

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, October 13, 2015
6:30 PM**

COMMISSIONERS PRESENT

Sine Bone, Chair
Shane Abma
Shannah Anderson
Adam Argo
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Li Alligood, Senior Planner
Brett Kelter, Associate Planner
Shelby Rihala, City Attorney

COMMISSIONERS ABSENT

Shaun Lowcock, Vice Chair
Scott Barbur

1.0 Call to Order – Procedural Matters*

Chair Bone called the meeting to order at 6:40 p.m. and read the conduct of meeting format into the record.

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

2.0 Planning Commission Minutes

3.0 Information Items

Denny Egner, Planning Director, noted the annual update to City Council on the Commission and its work program was scheduled for November 3rd.

Chair Bone introduced the new Commissioner, Adam Argo.

Commissioner Argo noted he lived in the Linwood neighborhood and had served for the past year on the Design and Landmarks Committee. He was a transportation planner with a Portland firm.

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

5.0 Public Hearings

5.1 Summary: Riverway Ln Pool/Slope Project
Applicant/Owner: Gary Klein
Address: 10795 SE Riverway Ln
File: NR-2015-003
Staff: Brett Kelter

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

Brett Kelter, Associate Planner, presented the staff report via PowerPoint. He reviewed the two application types, site location, and the zoning and overlay designations. The proposal included the removal of the existing pool, regrade and revegetate the slope and area, and possibly replacing the pool with a smaller pool and deck. The primary concern was adequate mitigation to the Water Quality Resource (WQR) and Habitat Conservation Areas (HCA), and he outlined the detail of the native plantings and mitigation plan. Staff recommendation was for approval with the findings and conditions as presented.

Chair Bone called for the applicant's testimony.

Gary Klein, 10795 SE Riverway Ln, introduced **Melanie McCandless of OTAK**. He displayed site photos to explain the issues and changes proposed to the property and area.

Ms. McCandless reviewed the potential timeline for the project.

Chair Bone closed public testimony.

It was moved by Commissioner Hemer and seconded by Commissioner Abma to approve NR-2015-003 for 10795 SE Riverway Ln with the findings and conditions as presented. The motion passed unanimously.

- 5.2 Summary: Moving Forward Milwaukie Neighborhood Main Streets Code
 Amendments #1
 Applicant: City of Milwaukie
 File: ZA-2015-002
 Staff: Li Alligood

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

Li Alligood, Senior Planner, presented the staff report via PowerPoint. This was the third phase of the Moving Forward Milwaukie project. Public outreach indicated that the community wanted a neighborhood-focused commercial district where new buildings and development were attractive and pedestrian-friendly.

- The proposal was to apply a new Neighborhood Mixed Use (NMU) zone to the commercial areas along 32nd Ave and the 42nd Ave and King Rd commercial area. Use standards would regulate the types of uses and businesses that could locate in the district. The key proposals for the development standards would regulate size, location, and massing of new buildings that would create small-scale, pedestrian-friendly environment. The design standards of the proposed General Mixed Use (GMU) zone would be applied. Some existing uses and buildings would become nonconforming under the proposed new code. Currently a Type III review was required for any expansion; however, the proposal was to allow for a Type II streamlined process for changes to uses and buildings to come closer into compliance with standards.

Ms. Alligood reviewed comments received and addressed the key concerns regarding impact on existing businesses that would become nonconforming, parking and noise impacts, and the types of permitted businesses.

- Nonconforming uses would be allowed to remain as long as desired.

- Off-street parking was required for new development as well as was buffering between commercial and residential properties.
- Regarding noise impacts, uses of concerns would require conditional use review and the Planning Commission could condition hours of operations through that process. Transition areas between residential and commercial would provide minimum setbacks. Complaints could be addresses through the noise ordinance.

Staff recommendation was for the Commission to recommend approval to City Council for approval of the zoning map and ordinance amendments.

Chair Bone called for public testimony.

Karen Olsen, 3039 SE Malcom St, was concerned about parking lot lighting, pollution mitigation for remodeling or demolition, and parking lot noise for lots required to be in the rear abutting residential properties.

- **Ms. Alligood** noted that lighting was required for lots with 10 or more parking spots, but there were standards for lighting to prevent light spill.
- Pollution mitigation would be handled through the building code. Noise could be handled through the noise ordinance.

