar pedestrian space containing pedestrian amenities. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway.
- c. If a development is on a corner in the GMU Zone, the primary entrance may be oriented toward either street.
- d. If a development is on a corner in the NMU Zone, the primary entrance must be oriented toward 32nd Ave or 42nd Ave.

F. Residential Density

1. Intent

Minimum densities are applied to residential development in the commercial mixed-use zones ~~GMU Zone~~ to assure efficient use of land at densities that support transit use and nearby businesses.

2. Standards

- a. Minimum density for stand-alone residential development in the GMU Zone is 25 units per acre, and maximum density is 50 units per acre.
- b. Minimum density for stand-alone residential development in the NMU Zone is 11.6 units per acre, and maximum density is 14.5 units per acre.
- ~~b. There are no minimum density requirements when residential units are developed as part of a mixed-use building or development.~~
- ~~c. Maximum residential densities for mixed-use buildings are controlled by height limits.~~

3. Exemptions

There are no minimum or maximum density requirements when residential units are developed as part of a mixed-use building. Maximum residential densities for mixed-use buildings are controlled by height limits.

19.303.5 Standards for Residential Street Edges

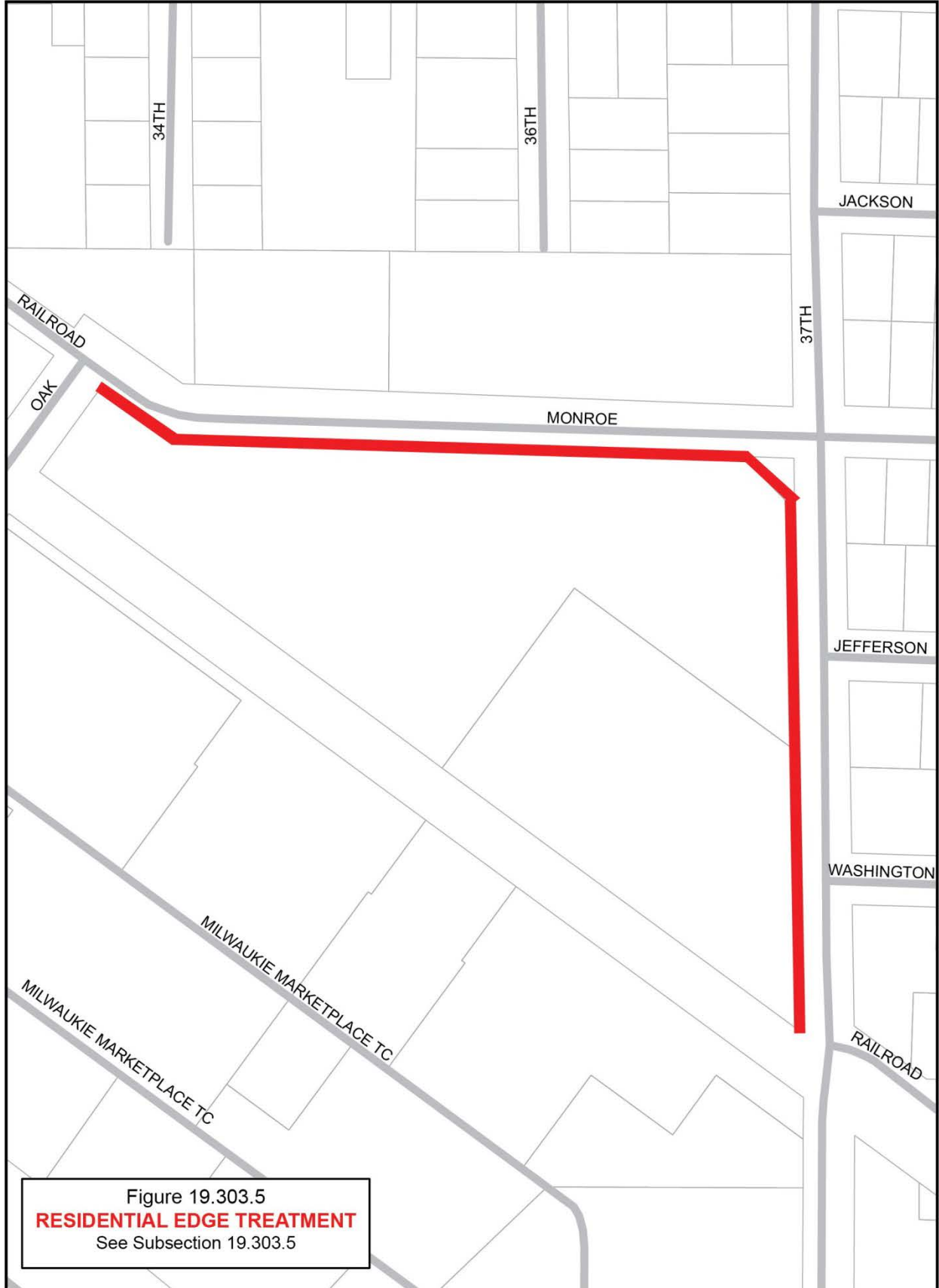
For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting an R-3 or R-5 Zone, the following standards apply:

- A. A minimum setback of 15 ft shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Ave and Monroe St shall provide a step back of at least 15 ft for any portion of the building above 35 ft.
- C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

19.303.6 Standards for Medical Marijuana Facilities

In the commercial mixed-use zones ~~GMU Zone~~, medical marijuana facilities shall meet the following standards:

- A. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.
- B. A medical marijuana facility shall not be colocated with another business.
- C. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
- D. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.



19.303.7 Additional Provisions

Depending upon the type of use and development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

A. Section 19.500 Supplementary Development Regulations

This section contains standards for site and building design that will apply to most new types of development, including residential and commercial. Relevant sections include:

1. 19.501 General Exceptions
2. 19.502 Accessory Structures
3. 19.503 Accessory Uses
4. 19.504 Site Design Standards
5. 19.505 Building Design Standards

B. Section 19.600 Off-Street Parking and Loading

Contains standards for vehicle and bicycle parking, including required number of spaces and design standards for parking and loading areas.

C. Section 19.700 Public Facility Improvements

Contains standards for transportation, utility, and other public facility improvements that may be required as part of development.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.
- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

19.505 BUILDING DESIGN STANDARDS

19.505.7 Nonresidential Development

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards support development of an attractive, cohesive, and pedestrian-friendly commercial area. The design standards do not prescribe a particular building or architectural style.

B. Applicability

1. The design standards in this section generally apply to the street-facing facades of new commercial, institutional, manufacturing, and mixed-use buildings within the commercial mixed-use zones ~~GMU Zone~~.
- ~~2.~~ The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Subsection 19.505.3 Multifamily Housing.
- ~~3.~~ The standards in this section do not apply to rowhouses or live/work units. Rowhouses and live/work units are subject to the design standards in Subsections 19.505.5 Rowhouses and 19.505.6 Live/Work Units.
4. The standards in this section do not apply to cottage cluster housing. Cottage cluster housing is subject to the design standards in Subsection 19.505.4 Design Standards for Cottage Cluster Housing.

C. Building Design Standards

All buildings that meet the applicability provisions in Subsection 19.505.7.B shall meet the following design standards.

An applicant may request a variance to the building design standards in Subsection 19.505.7.C through a Type II review, pursuant to Subsection 19.911.3.B.7.

1. Corners

The intent of this standard is to reinforce intersections as an important place for people to gather.

Buildings located at a key corner in the GMU Zone, as shown on Figure 19.505.7.C.1, shall incorporate one of the following features:

- a. The primary entry to the building located at the corner.
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at, or within 20 ft of, the corner of the building.
- c. The corner of the building cut at a 45-degree angle.

2. Weather Protection

The intent of this standard is, through the use of awnings and canopies along the ground floor of buildings, to protect pedestrians from rain and provide shade, to encourage window shopping and lingering, and to create visual interest on the ground floor of a building.

Buildings shall provide weather protection for pedestrians as follows:

a. Minimum weather protection coverage

All ground-floor building entries (excluding loading docks, bays, etc.) shall be protected from the weather by canopies or recessed at least 3 ft behind the front building façade.

b. Weather protection design

Weather protection shall comply with applicable building codes ~~and shall be designed to be visually compatible with the architecture of a building.~~ Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

3. Exterior Building Materials

The intent of this standard is to provide a sense of permanence, through the use of certain permitted building materials; to provide articulation and visual interest to larger buildings; and to allow for a variety of materials and designs.

The following standards are applicable to the exterior walls of new buildings facing streets, courtyards, and/or public squares. Table 19.505.7.C.3 specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 60% of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40% of each applicable building facade.
- c. Accent materials are permitted on no greater than 10% of each applicable building facade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not utilize materials listed as (N) prohibited material.
- e. For existing development, façade modifications that affect more than 50% of the façade shall comply with standards in this subsection. The Planning Director may

waive this requirement if application of the standards would create an incongruous appearance of existing and new materials.

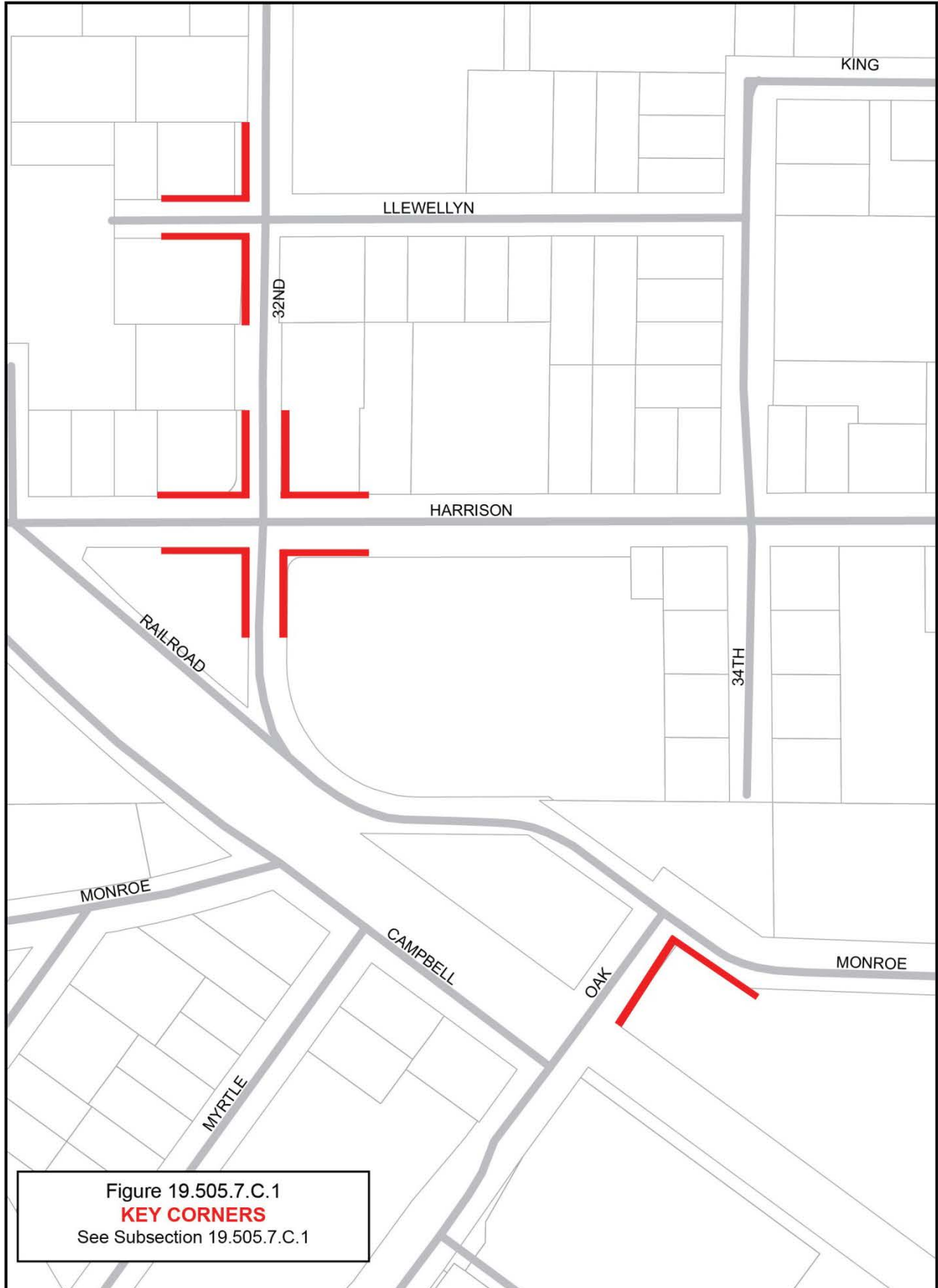


Table 19.505.7.C.3 Commercial Exterior Building Materials	
Material Type	Nonresidential and Mixed-Use
Brick	P
Stone/masonry	P
Stucco	P
Glass (transparent, spandrel)	P
Concrete (poured in place or precast)	P
Finished wood, wood veneers, and wood siding	S
Finished metal panels—such as anodized aluminum, stainless steel, or copper—featuring polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished, or glazed finish)	S
Fiber-reinforced cement siding and panels	S
Ceramic tile	S
Concrete blocks with integral color (split-face finish)	A
Standing seam and corrugated metal	A
Glass block	A
Vegetated wall panels or trellises	A
Vinyl siding	N
Exterior insulation finishing system (EIFS)	N
Plywood paneling	N

P = Primary material

S = Secondary material

A = Accent material

N = Prohibited material

4. Windows and Doors

The standards of this section are intended to enhance street safety and provide a comfortable pedestrian environment by providing ground-level transparency between the interior of buildings and the sidewalk.