Joaquin Olsen, 32nd Ave and Malcom St, was in support of small-businesses. His concern was about the lack of sidewalks off of 32nd Ave.

- **Ms. Alligood** noted sidewalks were generally required for more intense development.
- **Mr. Egner** added that Council was currently looking at ways to fund construction of more sidewalks throughout the city.

Barbara Edmunds, 3023 SE Boyd St, was concerned if abutting properties to businesses along 32nd Ave could become parking lots or the like. Also concerning was development without required parking.

- **Ms. Alligood** noted properties zoned residential would not allow commercial uses.
- On-site parking was required for residential and commercial development.

Don Sparks, 10527 SE 44th Ave, generally opposed proposals that were restrictive to vehicles.

John Wiley, 4135 SE Jackson St, owned several commercial buildings on 42nd Ave. He was concerned regarding setbacks and parking requirements for future development of those properties.

- **Ms. Alligood** noted that should those properties redevelop, there was a variance process available.

Ms. Alligood responded generally that the proposals were not focused on discouraging automobiles but more about urban form and prioritizing pedestrian access along these streets. Regarding treating the two areas differently through zoning, the long-range planning goals were for the two areas to become more pedestrian-friendly and vibrant and eventually come closer together.

Chair Bone closed public testimony.

Planning Commission Deliberation

- **Ms. Alligood** noted requirements of an application informed staff of the nature of proposed businesses. The definition of eating establishment stated that the primary function was to serve food. The Type III Conditional Use process was an option in order to allow for certain types of drinking establishments that may be desired by the neighborhood (i.e. small brewpubs).
- **Commissioner Abma** reminded that a goal of this project was to streamline development processes and to make 32nd Ave and 42nd Ave areas more similar.
- **Commissioner Argo** felt the Type III review process was sufficient regarding regulating drinking establishments and the issues that they may bring.
- **Chair Bone** felt that the review processes proposed were sufficient in addressing those concerns.

Shaun Lowcock



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, October 13, 2015, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

1.0 Call to Order - Procedural Matters

2.0 Planning Commission Minutes – Motion Needed

2.1 March 24, 2015 (*to be sent under separate cover*)

3.0 Information Items

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

5.0 Public Hearings – Public hearings will follow the procedure listed on reverse

5.1 Summary: Riverway Ln Pool/Slope Project (*to be sent under separate cover*)

Applicant/Owner: Gary Klein

Address: 10795 SE Riverway Ln

File: NR-2015-003

Staff: Brett Kelter

5.2 Summary: Moving Forward Milwaukie Neighborhood Main Streets Code

Amendments #1

Applicant: City of Milwaukie

File: ZA-2015-002

Staff: Li Alligood

6.0 Worksession Items

6.1 Summary: Short Term Rentals

Staff: Denny Egner

7.0 Planning Department Other Business/Updates

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

9.0 Forecast for Future Meetings:

October 27, 2015 1. Public Hearing: S-2015-001, VR-2015-003 King Rd Subdivision

2. Public Hearing: ZA-2015-002 Neighborhood Main Streets Code
Amendments #2

November 10, 2015 1. Worksession: Ethics Training *tentative*

Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Sine Bone, Chair
Shaun Lowcock, Vice Chair
Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

Planning Department Staff:

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



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Dennis Egner, Planning Director

From: Li Alligood, Senior Planner

Date: October 6, 2015, for October 13, 2015, Public Hearing

Subject: File: ZA-2015-002 – Neighborhood Main Streets Map and Code Amendments

File Types: Zoning Ordinance Map and Text Amendment

Applicant: Dennis Egner, Planning Director, City of Milwaukie

NDA: Ardenwald and Hector-Campbell

ACTION REQUESTED

Recommend City Council approval of application ZA-2015-002 and adoption of the Ordinance found in Attachment 1. This action would allow for the adoption of amendments to the Milwaukie Zoning Map and Milwaukie Zoning Ordinance.

BACKGROUND INFORMATION

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

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.

In addition to implementing the recommendations of the 2012 Neighborhood Main Streets Project, the proposed 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 Project Advisory Committee (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. The Planning Commission reviewed the draft amendments at a worksession on September 8, 2015. The proposed amendments in Attachment 1 have been refined as a result of the feedback received during the public process.

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. No comments have been received.