- a. For nonresidential and mixed-use buildings, 30% 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. For all buildings, the following applies:
 - (1) Nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.

- (2) Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
 - (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
 - (4) The bottom edges of windows along pedestrian ways shall be constructed no more than 36 in above grade.
 - (5) Ground-floor windows for nonresidential uses shall allow views into storefronts, working areas, or lobbies. Signs are limited to a maximum coverage of 50% of the required window area.
- c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.
 - d. For all building windows facing streets, courtyards, and/or public squares, the following window elements are prohibited:
 - (1) Reflective, tinted, or opaque glazing.
 - (2) Simulated divisions (internal or applied synthetic materials).
 - (3) Exposed, unpainted metal frame windows.
5. Roofs
- a. The intent of this standard is to enliven the pedestrian experience and create visual interest through roof form. The roof form of a building shall follow one (or a combination) of the following forms:
 - (1) Flat roof with parapet or cornice.
 - (2) Hip roof.
 - (3) Gabled roof.
 - (4) Dormers.
 - (5) Shed roof.
 - b. All sloped roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.
 - c. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.
 - d. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.
 - e. When an addition to an existing structure, or a new structure, is proposed in an existing development, the roof forms for the new structure(s) shall have similar slope and be constructed of the same materials as the existing roofing.
6. Rooftop Equipment and Screening
- The intent of this standard is to integrate mechanical equipment into the overall building design.

- a. The following rooftop equipment does not require screening:
 - (1) Solar panels, wind generators, and green roof features.
 - (2) Equipment under 2 ft in height.
 - b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft provided that the mechanical shaft is incorporated into the architecture of the building.
 - c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft in height, shall be set back a minimum of 5 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
 - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
 - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
 - d. Required screening shall not be included in the building's maximum height calculation.
7. Ground-Level Screening

Mechanical and communication equipment, outdoor storage, and outdoor garbage and recycling areas shall be screened so they are not visible from streets, other ground-level private open space, or common open spaces.

CHAPTER 19.900 LAND USE APPLICATIONS

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

Table 19.904.11.C				
Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions²
BI	P1	P2	P2	P2
M	P1	P2	P2	P2
M-TSA	P1	P2	P2	P2
C-N	N	P2	P2	P2
C-G	N	P2	P2	P2
C-L	N	P2	P2	P2
C-CS	N	P2	P2	P2
OS	N	P2	P2	P2
DMU	N	P2	P2	P2
GMU	N	P2	P2	P2
NMU	N	P2	P2	P2
R-1-B	N	P2	P2	P2
R-1	N	N	P2	P2
R-2	N	N	P2	P2
R-2.5	N	N	P2	P2
R-3	N	N	P2	P2
R-5	N	N	P2	P2
R-7	N	N	P2	P2
R-10	N	N	P2	P2

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

P = Permitted

N = Not Permitted

¹ Rooftop extensions are not to exceed 15 ft in height above the roof top and are not to project greater than 5 ft from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 ft. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 ft in height of the pole that is to be replaced.

F. Location and Size Restrictions

2. Height: maximum heights. Also see Table 19.904.11.C.

a. Height Restrictions

Proposed Code Amendment

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

- (1) BI, M, and M-TSA Zones: 100 ft.
 - (2) New towers are not permitted in the R-1-B, R-1, R-2, R-2.5, R-3, R-5, R-7, R-7PD, R-10, R-10PD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.
-

Updates for Section References and Housekeeping Only

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

19.201

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill, boundaries, and embankments.

19.202.2.C

C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection ~~19.902.2.B.2~~ 19.202.B.2.

19.202.4.D.2

2. Density Calculation

The minimum number of dwelling units required is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

19.202.4.E.2

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.401 WILLAMETTE GREENWAY ZONE WG

In a ~~W-G~~ Zone the following regulations shall apply:

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

In an ~~HP~~ Zone the following regulations shall apply:

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

In an ~~L-F~~ Zone the following regulations shall apply:

19.707.1.C

C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-13b of the TSP.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

The City's street design standards are based on the street classification system described in the TSP. Figure 8-13a of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

Table 19.901

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony	Subsection 19.503.1.D	III

Clean Amendments

Title 14 Signs

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

The following words and phrases where used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this section:

"Other commercial zones" means the C-L, Limited Commercial; C-CS, Community Shopping Commercial; GMU, General Mixed Use; NMU, Neighborhood Mixed Use Zone; and C-G, General Commercial, Zones, as defined in the Zoning Ordinance.

CHAPTER 14.16 SIGN DISTRICTS

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040
Standards for Signs in Commercial Zones C-L, C-CS, NMU, and GMU

Zoning Ordinance

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Transient occupancy" means a period of occupancy that does not exceed 30 days.

CHAPTER 19.300 BASE ZONES

19.303 COMMERCIAL MIXED-USE ZONES

19.303.1 Purpose

- A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.
- B. The Neighborhood Mixed Use Zone is intended to recognize 32nd and 42nd Avenues as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the commercial mixed-use zones are listed in Table 19.303.2 with a "P." These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as "CU" are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the commercial mixed-use zones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and G below, are prohibited. Uses listed with an "N" in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards.

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

G. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
Single-family detached	N	CU	Subsection 19.505.1 Single Family Dwellings Section 19.905 Conditional Uses
Rowhouse ¹	P	CU	Subsection 19.505.5 Rowhouses
Multifamily	P	CU	Subsection 19.505.3 Multifamily Housing
Cottage cluster housing	P	CU	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	P	
Live/work units	P	P	Subsection 19.505.6 Live/Work Units
Senior and retirement housing	P	CU	Subsection 19.505.3 Multifamily Housing
Accessory dwelling units	N	CU	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Commercial³			
General office General office means professional, executive, management, or administrative offices of firms or organizations. Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; and medical and dental clinics.	P	P	
Drinking establishments Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption. Examples include taverns, bars, brewpubs, or cocktail lounges.	P	CU	Section 19.905 Conditional Uses

Proposed Code Amendment

<p>Eating establishments</p> <p>Eating establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. Eating establishments may include incidental sales of alcoholic beverages.</p> <p>Examples include restaurants, delicatessens, retail bakeries, coffee shops, concession stands, and espresso bars.</p>	P	P	
<p>Indoor recreation</p> <p>Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature.</p> <p>Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; and movie theaters.</p>	P	P	
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>	P	P	
<p>Vehicle sales and rentals⁴</p> <p>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</p>	P	N	
<p>Personal-service-oriented</p> <p>Personal-service-oriented firms are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.</p>	P	P	

<p>Repair-oriented</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers.</p>	<p>P</p>	<p>P</p>	
<p>Vehicle repair and service⁵</p> <p>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</p> <p>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</p>	<p>P</p>	<p>CU</p>	<p>Section 19.905 Conditional Uses</p>
<p>Day care.⁶</p> <p>Day care is the provision of regular childcare, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before-and after-school care facilities, and child development centers.</p>	<p>P</p>	<p>P</p>	
<p>Commercial lodging.</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.</p>	<p>P</p>	<p>P</p>	

Proposed Code Amendment

<p>Boarding, lodging, or rooming house</p> <p>Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.</p> <p>Examples include boarding house and cooperative housing.</p>	<p>CU</p>	<p>CU</p>	<p>Section 19.905 Conditional Uses</p>
<p>Parking facility</p> <p>Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</p> <p>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</p>	<p>N</p>	<p>CU</p>	<p>Section 19.611 Parking Structures</p>
<p>Medical marijuana facility</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	<p>P</p>	<p>P</p>	<p>Subsection 19.303.6 Standards for Medical Marijuana Facilities</p>

Manufacturing and Production			
<p>Manufacturing and production.⁷</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	P	
Institutional			
Community service uses	CSU	CSU	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive rowhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.
2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.
3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).
5. Vehicle repair and service uses are permitted in the commercial mixed-use zones only when conducted within a completely enclosed building.
6. Day care and childcare uses are limited to 5,000 sq ft.
7. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve 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 a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Proposed Code Amendment

Table 19.303.3 summarizes some of the development standards that apply in the commercial mixed-use zones. Development standards are presented in detail in Subsection 19.303.4.

Table 19.303.3 Commercial Mixed Use Zones—Summary of Development Standards			
Standard	GMU	NMU	Standards/ Additional Provisions
A. Lot Standards			
1. Minimum lot size (sq ft)	1,500	1,500	
2. Minimum street frontage (ft)	25	25	
B. Development Standards			
1. Minimum floor area ratio	0.5:1	0.5:1	Subsection 19.303.4.A Floor Area Ratio
2. Building height (ft)			Subsection 19.303.4.B Building Height
a. Base maximum	45	45	Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
b. Maximum with height bonus	57–69	Height bonus not available	
3. Street setbacks (ft)			Subsection 19.303.4.C Street Setbacks
a. Minimum street setback	0–15 ¹	None	Section 19.501.2 Yard Exceptions
b. Maximum street setback	10–20 ²	10	
c. Side and rear setbacks	None	None	
4. Frontage occupancy	50%	None	Subsection 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	85%	
6. Minimum vegetation	15%	15%	Subsection 19.504.7 Minimum Vegetation
7. Primary entrances	Yes	Yes	Subsection 19.303.4.E Primary Entrances
8. Off-street parking required	Yes	Yes	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	Yes	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	Yes	Subsection 19.504.6 Transition Area Measures
C. Other Standards			
1. Residential density requirements (dwelling units per acre)			Subsection 19.202.4 Density Calculations
a. Stand-alone residential			Subsection 19.303.4.F Residential Density Subsection 19.501.4 Density Exceptions
(1) Minimum	25	11.6	
(2) Maximum	50	14.5	
b. Mixed-use buildings	None	None	
2. Signs	Yes	Yes	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.

2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- 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.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

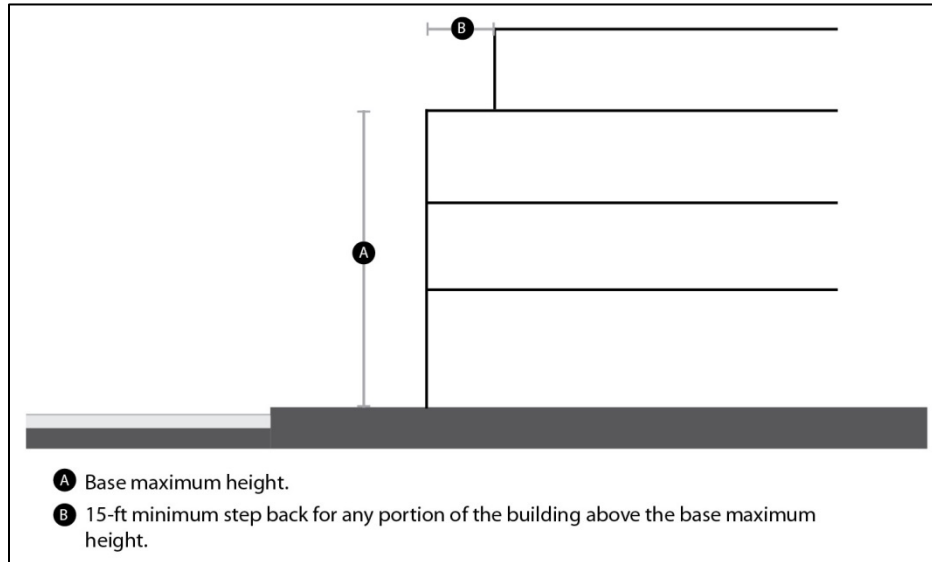
1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- c. The maximum building height in the NMU Zone is 3 stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

**Figure 19.303.4.B.2.b
Building Height Standards**



3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components; increase area vibrancy; and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and 3.b, for a total of 2 stories or 24 ft of additional height, whichever is less, above the base height maximum. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

a. Residential

New buildings that devote at least 1 story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

b. Green Building

Project proposals that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Green Globes, or Earth Advantage) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

C. Street Setbacks

1. Intent

Buildings are allowed and encouraged to build up to the street right-of-way in the commercial mixed-use zones. This ensures that buildings engage the street right-of-way.

2. Standards

- a. No minimum street setbacks are required, except for residential street edges per Subsection 19.303.5.
- b. In the GMU Zone, maximum street setback is 20 ft. For properties shown as having a commercial edge on Figure 19.303.4.C.2.b, the following standards apply:
 - (1) No minimum street setback is required. Maximum street setback is 10 ft.
 - (2) The area within the street setback, if provided, shall be landscaped.
- c. In the NMU Zone, the maximum street setback is 10 ft unless the yard exception standards of Subsection 19.501.2 apply.
- d. The setback area may include usable open space such as plazas, courtyards, terraces, and small parks.
- e. Usable open space may be counted toward the minimum vegetation requirement in Subsection 19.303.3.B.6.
- f. No vehicle parking is permitted between the building and the street. Vehicle parking must be located behind and/or to the side of buildings, except in cases of a through-lot or lots which front on 3 or more streets, in which case this standard applies to 2 streets.

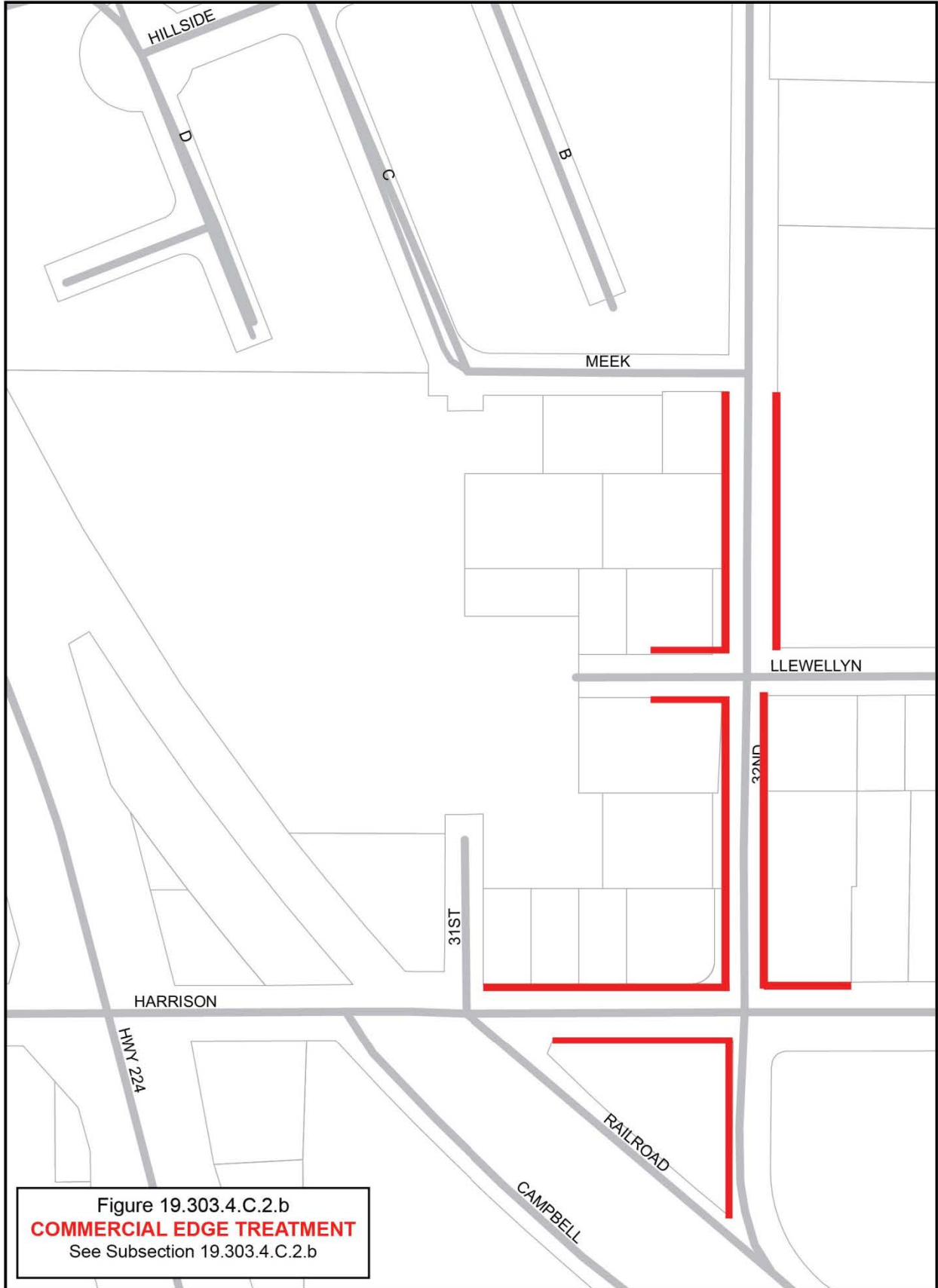
D. Frontage Occupancy Requirements

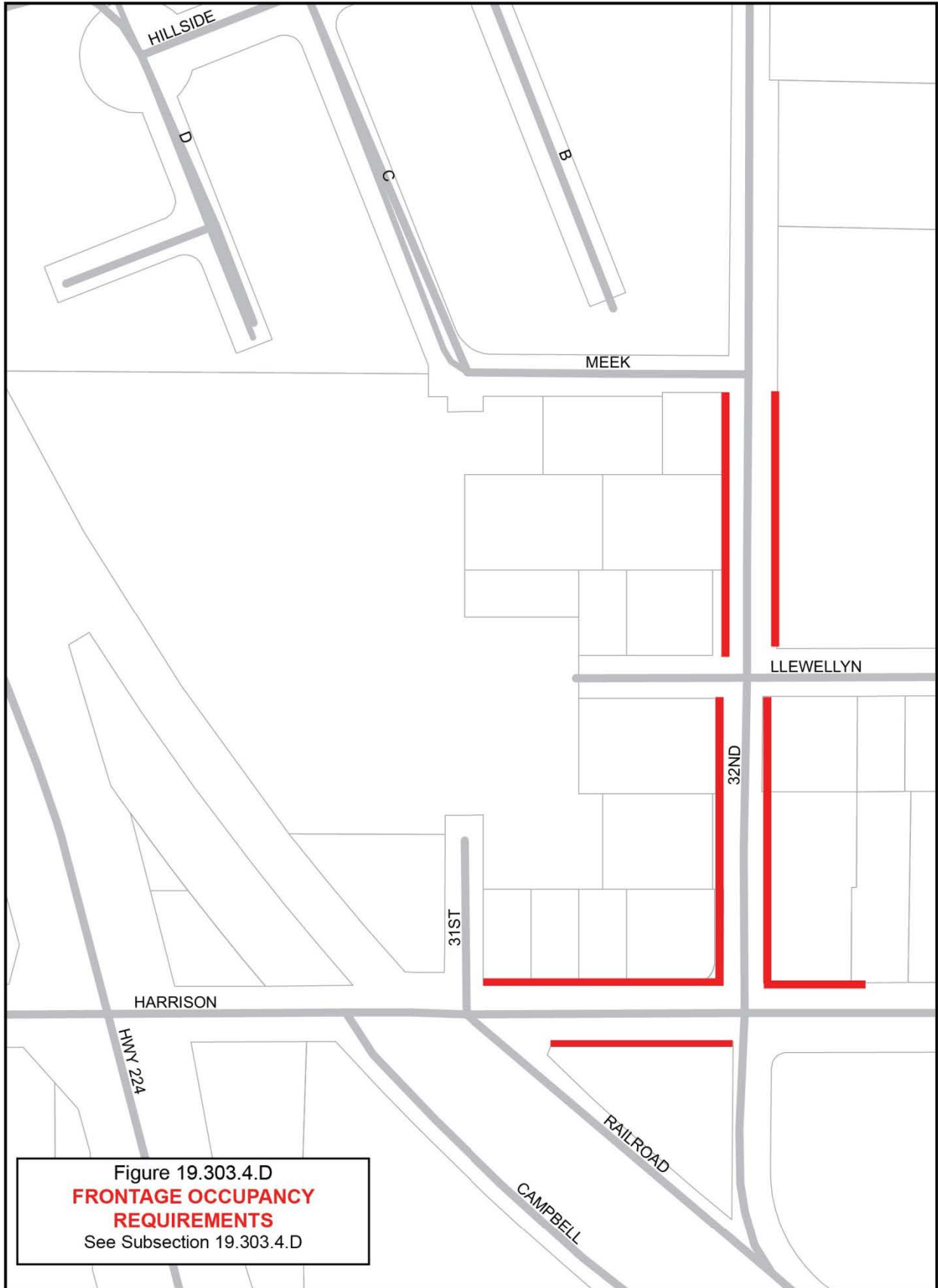
1. Intent

The intent of this standard is to establish a consistent street wall along key streets. Minimum frontage occupancy requirements are established for block faces identified on Figure 19.303.4.D.

2. Standards

- a. For block faces identified in Figure 19.303.4.D, 50% of the site frontage must be occupied by a building or buildings.
- b. If the development site has frontage on more than 1 street, the frontage occupancy requirement must be met on 1 street only.





E. Primary Entrances

1. Intent

To promote pedestrian-friendly development by providing building entrances that are oriented to the sidewalk or other public space and connected with clearly marked pedestrian walkways.

2. Standards

- a. All new buildings shall have at least 1 primary entrance facing an abutting public street (i.e., within 45 degrees of the street property line); or, if the building entrance must be turned more than 45 degrees from the public street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.
- b. Where a development contains multiple buildings and there is insufficient public street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to a plaza, courtyard, or similar pedestrian space containing pedestrian amenities. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway.
- c. If a development is on a corner in the GMU Zone, the primary entrance may be oriented toward either street.
- d. If a development is on a corner in the NMU Zone, the primary entrance must be oriented toward 32nd Ave or 42nd Ave.

F. Residential Density

1. Intent

Minimum densities are applied to residential development in the commercial mixed-use zones to assure efficient use of land at densities that support transit use and nearby businesses.

2. Standards

- a. Minimum density for stand-alone residential development in the GMU Zone is 25 units per acre, and maximum density is 50 units per acre.
- b. Minimum density for stand-alone residential development in the NMU Zone is 11.6 units per acre, and maximum density is 14.5 units per acre.

3. Exemptions

There are no minimum or maximum density requirements when residential units are developed as part of a mixed-use building. Maximum residential densities for mixed-use buildings are controlled by height limits.