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

A. History of Prior Actions and Discussions

- **September 8, 2015:** Staff provided a briefing on the draft zoning map and code amendments to the Planning Commission. The Commission agreed with the proposed amendments, and directed staff to bring the amendments forward for a public hearing.

B. 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 “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.

C. 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

¹ Ordinance #1354, adopted January 17, 1977.

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 a vibrant, convenient, attractive, pedestrian-friendly neighborhood commercial area.

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.
 - 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 ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. 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. Is 10,000 sq ft the appropriate maximum size for uses?

Analysis**A. Is 10,000 sq ft the appropriate maximum size for uses?**

The 2012 Neighborhood Main Streets project recommended establishing standards that would result in local, small-scale businesses in the "neighborhood main street" commercial areas. The Project Advisory Committee evaluated a number of options for encouraging small-scale businesses and decided on a size limit of 10,000 sq ft per use. Uses larger than 10,000 sq ft would require Type III Conditional Use review and approval by the Planning Commission.

This size limit would affect 1 existing business (Safeway) and could potentially affect 1 existing building (the "blue awning" building at 32nd Ave and Malcolm St). Safeway is approximately 40,000 sq ft in area and the "blue awning" building is approximately 15,000 sq ft. Safeway would become a legally nonconforming use under most size limit scenarios.

A. Staff recommendation to the Planning Commission is as follows:

1. Recommend approval of the proposed Zoning Map and Zoning Ordinance Amendments for the "neighborhood main street" commercial areas. This will result in the application of the Neighborhood Mixed Use Zone NMU to these areas.
2. Recommend adoption of the attached ordinance.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC).

- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Section 19.1008 Type V Review

This application is subject to Type V review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above and make a recommendation to City Council. In Type V reviews, the Commission assesses the application against review criteria and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Recommend approval of the application subject to the recommended Findings of Approval.
- B. Recommend approval of the application with modified Findings of Approval. Such modifications need to be read into the record.
- C. Recommend denial of the application upon finding that it does not meet approval criteria.
- D. Continue the hearing.

This is a legislative review, and there is no date by which a decision must be made.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: Ardenwald, Hector-Campbell, and Lewelling Neighborhood District Associations (NDAs), Department of Land Conservation and Development (DLCD), Metro, all affected property owners and tenants,

and property owners and tenants within 400 ft of the affected properties. The following is a summary of the comments received by the City. See Attachment 2 for further details.

- **Carl S. Jacob, PO Box 22832, Milwaukie, OR 97269:** Suggests including properties east of 44th Ave between King Rd and Harrison St in the new NMU Zone. Concerns about proposed prohibition of vehicle sales and rentals.

Staff Response: The area east of 44th Ave is zoned R-3, which is a medium density residential zone. Offices and multifamily development are permitted in this zone as conditional uses. Expanding the proposed commercial zoning to a residential zone would require both a Comprehensive Plan map (Medium Density Residential to Commercial) and Zoning Map amendment, and would trigger a traffic impact study and related improvements due to the expected increase in trips that commercially-designated properties generate. The City may wish to identify the funding to undertake this project at a later time.

Public input indicated that "vehicle sales" was not a desired use in the proposed NMU Zone. However, the existing car dealer can remain in place as long as desired as a nonconforming use.

ATTACHMENTS

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

	PC Packet	Public Copies	E- Packet
1. Draft Ordinance	☒	☒	☒
Exhibit A. Recommended Findings in Support of Approval	☒	☒	☒
Exhibit B. Proposed Map Amendments	☒	☒	☒
Exhibit C. Proposed Code Amendments – Clean Version	☒	☒	☒
Exhibit D. Proposed Code Amendments – Underline/Strikeout Version	☒	☒	☒
2. Comments Received	☒	☒	☒

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

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

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

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-135>.

**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 underline/strikeout version), and Exhibit D (Zoning Map).

Section 3. Effective Date. The amendments shall become effective 30 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

Recommended Findings in Support of Approval
File #ZA-2015-002, Neighborhood Main Streets Map and Code 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 the Zoning Map and various commercial regulations that are contained in Title 14 Sign Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). 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. No public comments have been received.

- (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, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council's _____, 2015, hearing was posted as required on _____, 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; and specific property owner notice is not required. All affected property owners were notified of the hearing date via the Measure 56 notice (see Finding 4.b.6).