19.303.5 Standards for Residential Street Edges

For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting an R-3 or R-5 Zone, the following standards apply:

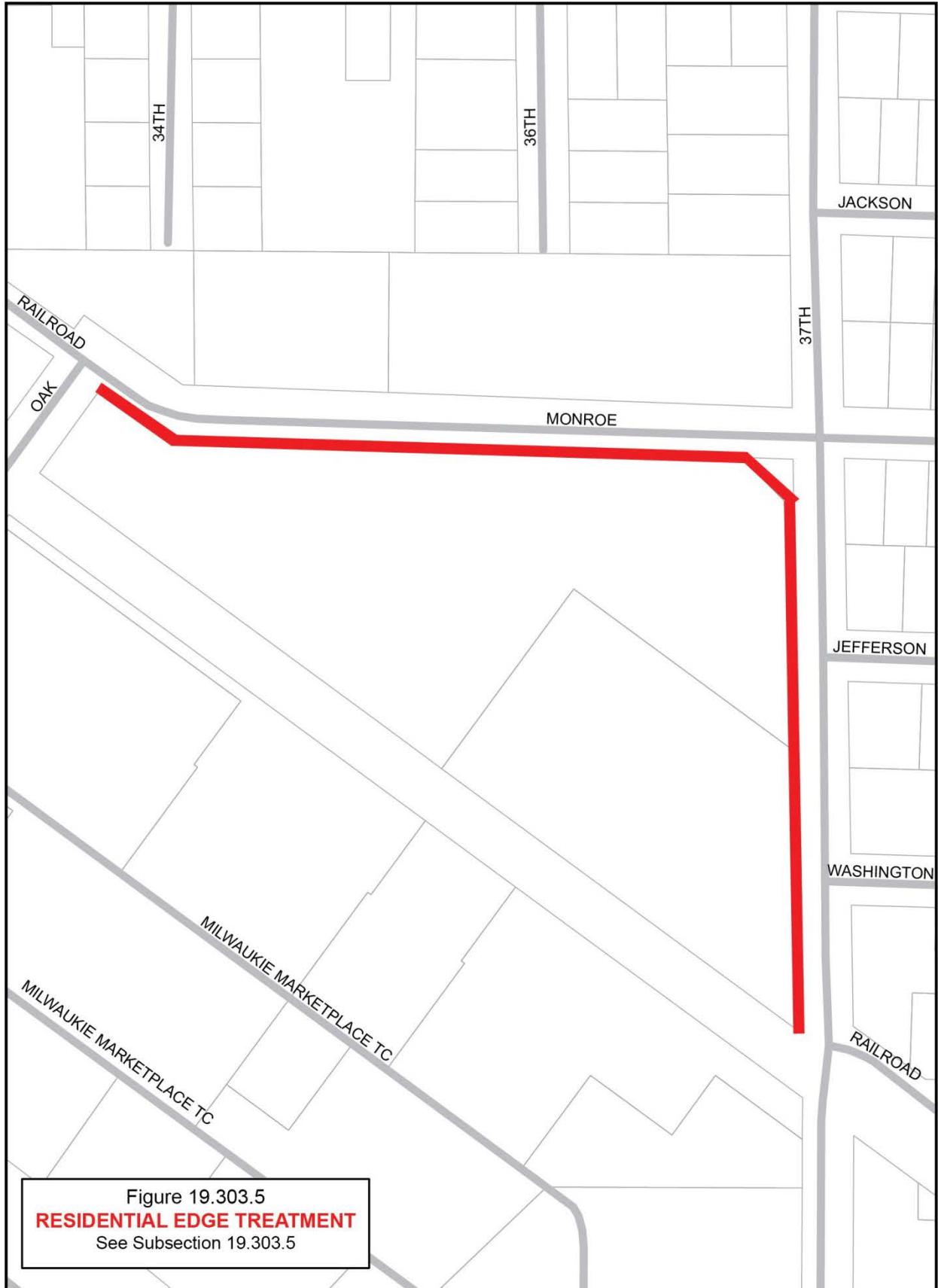
- A. A minimum setback of 15 ft shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Ave and Monroe St shall provide a step back of at least 15 ft for any portion of the building above 35 ft.

- C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

19.303.6 Standards for Medical Marijuana Facilities

In the commercial mixed-use zones, medical marijuana facilities shall meet the following standards:

- A. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.
- B. A medical marijuana facility shall not be colocated with another business.
- C. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
- D. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.



19.303.7 Additional Provisions

Depending upon the type of use and development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

A. Section 19.500 Supplementary Development Regulations

This section contains standards for site and building design that will apply to most new types of development, including residential and commercial. Relevant sections include:

1. 19.501 General Exceptions
2. 19.502 Accessory Structures
3. 19.503 Accessory Uses
4. 19.504 Site Design Standards
5. 19.505 Building Design Standards

B. Section 19.600 Off-Street Parking and Loading

Contains standards for vehicle and bicycle parking, including required number of spaces and design standards for parking and loading areas.

C. Section 19.700 Public Facility Improvements

Contains standards for transportation, utility, and other public facility improvements that may be required as part of development.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.
 - B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.
-

19.505 BUILDING DESIGN STANDARDS

19.505.7 Nonresidential Development

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards support development of an attractive, cohesive, and pedestrian-friendly commercial area. The design standards do not prescribe a particular building or architectural style.

B. Applicability

- 1. The design standards in this section generally apply to the street-facing facades of new commercial, institutional, manufacturing, and mixed-use buildings within the commercial mixed-use zones.
- 2. The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Subsection 19.505.3 Multifamily Housing.
- 3. The standards in this section do not apply to rowhouses or live/work units. Rowhouses and live/work units are subject to the design standards in Subsections 19.505.5 Rowhouses and 19.505.6 Live/Work Units.
- 4. The standards in this section do not apply to cottage cluster housing. Cottage cluster housing is subject to the design standards in Subsection 19.505.4 Design Standards for Cottage Cluster Housing.

C. Building Design Standards

All buildings that meet the applicability provisions in Subsection 19.505.7.B shall meet the following design standards.

An applicant may request a variance to the building design standards in Subsection 19.505.7.C through a Type II review, pursuant to Subsection 19.911.3.B.7.

1. Corners

The intent of this standard is to reinforce intersections as an important place for people to gather.

Buildings located at a key corner in the GMU Zone, as shown on Figure 19.505.7.C.1, shall incorporate one of the following features:

- a. The primary entry to the building located at the corner.
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at, or within 20 ft of, the corner of the building.
- c. The corner of the building cut at a 45-degree angle.

2. Weather Protection

The intent of this standard is, through the use of awnings and canopies along the ground floor of buildings, to protect pedestrians from rain and provide shade, to encourage window shopping and lingering, and to create visual interest on the ground floor of a building.

Buildings shall provide weather protection for pedestrians as follows:

- a. Minimum weather protection coverage
All ground-floor building entries (excluding loading docks, bays, etc.) shall be protected from the weather by canopies or recessed at least 3 ft behind the front building façade.
- b. Weather protection design
Weather protection shall comply with applicable building codes. Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

3. Exterior Building Materials

The intent of this standard is to provide a sense of permanence, through the use of certain permitted building materials; to provide articulation and visual interest to larger buildings; and to allow for a variety of materials and designs.

The following standards are applicable to the exterior walls of new buildings facing streets, courtyards, and/or public squares. Table 19.505.7.C.3 specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 60% of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40% of each applicable building facade.
- c. Accent materials are permitted on no greater than 10% of each applicable building facade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not utilize materials listed as (N) prohibited material.
- e. For existing development, façade modifications that affect more than 50% of the façade shall comply with standards in this subsection. The Planning Director may waive this requirement if application of the standards would create an incongruous appearance of existing and new materials.

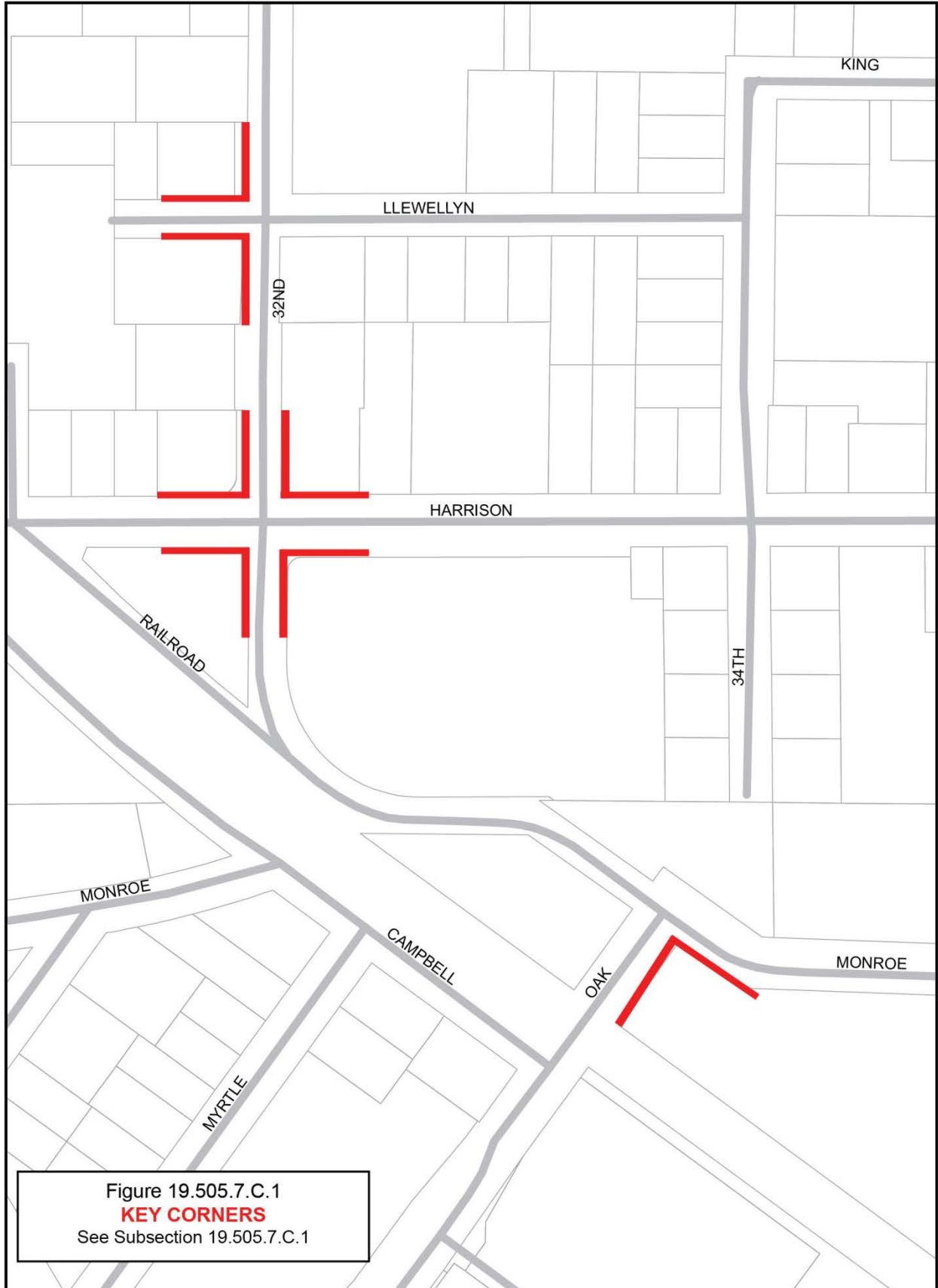


Table 19.505.7.C.3 Commercial Exterior Building Materials	
Material Type	Nonresidential and Mixed-Use
Brick	P
Stone/masonry	P
Stucco	P
Glass (transparent, spandrel)	P
Concrete (poured in place or precast)	P
Finished wood, wood veneers, and wood siding	S
Finished metal panels—such as anodized aluminum, stainless steel, or copper—featuring polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished, or glazed finish)	S
Fiber-reinforced cement siding and panels	S
Ceramic tile	S
Concrete blocks with integral color (split-face finish)	A
Standing seam and corrugated metal	A
Glass block	A
Vegetated wall panels or trellises	A
Vinyl siding	N
Exterior insulation finishing system (EIFS)	N
Plywood paneling	N

P = Primary material

S = Secondary material

A = Accent material

N = Prohibited material

4. Windows and Doors

The standards of this section are intended to enhance street safety and provide a comfortable pedestrian environment by providing ground-level transparency between the interior of buildings and the sidewalk.

- a. For nonresidential and mixed-use buildings, 30% 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. For all buildings, the following applies:
 - (1) Nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.

- (2) Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
 - (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
 - (4) The bottom edges of windows along pedestrian ways shall be constructed no more than 36 in above grade.
 - (5) Ground-floor windows for nonresidential uses shall allow views into storefronts, working areas, or lobbies. Signs are limited to a maximum coverage of 50% of the required window area.
 - c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.
 - d. For all building windows facing streets, courtyards, and/or public squares, the following window elements are prohibited:
 - (1) Reflective, tinted, or opaque glazing.
 - (2) Simulated divisions (internal or applied synthetic materials).
 - (3) Exposed, unpainted metal frame windows.
5. Roofs
- a. The intent of this standard is to enliven the pedestrian experience and create visual interest through roof form. The roof form of a building shall follow one (or a combination) of the following forms:
 - (1) Flat roof with parapet or cornice.
 - (2) Hip roof.
 - (3) Gabled roof.
 - (4) Dormers.
 - (5) Shed roof.
 - b. All sloped roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.
 - c. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.
 - d. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.
 - e. When an addition to an existing structure, or a new structure, is proposed in an existing development, the roof forms for the new structure(s) shall have similar slope and be constructed of the same materials as the existing roofing.
6. Rooftop Equipment and Screening
- The intent of this standard is to integrate mechanical equipment into the overall building design.

- a. The following rooftop equipment does not require screening:
 - (1) Solar panels, wind generators, and green roof features.
 - (2) Equipment under 2 ft in height.
 - b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft provided that the mechanical shaft is incorporated into the architecture of the building.
 - c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft in height, shall be set back a minimum of 5 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
 - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
 - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
 - d. Required screening shall not be included in the building's maximum height calculation.
7. Ground-Level Screening
- Mechanical and communication equipment, outdoor storage, and outdoor garbage and recycling areas shall be screened so they are not visible from streets, other ground-level private open space, or common open spaces.

CHAPTER 19.900 LAND USE APPLICATIONS

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions²
BI	P1	P2	P2	P2
M	P1	P2	P2	P2
M-TSA	P1	P2	P2	P2
C-N	N	P2	P2	P2
C-G	N	P2	P2	P2
C-L	N	P2	P2	P2
C-CS	N	P2	P2	P2
OS	N	P2	P2	P2
DMU	N	P2	P2	P2
GMU	N	P2	P2	P2
NMU	N	P2	P2	P2
R-1-B	N	P2	P2	P2
R-1	N	N	P2	P2
R-2	N	N	P2	P2
R-2.5	N	N	P2	P2
R-3	N	N	P2	P2
R-5	N	N	P2	P2
R-7	N	N	P2	P2
R-10	N	N	P2	P2

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

P = Permitted

N = Not Permitted

¹ Rooftop extensions are not to exceed 15 ft in height above the roof top and are not to project greater than 5 ft from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 ft. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 ft in height of the pole that is to be replaced.

F. Location and Size Restrictions

2. Height: maximum heights. Also see Table 19.904.11.C.

a. Height Restrictions

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

- (1) BI, M, and M-TSA Zones: 100 ft.
 - (2) New towers are not permitted in the R-1-B, R-1, R-2, R-2.5, R-3, R-5, R-7, R-7PD, R-10, R-10PD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.
-

Updates for Section References and Housekeeping Only

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

19.201

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill, boundaries, and embankments.

19.202.2.C

C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection 19.202.B.2.

19.202.4.D.2

2. Density Calculation

The minimum number of dwelling units required is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

19.202.4.E.2

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.401 WILLAMETTE GREENWAY ZONE WG

In a W-G Zone the following regulations shall apply: *[This paragraph repealed.]*

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

In an HP Zone the following regulations shall apply: *[This paragraph repealed.]*

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

In an L-F Zone the following regulations shall apply: *[This paragraph repealed.]*

19.707.1.C

C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-1 of the TSP.

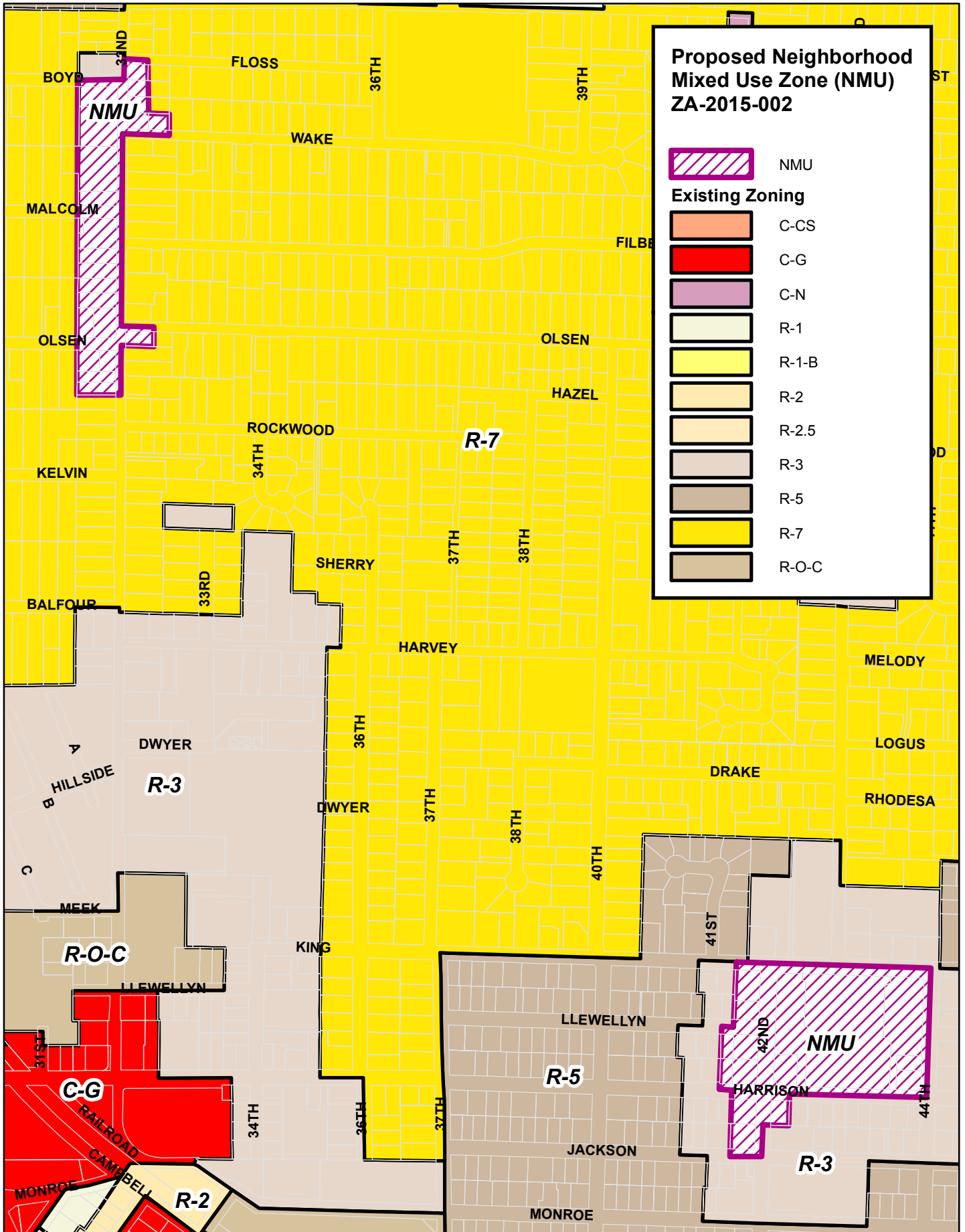
19.708 TRANSPORTATION FACILITY REQUIREMENTS

The City’s street design standards are based on the street classification system described in the TSP. Figure 8-1 of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

Table 19.901

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony <i>[This table row repealed.]</i>	Subsection 19.503.1.D	III

EXHIBIT D



RS139

RECEIVED

OCT 02 2015 October 2, 2015

CITY OF MILWAUKIE
PLANNING DEPARTMENT

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

RE File Number 2015-002
32nd and 42nd Avenue commercial districts.

Dear Sir:

I am in receipt of Public Notice regarding the proposed Phase 3 Moving Forward project. My property is within that 400-foot neighborhood boundary.

It appears to me that the properties on the East Side of 44th Avenue between Harrison Street and King Road should be included in this proposal. There are two residential properties between Harrison Street and Llewellyn Street. One property has a 4 unit apartment building, and the other property*, holds a single family residence zoned R-3. The section from Llewellyn Street to King Road also has two properties, one contains a residential duplex both units are rentals; and the other property is commercial office building. The entire length of 44th Avenue from Harrison Street to King Road is probably no more than 20 yards long.

I have no immediate plans for my property in regards to selling or seeking zoning changes. My property was purchased more than 25 years ago because it was within walking distance to shopping, hospital, transportation and automotive repair. Safeway's Gas station has replaced the old Texaco gas station and thereby reduced the choice of an auto repair facility within your proposed project. Tri Met discontinued the all day bus route from 44th Avenue & King Road to Portland. Now the #31 Bus route to Portland requires a bus change during most of the day. A none bus change ride to Portland and back was an added perk to living on 44th Avenue. Now prohibiting a vehicle sale or rental facility in this area makes Milwaukie a less convenient place to live.

I believe that within the next few years I will need to buy a newer used car. I expect to be able to walk to the current used car dealer at the corner of 42nd Street and King Road and be able to choose "kick the tires" of a possible purchase or car rental. I do not know if cars are currently rented there. I see no reason for the city to ban vehicle sales or rentals in this area. Milwaukie's economic status reflects the national economy and reducing jobs or convenience is not progressive or beneficial to our neighborhood.

Sincerely



Carl S. Jacob
P.O. Box 22832
Milwaukie OR 97269

cc Li Alligood, Senior Planner

* property located at 10500 SE 44th Avenue.

Alligood, Li

From: Larry Jakobson <larry.jakobson@yahoo.com>
Sent: Monday, October 05, 2015 4:27 PM
To: Alligood, Li
Subject: Moving Forward Milwaukie, Neighborhood Main Streets
Attachments: land use.odt

Larry D. Jakobson
10425 SE 42nd AVE
Milwaukie, OR 97222

October 2nd 2015

Li Alligood
Milwaukie Planning Dept
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

Dear Ms. Alligood,

SUBJECT: Moving Forward Milwaukie
Neighborhood Main Street Project Area

While I applaud the efforts of the City to improve the livability of it's neighborhoods, I have grave concerns about the drastic changes proposed.

I have owned and operated a business at the above address, 10425 SE 42nd AVE for a quarter century, building a customer base centered on good will which is a part of the value of this business, providing automobile sales and services to individuals who were denied traditional financing. As time goes by and we all mature, I am considering retirement. The primary source of my post employment funding will be from the sale of this business & property. I feel strongly the value of the business and property will be negatively affected by the requirements of your proposal. I wish to retain the right to sell this business and property to another party who will have the ability to continue the current use under a different DBA should they choose.

I also have a question about subdivision. With the lot size reduced to 1500 sq ft, and the street frontage reduced to 25 ft, could this lot be subdivided?

Respectfully,

Larry Jakobson

OCT 06 2015

The Moving Forward Project for 32nd St. (Land Use File #ZA-2015-002) just recently came to my attention about 1 1/2 weeks ago. I am very concerned about some of the proposed changes. The neighborhood on the west side of 32nd St. is very special with its large lots and diverse houses and I hope that this quality can be preserved in the process of the business revitalization that is planned .

Everyone wants their home to be a place they go at the end of their day to relax and restore in readiness for the next day. Respite is a necessity for good health and quality of life. Constant stress is often the root of disease and certainly unhappiness. Hope is that the revitalization of the business section can enhance the immediate neighborhood around it and not compromise or diminish our livability with noise, parking problems, congestion, odors, etc.

Although I want to be brief, a history of a neighborhood problem needs to be mentioned since this revitalization is not happening in a vacuum. For over a decade, the apartment complex on 32nd St. between Malcolm and Boyd was a large and recurrent problem. The houses around it were barely livable at times due to crime and police presence (meth lab, chop shops, people living behind the parking lot, a lot of trespassing, etc.). There was also fighting, yelling, obscenely loud music, threatening behavior, wild unpleasant kids, and trash including syringes, shopping carts, feces, lots of liquor bottles, and junk thrown into adjacent yards. It has much improved the last few years making our neighborhood livable, restful, and enjoyable. The immediate neighbors have experienced and know how the presence of irresponsible and unregulated commercial or business neighbors can affect the livability of the neighborhood. This is why I hope the types of businesses and regulations are carefully considered with thought to the surrounding neighbors.

The business district on 32nd St. is really a sliver of land in a basically residential area. It is different from 42nd St. and certainly from downtown which are both larger. Some of the proposed changes good for more commercial areas could be detrimental to an essentially residential area. The changes allowed on 32nd St. need to be more sensitive to the surrounding neighbors. The potential impact is greater since there is far less business space.

I'm not sure what recommendations are being considered for the 32nd St. area but the following is a list of my concerns pulled from the recommendations I found online.

PARKING LOT CONCERNS

1. No parking lot necessarily required. There is no parking on 32nd St. Malcolm and Olsen are very narrow and parking would be very limited especially with mailboxes on the street. There are no sidewalks which also makes these streets less safe for children, pets, and pedestrians.

2. Parking behind businesses. This potentially sets up noise and conflict between properties. This was one of the big problems with the apartment complex. It can't be viewed from the street and cruising police aren't aware of problems. Parking lots behind businesses on corners bring more traffic onto residential streets.

Lights. There are concerns about the presence or absence of them. Too much light affects adjacent homes and there is already too much light pollution. But no lights could allow for problems and unsavory behaviors. What would the requirements be? Privacy fencing should be a requirement for the business abutting a private residence. Shrubbery takes time to grow and doesn't reliably stop people or provide privacy. Would there be required setbacks on the rear and sides of the business properties giving a spatial buffer to the surrounding properties? Also, what would the landscaping requirements be?

3. Multi-use parking lots. It defeats the purpose of saving the street parking for the neighborhood. Occasional alternative use is very different from daily or persistent use. The recommendations listed up to 100% multi-use which just causes more traffic with no business parking and increases the potential for noise and other problems for the neighbors.