- (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 was held 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 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 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 _____, 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 _____, 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 to expand the permitted uses and establish pedestrian-friendly development and design standards for new development and significant renovations in the proposed NMU Zone 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 currently vacant 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 change 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 _____, 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 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 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 "district center" of 42nd and King Rd and the "convenience center" of 32nd Ave will allow the uses and development of each area to support and complement each other.

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

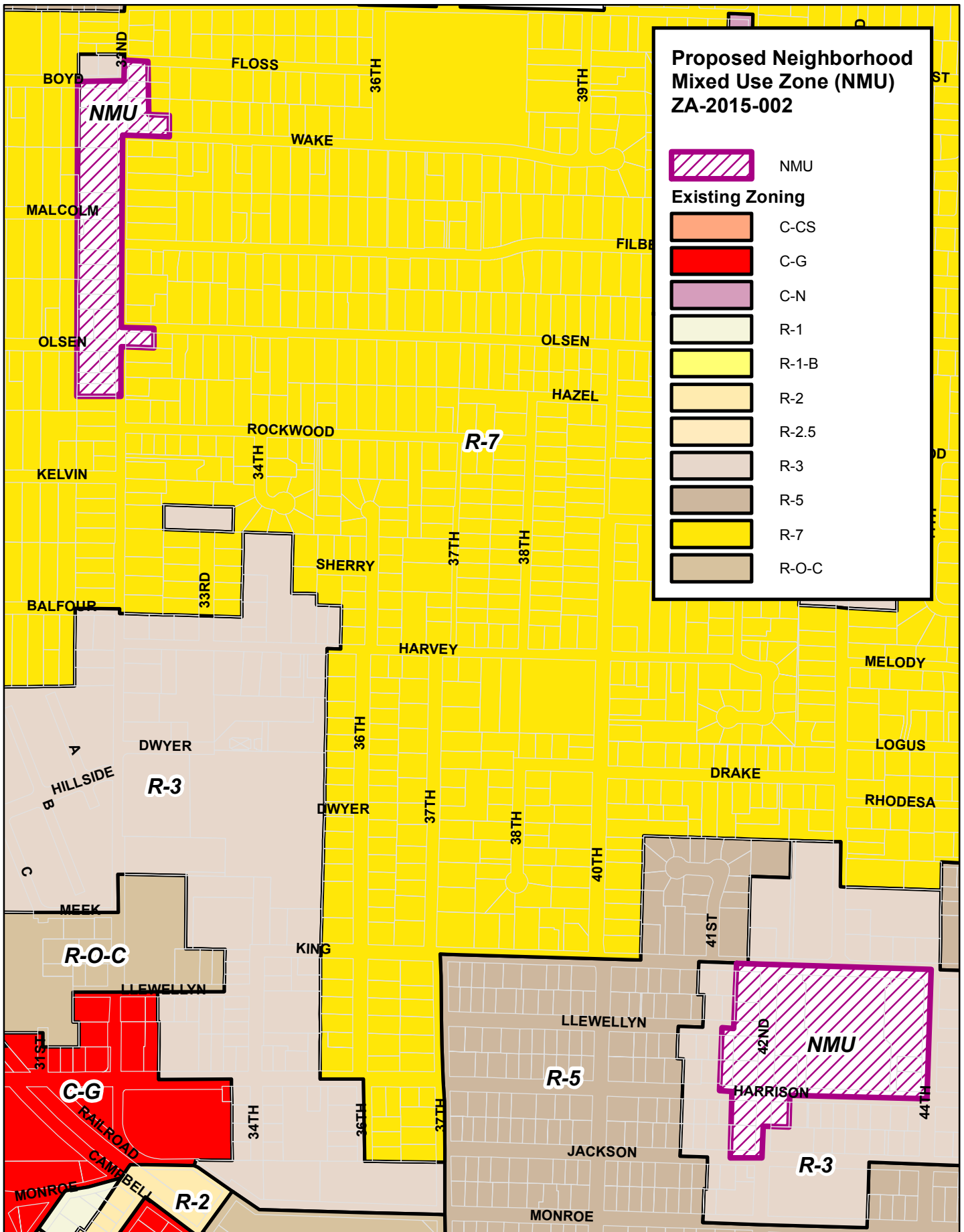
NMU Zone will allow a range of neighborhood scale uses, pedestrian-friendly development standards, and a mix of housing types. The proposed amendments establish pedestrian-friendly development and design standards and allow housing as part of mixed-use development, as well as single-family and multifamily 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.