If multi-use parking lots are allowed, it could cause a lot of unbuffered noise up against the adjacent homes since the parking lots would be behind the business. Instead of the business building buffering the noise and activity, the hard surfaces of the building and ground actually amplify it. My biggest fears are loud or constant music and activity allowing the adjacent homes no relief from noise all day and/or evening. Would this be regulated in some way?

Parking lots adjacent to residences should have different rules for multi-use. Occasional alternative uses have much less impact for adjacent homes than constant or persistent noise and activity. Once again, with the parking lots behind the businesses, there is no buffer and potentially no time off from noise, activity, traffic, odors, etc. Food carts could be an example of that. Do the same multi-use recommendations apply equally to all areas studied (32nd, 42nd, downtown)? Multi-use parking lots wouldn't impact larger business areas such as 42nd St. or downtown in the same way.

TYPES OF BUSINESSES ALLOWED

1. Drinking establishments. These businesses could potentially be very disruptive to the immediate neighborhood. Late hours and loud music are often associated with these businesses. There is also the potential for loud and aggressive behavior. Outdoor seating in front of businesses was listed as a general recommendation. Would that only be allowed in front, thus sparing the adjacent homes from the noise? Also, with the history of the nearby apartment complex, there is concern about how such a business might affect its present relative quiet. Drinking establishments seem more appropriate in a larger business area.

2. Eating establishments. My major concern again is noise. Is the outside seating only allowed in the front? Fear is that with parking lots behind the buildings, there could be constant noise and music if seating is allowed in the parking lots in back of the business. Are there any noise or hour regulations in place?

3. Commercial lodging. What does that include? Hotel, motel, boarding? Hotel and motel parking lots could mean noise at all hours. It seems like a strange choice for 32nd St. It also adds the risk of instability with strangers constantly in a residential setting. It is also not serving the neighborhood as a convenient business for neighbors to use. It seems more appropriate for a larger business area that would also offer more

activities and opportunities to the visitors.

4. Building heights. What heights would be allowed to fit into the existing neighborhood buildings?

STREAMLINED REVIEW PROCESS

Would the neighborhood be given sufficient notice and an opportunity to voice their opinions, pro and con. And would their opinions be considered?

BASIC CONCERNS

Noise and parking. Mostly noise from business and the parking lots behind the businesses. There is also a fear that increased noise will bleed back into the apartments and cause them to become more noisy and problematic again.

It is easy for people to respond to general questions in a survey about convenience and businesses in the neighborhood without thinking of the consequences to the people living next door to it. No one really wants it in "their backyard." I hope the final changes in the zoning will be sensitive to the immediate area around the proposed business revitalization area. We want our neighborhood enhanced, too. Instead of duplicating other areas such as Sellwood and Hawthorne, we could learn from their problems and make Milwaukie better. It could be a model of good and sensitive urban development where business can prosper and neighborhoods are respected and preserved.

Thank you for your time and consideration.

Karen Olsen

olsenkma@msn.com

Alligood, Li

From: Alligood, Li
Sent: Monday, October 12, 2015 9:48 AM
To: 'Nick Haselwander'; Egner, Dennis
Subject: RE: Hi Dennis and Li,

Hello Nick,

Thank you for taking the time to share your thoughts and concerns. Your comment will be shared with the Planning Commission and will become part of the public record for File #ZA-2015-002. In addition, you will be added to the "interested persons" list for this file and will receive updates about the status of the application.

I think the proposed amendments address many of your concerns – I've outlined the proposal as it relates to your concerns below:

- No strip clubs, marijuana retail shops or other establishments that attract undesirable clientele

Strip clubs are considered an adult business. They are prohibited now and would be prohibited under the proposed amendments.

The City Council recently adopted regulations that permit medical marijuana establishments in all commercial zones in the city, including these (unless the property is within 1,000 ft of a school). The proposed amendments do not propose to change that allowance.

- Ok with restaurants that cater to a responsible crowd but not interested in bars and taverns unless they are more along the lines of a craft brew establishment. Looking at the street now, all I can envision is a seedy tavern. I think Liz's Cafe is a great example of how to serve a community.

We heard many variations of this from the public. The proposed amendments would allow "drinking establishments" (like taverns and bars) only as conditional uses, which means there would be public notice, a public hearing before the Planning Commission, and an opportunity to place conditions on the operation (such as the days and hours of operation). Brew pubs that fit the definition of an "eating establishment" would be allowed outright, but those that only served beer and limited or no food would need to go through the conditional use process.

- Nothing open past 10 pm and impose live music restrictions that make it an uncommon event

There is a noise ordinance in place that applies to commercial properties, and any noise that exceeds the allowable levels can be called in to Code Enforcement. Restaurants/eating establishments that primarily serve food and may serve alcohol (like Liz's) would be allowed but others would need to go through the conditional use process described above, and hours of operation could be limited. The neighborhood could also look into "Good Neighbor Agreements" with new businesses to ensure that they understand neighborhood concerns.

- I don't get the point of lodging on 32nd. I suspect this provision is probably more meaningful to the 42nd ave. area.

The idea is to provide more flexibility for the future, although there is not much demand now. There are quite a few single-family homes in the 32nd Ave commercial area that could be converted into bed and breakfasts, or new mixed use buildings could have lodging on upper floors.

- Parking on neighborhood streets by permit only. I'm almost certain my house is going to turn into a parking lot

Existing and new development needs to provide on-site parking, but if parking becomes an issue, the City has recently adopted a process for adopting a residential parking permit program in areas where there is pressure on residential neighborhoods, so that would be an option for this area in the future if needed.

- Keep noise/commotion toward 32nd and away from the residences back in the neighborhood. I don't know how you do this exactly, but there are a lot of established neighbors that will be affected by this. Listening to bar noise 7 nights a week is not a livable situation.

There is a noise ordinance in place that applies to commercial properties, and any noise that exceeds the allowable levels can be called in to Code Enforcement. In addition, there are "transition area measures" that apply to new businesses or development in these commercial areas when they are adjacent to residential properties, including increased setbacks and buffers between the properties (trees/shrubs and/or fencing).

I hope this information is helpful – please feel free to contact me with additional questions or for clarification.

Thanks,

Li Alligood, AICP
Senior Planner

City of Milwaukie
6101 SE Johnson Creek Blvd | Milwaukie, OR 97206
T 503.786.7627 | F 503.774.8236
Community Development 503.786.7600

Join us on the [web](#), [facebook](#) and [twitter](#)!

From: Nick Haselwander [mailto:nickhas@gmail.com]
Sent: Saturday, October 10, 2015 12:29 PM
To: Egner, Dennis; Alligood, Li
Subject: Hi Dennis and Li,

Hi Dennis and Li,
I understand you are holding a hearing Tuesday about the Neighborhood Streets project.

I have not closely followed the project, but have held mostly a favorable view toward it as I value growth and development in my community.

However, as a neighbor with a home on Malcolm just a couple houses down from 32nd avenue, I do want to add my voice to the discussion about what is and is not permitted. I cannot attend Tuesday's meeting so I thought I'd email you some thoughts.

My concern is that in a neighborhood with modest incomes, a project like this can run into some unfavorable outcomes if everyone involved is not careful. There are plenty of examples of great neighborhood streets throughout Portland, but as you go east, you can see less desirable situations that feature run-down businesses failing to add value to the community. I don't want to become that.

I have a family of four with a 3 year old and 3 week old so I'm trying to preserve some semblance of safety, peace and quiet, however futile that effort may be.

I know that change is inevitable and as I said, I generally support that. 32nd businesses today are generally pretty lacking in everyday usefulness and aesthetic value. The question to me is, do you want to push families out of this neighborhood in favor of a different demographic? That's a likely outcome if 32nd is turned into a rowdy, late night street.

With all that said, I would ask that the committee consider some restrictions.

- No strip clubs, marijuana retail shops or other establishments that attract undesirable clientele
- Ok with restaurants that cater to a responsible crowd but not interested in bars and taverns unless they are more along the lines of a craft brew establishment. Looking at the street now, all I can envision is a seedy tavern. I think Liz's Cafe is a great example of how to serve a community.
- Nothing open past 10 pm and impose live music restrictions that make it an uncommon event
- I don't get the point of lodging on 32nd. I suspect this provision is probably more meaningful to the 42nd ave. area.
- Parking on neighborhood streets by permit only. I'm almost certain my house is going to turn into a parking lot
- Keep noise/commotion toward 32nd and away from the residences back in the neighborhood. I don't know how you do this exactly, but there are a lot of established neighbors that will be affected by this. Listening to bar noise 7 nights a week is not a livable situation.

Thanks for taking the time to read and I wish the city well in responsibly developing 32nd avenue into something that the neighborhood can take pride in.

Nick Haselwander
Ardenwald Resident

Received at PC / CC
Public Hearing

Date: 10/13/15

By: LSA

Li Alligood,

This is a revised version of the written comments I submitted a week ago. Some of the comments have been deleted that are no longer relevant. Other comments have been added that are specific to the proposed code amendments that became available last week. A large part of it is the same.

Thank you so much for your time and help.

Sincerely,
Karen Olsen

RECEIVED

OCT 13 2015

CITY OF MILWAUKIE
PLANNING DEPARTMENT

The Moving Forward Project for 32nd St. (Land Use File #ZA-2015-002) just recently came to my attention less than 2 weeks ago. I am very concerned about some of the proposed zoning changes. The neighborhood on the west side of 32nd St. is very special with its large lots and diverse houses, and I hope this quality can be preserved in the process of the business revitalization that is planned.

Everyone wants their home to be a place they go at the end of their day to relax and restore in readiness for the next day. Respite is a necessity for good health and quality of life. Constant stress is often the root of disease and certainly unhappiness. Hope is that the revitalization of the business section can enhance the immediate neighborhood around it and not compromise or diminish our livability with noise, parking problems, congestion, odors, etc.

Although I want to be brief, a history of a neighborhood problem needs to be mentioned since this revitalization is not happening in a vacuum. For over a decade, the apartment complex on 32nd St. between Malcolm and Boyd was a large and recurrent problem. The houses around it were barely livable at times due to crime and police presence (meth lab, chop shops, people living behind the parking lot, a lot of trespassing, etc.). There was also fighting, yelling, obscenely loud music, threatening behavior, wild unpleasant kids, and trash including syringes, shopping carts, feces, lots of liquor bottles, and junk thrown into adjacent yards. It has much improved the last few years making our neighborhood livable, restful, and enjoyable. The immediate neighbors have experienced and know how the presence of irresponsible and unregulated commercial or business neighbors can affect the livability of the neighborhood. This is why I hope the types of businesses and regulations are carefully considered with thought to the surrounding neighbors.

The business district on 32nd St. is really a sliver of land in a basically residential area. It is different from the 42nd St. area and certainly from downtown Milwaukie, which are both larger. Some of the proposed changes that would be beneficial and appropriate for the larger business areas could be detrimental to an essentially residential area. The changes allowed on 32nd St. need to be more sensitive to the surrounding neighbors since the potential impact is greater with its close proximity to homes. Some of the proposed zoning changes should be specific to the 32nd St. area.

Below are a list of concerns and questions in regard to the proposed zoning changes.

PARKING LOT CONCERNS

1. Parking behind businesses. Although I understand the reasoning behind this idea, this potentially sets up noise and conflict between the 2 properties or zones. This was one of the big problems with the apartment complex. The parking lot can't be viewed from the street and cruising police aren't aware of problems.
2. If parking lots are behind businesses and abut residential neighbors, they should be used for parking only. Small-scale businesses oriented toward the "main streets" is listed within the goals for this project. So outdoor seating for eating establishments, for example, or music and other activities, depending on the business, should be oriented toward 32nd St. and not behind the business where the noise would be directed into the

neighborhood. One of the objectives included in the proposal is to 'establish protections for residential areas adjacent to commercial areas.' Visual buffers are mentioned but noise is a key factor in livability and also needs to be considered.

3. Multi-use parking lots were mentioned in the recommendations but I did not see them in the proposed zoning changes. Multiple businesses sharing parking isn't a concern but multiple uses that allow additional uses besides parking is worrisome. Once again this is due to potential noise since parking lots are located behind businesses. Since there are no noise restrictions in place other than those considered at a nuisance level, constancy of the noise needs to be considered for livability. Persistent noise with no break even when it's not too loud quickly degrades livability. Outdoor eating areas are an example. Constant and sometimes loud conversations, clinking silverware, music, etc. every day and evening could greatly diminish the livability of the abutting properties. Not only would hearing constant conversations from the diners grate on neighbors, neighbors would also not have privacy from the diners listening to their conversations or activities in their yards. If bad or chronic enough, neighbors wouldn't want to use their yards or open their windows due to noise.