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
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Proposed Code Amendment

Title 19 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	LF
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 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C REPEALED*****19.303 COMMERCIAL MIXED-USE ZONES****19.303.1 Purpose**

- A. The General Mixed Use Zone is intended to recognize the importance of Central Milwaukie 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 (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 an accessory use 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.

Proposed Code Amendment**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 Commercial Mixed Use Zones Uses			
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 Section 19.905 Conditional Uses
Multifamily	P	CU	Subsection 19.505.3 Multifamily Housing Section 19.905 Conditional Uses
Mixed use ²	P	P	Subsection 19.505.6 Nonresidential Development
Live/work units	P	P	Subsection 19.505.6 Live/Work Units
Senior and retirement housing	P	CU	Subsection 19.505.3 Multifamily Housing Section 19.905 Conditional Uses
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, brokerage houses, bank or credit unions; real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics.	P	P	
Indoor recreation. Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature. Examples include: gyms, dance studios, tennis, racquetball and soccer centers, recreational centers, skating rinks, bowling alleys, arcades, shooting ranges, and movie theaters.	P	P	

Proposed Code Amendment

Retail-oriented sales. Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. 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	
Drinking establishments. Drinking establishments primarily involve the sale of alcoholic beverages for consumption on-site. Examples include: tavern, bar, or cocktail lounge.	P	CU	Section 19.905 Conditional Uses
Eating establishments. Eating establishments primarily involve the sale of prepared food and beverages for consumption on-site or take-away. Eating establishments may include incidental sales of alcoholic beverages. Examples include: restaurants, delicatessens, retail bakeries, coffee shops, concession stands, and espresso bars.	P	P	
Medical marijuana facility.⁴ 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	Subsection 19.303.6 Standards for Medical Marijuana Facilities
Vehicle sales and rentals. 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	N	
Personal service oriented. Personal service oriented firms are involved in providing consumer services. Examples include: hair, tanning and spa services, pet grooming, photo and laundry drop-off, dry cleaners, and quick printing.	P	P	

Proposed Code Amendment

Repair-oriented. Repair-oriented uses are establishments providing product repair of consumer and business goods. Examples include: repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, office equipment, tailors and seamstresses, shoe repair, locksmiths, and upholsterers	P	P	
Vehicle repair and service.⁵ 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. Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.	P	CU	Section 19.905 Conditional Uses
Day care.⁶ Day Care is the provision of regular child care, with or without compensation, to four 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. Examples include: nursery schools, before-and-after school care facilities, and child development centers.	P	P	
Commercial lodging. Commercial Lodging includes for-profit residential facilities where tenancy is typically less than one month. Examples include: hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.	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. Examples include: Boarding house and cooperative housing	CU	CU	Section 19.905 Conditional Uses

Proposed Code Amendment

Commercial Parking facility. 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. Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots and commercial shuttle parking.	CU	CU	Section 19.611 Parking Structures
Manufacturing and Production			
Manufacturing and production.⁷ 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. 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	
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.

- The limit of 4 consecutive row houses 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 row houses.
- Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.
- In the NMU Zone, unless otherwise specified in this section, all non-residential uses listed in Table 19.303.2 shall be no greater than 10,000 square feet in area per use. A non-residential use greater than 10,000 square feet in area may be approved through a conditional use review pursuant to Section 19.905.
- Medical marijuana facilities shall meet the following standards:
 - 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.
 - A medical marijuana facility shall not be co-located with another business.
 - Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.

Proposed Code Amendment

- 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.
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-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.