4. Multiple use of parking lots that include constant use from other businesses in the parking lots have a couple of potential problems. If businesses are allowed to operate in the parking lots, they are essentially orienting business away from 32nd St. and into the neighborhood. Food carts are an example of this. Once again, it becomes a potential noise issue as well as an odor issue. Neighbors could grow very tired of smelling food being cooked potentially at the edge of their property no matter how good it smells the first few days. And there could also be more noise depending upon the particular business.

The second problem with other businesses in the parking lots is that it would lessen parking which defeats the reason for the parking lot. Parking would have to spill into the neighborhood streets. Boyd, Malcolm and Olsen streets don't have sidewalks west of 32nd so increased traffic puts children, pets, and pedestrians at risk. Malcolm and Olsen are also very narrow streets which increases that problem. There is also not much available parking on the residential streets due to mailboxes on the street, garbage pick-up days, and driveways.

5. Another thought in regard to parking lots behind the businesses is that it brings noise to the residential side of the business. The noise that is impacting the residences is unbuffered. So instead of the business building buffering the noise and activity, the hard surfaces of the building and the surface of the parking lot actually amplify it. I have observed this from experience. Once again, my fears are loud or constant activity or music allowing adjacent homes no relief from noise all day or evening. Parking lots abutting residential areas should have different rules for multi-use than a larger commercial area that wouldn't be impacting residential areas on the same scale.

6. Privacy fencing should be a requirement for parking lots abutting a residence. Shrubbery takes time to grow and doesn't reliably stop people or provide privacy.

6. Lights. I didn't see a mention about lights. Are parking areas required to have lighting? There are concerns about their presence or absence. There is already so much light pollution but no lighting could allow for problems and unsavory behaviors. Too much lighting could affect abutting homes adversely. Are there any requirements either way?

TYPES OF BUSINESSES ALLOWED

1. Drinking establishments. These businesses could be very disruptive to the immediate neighborhood. Late hours and loud music are often associated with these businesses. There is also the potential for loud and aggressive behavior. With the history of the nearby apartment complex, there is concern about how such a business might affect its present relative quiet. Drinking establishments seem more appropriate to a larger commercial area.

2. Eating establishments. My major concern again is noise and that would be related mostly to the outdoor seating area location. If located in the parking lot behind the business, temptation is to have larger areas with music. Again, it's encouraging business towards the residences rather than 32nd St. and it could be constant.

3. Commercial lodging. It seems like a strange choice for the 32nd St. area. Hotel and motel parking lots could mean noise at all hours. It also introduces a risk of instability with a constantly transient population in a residential setting. It's also not serving the general neighborhood looking for pedestrian friendly businesses. It seems more appropriate for a larger business area that could also offer more activities and opportunities for the visitors.

4. Manufacturing and production. The concern here is mostly with businesses connected to food production and related products but it could also include other businesses. That concern is odor. Are there any regulations or requirements in regard to odors? Most of the manufacturing and production businesses listed don't seem like there would be noise issues but that is a general concern.

5. Indoor recreation. It is defined as facilities providing active recreational uses of a primarily indoor nature. If it was all indoor, there would be no concern. 'Primarily' implies that some of it could be outdoor and certain activities could certainly cause chronic and persistent noise. Such a business can't be equated with outdoor activities of a family residence. It is a business with customers throughout their open hours and not a family with a couple of kids playing for a while. Noise could be persistent throughout the day without a break for the immediate neighbors.

NMU DEVELOPMENT STANDARDS - QUESTIONS

I'm unclear what exactly applies to our immediate neighborhood by 32nd St. If I understand correctly, the side and rear setbacks for businesses abutting residences is 20'. Is that correct? Corner businesses on 32nd St. would be required to have their primary entrance on 32nd St. Is that correct and does that exclude it as a corner entrance?

STREAMLINED REVIEW PROCESS

Would the neighborhood be given sufficient notice and opportunity to voice their opinions, pro and con? And would their opinions be considered?

BASIC CONCERNS

Noise and parking. The concern is mostly noise from business and the parking lots behind the businesses. There will be an increase in noise even if only parking is allowed in the parking lots. From current experience, that is generally a livable increase in noise. Noise from other uses in the parking lots can be far more impactful and detrimental - also from experience. There is also a fear that increased unnecessary

noise will bleed back into the apartments and cause them to become more noisy and problematic again.

It is easy for people to respond to general questions in a survey about convenience and businesses in the neighborhood without thinking of the consequences to the people living next door to it. No one really wants it in 'their backyard' The response would have been very different had they been asked 'would you like a restaurant or bar next door to your home?' I hope the final changes in the zoning will be sensitive to the immediate area around the 32nd St. business revitalization. We want our neighborhood enhanced, too. We love our neighborhood. Instead of duplicating other areas such as Sellwood and Hawthorne, we could learn from their problems and make Milwaukie better. It could be a model of good and sensitive urban development where business can prosper and the neighborhoods are respected and preserved.

Thank you for your time and consideration.
Karen Olsen

Received at PC / CC
Public Hearing

Date: 10/13/15
By: DE

October 13, 2015

Re: Moving Forward Milwaukie Main Streets Code Amendments

I chose to reside in Milwaukie because of its livability. I can walk and bicycle through the neighborhoods. I can sit on my front porch or in my back yard and listen to the songs of the birds as I relax.

I realize that the city will grow, and that means change will occur. I only ask that the concerns of the residents be considered as those who have the power make decisions do so going forward.

Recently, the new TriMet Orange line began operating. I fully support this, knowing that public transportation is essential for moving people and for the environment. Please be aware that this already has had an effect on the neighborhood. The sound of the engines as they accelerate and decelerate is loud and clearly heard all the way to 32nd street. Since this occurs with trains moving in both directions, the noise is ever present throughout the day and into the night, seven days a week.

Now there will soon be the addition of commercial establishments nearby on 32nd street.

We perceive our world through our senses. Our auditory sense has already been negatively impacted from the west. Now we can also expect undesirable sensory impact from the east, potentially sound, sight and smell. Most importantly, noise.

The world we know and feel from our homes is changing. The comfort we have come to cherish is being eroded.

I genuinely ask that you carefully contemplate the changes that will take effect as this plan is enacted. Please make zoning and other decisions with the consideration and respect of the longtime residents of the community.

I'd like to thank the Planning Commission and the City Council for their thoughtful work on this project.

Robert Hansen

RS154

Received at PC / CC
Public Hearing
Date: 10/13/15
By: DE

Rezoning meeting
Milwaukie, Ore.
Oct. 13th, 2015

As a homeowner of 3107 SE Malcolm St, Milwaukie, 97222, I just wanted to voice my concerns of some of the proposed ideas for the development of 32nd Ave.

Tearing down the Apt. complex does not seem like a fair option to the renters of those apts. In the past there were issues with police, etc. but since we have lived here (2010) we have had no issues as such, and believe that it adds to the diversity of our small community. I am all for a small bar and grill in our area, just not at the expense of displacing all those families. Also we have no sidewalks on our street, (Malcolm) and are concerned if the city will be mandating homeowners to pay for the cost, we are currently paying a huge medical debt and cannot handle the burden of such a task, I would assume that many of our neighbors feel the same. I hope that the city, developers, and homeowners can come to a fair and reasonable compromise on the rezoning proposal.

Thank you for your time,
Joaquin and Deborah Angela Olson
homeowners
3107 se malcolm st.
Milwaukie, Ore. 97222



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. A.**
Meeting Date: **Nov. 17, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Bancroft Financing System Development Charges
for Commercial Properties Emergency Ordinance
Change**

From: Samantha Vandagriff, Building Official

Date: November 17th, 2015

ACTION REQUESTED

Approve the emergency amendment of Municipal Code section 13.28.100 'Installment Payment' to explicitly allow commercial property owners to utilize Bancroft financing for system development charges with the City and set an interest rate in the fee schedule to apply to these agreements.

Recommended process is that a motion be made to read in its entirety the proposed amendment the emergency clause to the Ordinance amending Code Section 13.28.100 of the Municipal Code to allow Bancroft Bonding of System Development Charges for commercial use. If the motion is voted and approved, after the reading of the Ordinance a second motion to be made 'To read by title only the Ordinance amending Code Section 13.28.100 of the Municipal Code to allow Bancroft Bonding of System Development Charges for commercial use.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Milwaukie Municipal Code section 13.28.100 refers to Oregon Revised Statute (ORS) 223.207 which requires cities to provide Bancroft financing for system development charges on single- and multi-family residences, and not-for-profit and public organization property.

First reading of Ordinance change was completed at the regular session of the Milwaukie City Council on November 3rd, 2015.

Per discussion at the regular session of the Milwaukie City Council on November 3rd, 2015 this ordinance has been deemed an emergency amendment due to an immediate need.

BACKGROUND

System development charges are due upon permit issuance with the City for property development or improvement. Bancroft financing allows a property owner to finance these system development charges over an extended period of time. The City currently offers Bancroft financing for single- and multi-family residences, not-for-profit and public organization property, and commercial property that qualifies for the low income program. Staff would like to expand the program to allow commercial property owners who do not qualify under the low income requirements to utilize the City's Bancroft financing program to facilitate economic development within the City. In order to expand the program, the Municipal Code must be updated.

Municipal Code section 13.28.100 specifies that “the City shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Council.” The City Council should adopt a reasonable interest rate to be used in developing Bancroft financing arrangements. The adopted interest rate should be sufficient to cover administrative costs associated with the agreements, and sufficient to reimburse the City for lost investment income due to the arrangements. Staff has identified a reasonable interest rate as the Bank Prime Loan rate as reported by the Federal Reserve, plus two percent (2%) for administrative costs incurred by the City. Currently, this combined rate is 5.25% (3.25% Bank Prime Loan rate, 2% City Administrative).

The interest rate applicable to system development charges will be updated annually to the rate established by the Federal Reserve through the annual Master Fee Schedule adoption process. Updated rates will only apply to Bancroft financing agreements finalized after adoption of the new rate. Simple interest will be used to compute interest due to the City.

CONCURRENCE

The Community Development Director, the Engineering Director, the Building Official and the Finance Director have reviewed and concur on the language therein.

FISCAL IMPACTS

Bancroft financing for commercial properties will require staff resources for program administration. The interest rate established should be sufficient to reimburse the City for lost investment interest and administrative costs associated with each financing agreement.

WORK LOAD IMPACTS

Work load will consist of the Finance Department initiating and completing a financing agreement with each individual property owner with approval from the City Manager. Finance will place a lien on the applicable property, bill property owners in compliance with the financing agreement, track individual payments and loan balances. In rare instances, follow up may be required if timely payments are not made on the arrangements.

ALTERNATIVES

Council could leave the code language as it is, continuing to restrict the use of this valuable tool to single- and multi-family residences, not-for-profit and public organization property, and commercial property that qualifies for the low income program. Council could also decline to approve the interest rate, however adoption of the interest rate would be appropriate regardless of expansion of the program to commercial properties.

ATTACHMENTS

1. Proposed Section 13.28.100 with Strikeouts
2. Proposed Section 13.28.100 Clean
3. Ordinance for Code Amendment
3. Resolution for Interest Rate Adoption

ATTACHMENT 1

13.28.100 INSTALLMENT PAYMENT

A. System Development Charge Due

1. When a system development charge is due and payable, the permittee may apply for payment in twenty (20) semiannual installments, secured by a lien on the property upon which the development is to occur or to which the utility connection is to be made, to include interest on the unpaid balance.

~~, if that payment option is required to be made available to the permittee by ORS 223.207.~~

2. The permittee may irrevocably elect in writing to have the system development charge levied for a number of years less than ten (10), and according to such terms as the City Manager or designee may provide, pursuant to ORS 223.215, ~~if that payment option is required to be made available to the permittee by ORS 223.207.~~

B. The City Manager or designee shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. A permittee requesting installment payments shall have the burden of demonstrating the permittee's authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien.

D. The City Manager or designee shall docket the lien in the lien docket. From that time the City shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Council. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. (Ord. 1725 § 1, 1992; Ord. 1707 § 10, 1991)

13.28.100 INSTALLMENT PAYMENT

A. System Development Charge Due

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2. The permittee may irrevocably elect in writing to have the system development charge levied for a number of years less than ten (10), and according to such terms as the City Manager or designee may provide, pursuant to ORS 223.215.

B. The City Manager or designee shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. A permittee requesting installment payments shall have the burden of demonstrating the permittee's authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien.

D. The City Manager or designee shall docket the lien in the lien docket. From that time the City shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Council. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. (Ord. 1725 § 1, 1992; Ord. 1707 § 10, 1991)



CITY OF MILWAUKIE
"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, TO AMEND CODE SECTION 13.28.100 OF THE MUNICIPAL CODE TO ALLOW BANCROFTING OF SYSTEM DEVELOPMENT CHARGES FOR COMMERCIAL USES

WHEREAS, Milwaukie Municipal Code section 13.28.100 allows for Bancroft financing of single- and multi-family residences, not-for-profit and public organization property, and commercial property that qualifies for the low income program; and

WHEREAS, ORS 223.207 authorizes local governments to provide Bancroft financing for specific uses; and

WHEREAS, ORS 223.207 includes only minimum requirements and a local jurisdiction may expanded its Bancroft financing program in the municipal code of the applicable local jurisdiction; and

WHEREAS, it is the desire of the City to promote economic development within the City and provide assistance when appropriate; and

WHEREAS, offering Bancroft financing to commercial properties will provide assistance to property owners and encourage economic development.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Amendments. The Milwaukie Municipal Code Title 13 Public Services is amended as described in Exhibit A (underline/strikeout version) and Exhibit B (clean version).

Section 2. Effective Date. This ordinance being necessary to address an immediate need, an emergency is declared and these amendments shall be effective immediately on the date signed by the Mayor below.

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 _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



CITY OF MILWAUKIE
"Dogwood City of the West"

Attachment 4

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING AN ANNUAL INTEREST RATE TO BE UTILIZED FOR SYSTEM DEVELOPMENT CHARGE BANCROFT FINANCING OFFERED BY THE CITY.

WHEREAS, Oregon Revised Statute Chapter 223 (Bancroft Bonding Act) and Milwaukie Municipal Code section 13.28.100 allow local jurisdictions to offer Bancroft financing to property owners for the long-term financing of City system development charges; and

WHEREAS, Bancroft financing allows property owners to finance their system development charges over a ten (10) to twenty (20) year period, or at the desire of the property owner for a period of less than ten (10) years, subject to an appropriate interest rate; and

WHEREAS, the City shall file a lien on the City lien docket for ad valorem property taxes assessed and levied in favor of the local government against each lot or parcel of land or other property for which the system development charges apply until principle and accrued interest are paid in full; and

WHEREAS, Milwaukie Municipal Code section 13.28.100 specifies that the City Council establish an interest rate on the unpaid balance of such financing, however such a rate has not yet been established; and

WHEREAS, Staff has identified a widely accepted rate as the Bank Prime Loan rate as reported by the Federal Reserve, plus two percent (2%) for administrative costs incurred by the City.

Now, Therefore, be it Resolved by the City Council that the rate applicable to Bancroft financing offered by the City is the Bank Prime Loan rate as reported by the Federal Reserve plus two percent (2%) for administrative costs incurred by the City.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 6. B.**
Meeting Date: **Nov. 17, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Bancroft Financing for SDC's for 10560 SE Main Street**

From: Samantha Vandagriff, Building Official

Date: November 17th, 2015

ACTION REQUESTED

Authorize the City Manager, or his designee, to negotiate and execute a Bancroft financing agreement with the owner of 10560 SE Main Street, Milwaukie, Oregon 97222 for System Development Charges due to the City, incurred for the tenant known as the 'Beer Store' on permit number 601-15-000774.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Municipal Code section 13.28.100 allows for installment payments (Bancroft financing) of System Development Charges. At this time, the Code refers to Oregon Revised Statute 223.207 which is specific to single- and multi-family residences, not-for-profit and public organization property, and requires that local jurisdictions offer Bancroft financing on these types of properties.

First reading of the proposed ordinance change heard at the regular session of the Milwaukie City Council on November 3rd, 2015.

BACKGROUND

Staff is requesting modifications to the Municipal Code, that once effective, will allow the City to enter into Bancroft financing arrangements with commercial property owners in addition to the properties already allowed. This move is intended to facilitate economic development within the City.

The Ordinance to modify the Code, if adopted, will be effective thirty days after adoption. The City has a commercial property owner interested in the program. However, waiting until the Ordinance is effective will negatively impact the tenants of the property as they will be unable to complete their project to ensure a timely opening.

To ensure continued progression for the property owner and the property tenant, Staff is requesting that Council authorize the City Manager, or his designee, to negotiate and execute a Bancroft financing agreement in advance of the Code modification.

CONCURRENCE

The Community Development Director, Engineering Director, Building Official, Finance Director have reviewed and concur on the language therein.

FISCAL IMPACTS

Interest applied to the financing agreement will be the Bank Prime Loan rate as reported by the Federal Reserve (currently 3.25%), plus two percent (2%) for administrative costs incurred by the City, if adopted by Council. Interest revenue on this agreement should be sufficient to cover direct, indirect and opportunity costs.

WORK LOAD IMPACTS

City Manager will work with the Finance Department to negotiate and finalize the financing agreement. Finance will place a lien on the property for the system development charges and track and reconcile payments and loan balances throughout the year.

ALTERNATIVES

Should Council disagree with the development of such an agreement, the property owner could identify outside financing, or discontinue the tenant project.

ATTACHMENTS

1. Installment Payment Agreement – Draft
2. Resolution

ATTACHMENT 1

After Recording, Return to:
City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222

CITY OF MILWAUKIE

**INSTALLMENT PAYMENT AGREEMENT
FOR ASSESSED SYSTEM DEVELOPMENT CHARGES**

This agreement is effective on the day of the owner's signature below and sets forth the City of Milwaukie ("City") terms and conditions under which installment payments for system development charges ("SDC") will be allowed for _____ ("Owner") as owner of the property described below (the "Property").

1. As the current sole owner of the Property, Owner has chosen to pay all applicable SDC fees and administrative SDC program costs, totaling \$_____ in monthly/annual installments (____ payments) over a period of _____ years, subject to all of the terms and conditions set forth in this agreement. [Owner understands that Owner has a statutory right to spread its SDC installment payments over a period of at least ten (10) years and that, notwithstanding any provision of law, Owner consents and elects to make payment over a period of less than ten (10) years.]
2. Owner acknowledges that, as provided in City's Municipal Code and under state law, the amount owed under this installment agreement will be entered by City in City's lien docket and levied against the Property. Thereafter, City will have a lien on the Property for the unpaid balance of the SDC installment, associated interest, and any late fees. The lien on the Property is removable only by payment in full. Owner further understands that failure to make installment payments when due may result in foreclosure of the Property. Owner acknowledges that the SDC amounts owed, including interest, may be paid in full at any time without prepayment penalty.
3. Owner acknowledges that the right and obligation to pay SDC fees in installments shall run with the Property and shall be binding upon the heirs, executors, assigns, administrators, and successors of the parties hereto, and shall be construed as a benefit and burden upon the Property. This document shall, therefore, be recorded in the City's lien docket and in Net Assets Conduits system, to serve as notice to any future owners or occupants of the Property of the terms and conditions of this Agreement.
4. This City lien may be assumed upon Property transfer, however, City shall not subordinate its interest in the Property. The Property owner shall only be eligible for a new installment agreement with City if different or additional SDC fees are assessed to the Property in accordance with City ordinance.
5. Owner agrees that the Property is described as Clackamas County Assessor's Map Number _____ and Tax Lots _____ and that the amount of the SDC, not including interest, is: _____ Dollars and _____ Cents (\$_____). The legal description of the Property is attached as Exhibit A. The monthly/annual installment payments include interest at _____ percent (____%), per annum, on the unpaid SDC, on the basis of the actual number of days in each year, payable in

_____ (____) equal installments of _____ Dollars and _____ Cents (\$_____).

6. Owner understands and agrees that the first installment payment, plus recording fees in an amount of \$_____, is due [one year following/upon] issuance of City connection approval or a plumbing permit, on _____, 20____, and that future payments are due on or before the first day of _____, in each year/month thereafter until paid in full.
7. Owner further understands that if there is a subsequent failure to pay any installment, City shall have the right to enforce payment of the entire amount due in any manner provided by the laws of the State of Oregon and the City of Milwaukie Municipal Code.
8. Owner understands that a late fee of five dollars (\$5) or five percent (5%) of the annual/monthly installment amount, whichever is greater, will be charged for each installment that is not paid on or before its due date. Owner also understands that any late or insufficient payment will cause the accrual of additional interest ("Excess Interest") over the scheduled amount of interest upon which the installment amounts were calculated. Therefore, in the event that late fees accrue or in the event that Excess Interest accrues, Owner agrees that each subsequent payment will be applied first to eliminate unpaid late fees, secondly to eliminate all accrued interest, and lastly to reduce the principal balance of the SDC.
9. Owner acknowledges that in the event of any proceeding to enforce collection or to foreclose, the obligation to pay the SDC shall be automatically accelerated and the entire unpaid balance including all principal, accrued interest and accrued late fees on the foregoing shall be considered immediately delinquent and due.
10. Owner hereby waives all irregularities or defects, jurisdictional or otherwise, in the proceedings to develop and impose the SDC upon the Property.
11. Owner waives all rights to contest the validity of the lien, except for the correction of computational errors.
12. Owner agrees to make all checks payable to the **City of Milwaukie** and mail or deliver to:

**City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222**

**Exhibit A
Legal Description**

DRAFT



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AUTHORIZE THE CITY MANAGER TO EXECUTE BANCROFT FINANCING AGREEMENT FOR SYSTEM DEVELOPMENT CHARGES ON 10560 SE MAIN ST INCURRED ON PERMIT NUMBER 601-15-000774.

WHEREAS, Milwaukie Municipal Code section 13.28.100 allows for Bancroft financing for single- and multi-family residential properties, not-for-profit and public organization property, and commercial property that qualifies for the low income program; and

WHEREAS, ORS 223.207 authorizes a unit of local governments to provide Bancroft financing for specific uses and allows local jurisdictions to expand their Bancroft financing programs; and

WHEREAS, the City Council is considering an Ordinance to allow commercial property owners to utilize City Bancroft financing to encourage economic development; and

WHEREAS, if adopted, the Ordinance will not be effective until 30 days after Ordinance adoption; and

WHEREAS, a commercial property owner is interested in moving forward with a financing arrangement for system development charges prior to the potential code amendment effective date.

Now, Therefore, be it Resolved that the City Council authorizes the City Manager, or his designee to negotiate and execute a Bancroft financing agreement with the owner of 10560 SE Main Street, Milwaukie, Oregon 97222 for System Development Charges due to the City, incurred on permit number 601-15-000774.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



RS 6. C.
Nov. 17, 2015

To: Mayor and City Council
Through: Bill Monahan, City Manager
From: Gary Rebello, Human Resources Director
Subject: Management and Confidential Employee Cost of Living Adjustment (COLA) and Christmas Eve Holiday
Date: November 17, 2015

ACTION REQUESTED

Request Council approve a 2.5% management/confidential employee COLA effective retroactive to the first day of the pay period July 1, 2015. Also request Council approve the Christmas Eve holiday recently negotiated with the American Federation of State County and Municipal Employees (AFSCME), for management/confidential employees as well.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The City Council has discretion whether to grant a COLA to management/confidential personnel. In addition to management, there are two confidential non-represented employees (Payroll Specialist and HR Specialist) due to their roles in collective bargaining. The decision to grant the management COLA is not automatic and should be considered annually. In recent years, the Council has granted management and other non-represented staff the identical COLA as negotiated by AFSCME. The Council has the discretion to either award an amount less or greater than negotiated by either or both of the City's represented associations.

BACKGROUND

The AFSCME contract calls for a 2.5% COLA to be effective with the first day of the pay period of July 1, 2015. Milwaukie Police Employees Association (MPEA) has received their 2.5% COLA effective July 1, 2015 as specified in their current labor agreement.

Management staff is currently about 4-10% behind market average pay rates. A management COLA less than AFSCME will create salary compression issues.

The 2014 CPI-U Portland was 2.4%. The market is expected to move a similar amount in 2015/16 with salary increase rates varying by jurisdiction.

Currently management non-represented employees enjoy the same holiday schedule as AFSCME member employees. The recently negotiated and approved three year AFSCME collective bargaining agreement includes the addition of half-day Christmas Eve holiday on select years.

FISCAL IMPACTS

The Milwaukie 2015 – 2016 biennium budget includes funds for a 2.5% COLA should Council decide to grant a management COLA.

The addition of the Christmas Eve holiday has no direct budget impact.

WORK LOAD IMPACTS

None.

ALTERNATIVES

Hold current management salaries as is (no COLA) or grant an amount equal to, less than, or greater than 2.5%.

Deny the Christmas Eve holiday for management/confidential employees.