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 Section 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 ¹	0.5:1	0.5:1	Section 19.303.4.A Floor Area Ratio
2. Building height (ft)			Section 19.303.4.B Building Height
a. Base maximum	45	45	
b. Maximum with height bonus	57	Height bonus not available	
3. Street Setbacks (ft)			Section 19.501.2 Yard Exceptions
a. Minimum street setback	0-15 ²	None	Section 19.303.4.C Street Setbacks
b. Maximum street setback	10-20 ³	10	
c. Side and rear setbacks	None	None	
4. Frontage occupancy	50%	None	Section 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	85%	Section 19.303.4.E Lot Coverage
6. Minimum vegetation	15%	15%	Section 19.303.4.F Minimum Vegetation

Proposed Code Amendment

7. Primary entrances	Yes	Yes	Section 19.303.4.G 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 Subsection 19.303.4.H Residential Density Subsection 19.501.4 Density Exceptions
a. Stand-alone residential			
(1) Minimum	25	11.6	
(2) Maximum	50	14.5	
b. Mixed-use buildings	None	None	
2. Signs	Yes	Yes	Section 14.16.040 Commercial Zone

1. Parking facilities and public parks and plazas are exempt from the minimum floor area ratio requirement.

2. Residential edge standards apply to properties as shown on Figure 19.303.5.

3. Commercial edge standards apply to properties as shown on Figure 19.303.4.

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 floor area ratios 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 minimum floor area ratio in Table 19.303.3 applies to all nonresidential building development.
- b. Required minimum floor area ratio shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FAR.
- 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 floor area ratio 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. Base Maximum Building Height Standard

- a. The base maximum building height in the GMU zone is 3 stories or 45 feet, whichever is less, unless the height bonus in Subsection 19.303.4.B.3 below is applied.
- b. The maximum building height in the NMU zone is 3 stories or 45 feet, whichever is less. No building height bonus is available in the NMU zone.

3. Height Bonuses

A building in the GMU Zone can utilize one of the development incentive bonuses of this subsection.

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 certified) are permitted an additional story or an additional 12 ft of building height, whichever is less.

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 in Figure 19.303.5.
- b. In the GMU Zone, maximum street setback is 20 feet. 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 feet.
 - (2) The area within the street setback, if provided, shall be landscaped.
- c. In the NMU zone, the maximum street setback is 10 feet unless the yard exception standards of Section 19.501.2 apply.
- d. The setback area may include usable open space such as plazas, courtyards, terraces and small parks.

Proposed Code Amendment

- e. Usable open space may be counted toward the minimum vegetation requirement in Subsection (F) below.
- 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.

[Figure 19.303.4.C.2.b. Commercial Edge Treatment]

D. Frontage Occupancy Requirements

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. The requirements apply as follows:

For block faces identified on Figure 19.303.4.D, 50 percent of the site frontage must be occupied by a building or buildings. If the development site has frontage on more than one street, the frontage occupancy requirement must be met on one street only.

E. Lot Coverage

The maximum area that may be covered by primary and accessory buildings shall not exceed 85 percent of the total lot area.

F. Minimum Vegetation

The minimum vegetation area that shall be retained or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total lot area.

G. 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 one 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 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.

[Figure 19.303.4.D Frontage Occupancy Requirements]

H. 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 standalone 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 an R-5 zone, the following standards apply.

- A. A minimum setback of 15 feet shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 feet of 37th Ave and Monroe St shall provide a step back of at least 6 feet for any portion of the building above 35 feet.
- C. A height bonus consistent with Section 19.303.3.B(4)(b) may only be applied to buildings or portions of a building that are at least 50 feet away from the adjacent residential zone.
- D. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

[Figure 19.303.5 Residential Edge Treatment]

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.

Proposed Code Amendment

19.303.7 Additional Provisions

Depending upon the type of use and development proposed, the following sections of the Milwaukie 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 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.404 MIXED USE OVERLAY ZONE MU REPEALED

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.
-

19.505.7 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 Section 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 Section 19.505.5 Rowhouses and Section 19.505.6 Live/Work Units.

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.

Proposed Code Amendment

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. Locate the primary entry to the building at the corner
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret or a pitched roof at the corner of the building or within 20 feet 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 behind the front building façade at least 3 feet.
- 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.

[Figure 19.505.7.C.1 Key Corners]

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 percent of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40 percent of each applicable building facade.
- c. Accent materials are permitted on no greater than 10 percent 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.

Proposed Code Amendment

- e. For existing development, façade modifications that affect more than 50 percent of the façade shall comply with standards in this section. 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 a polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished or glazed finishes)	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 non-residential and mixed-use buildings, 30 percent 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 feet above finished grade, whichever is less.
- b. For all buildings, the following applies:

Proposed Code Amendment

- (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 edge of windows along pedestrian ways shall be constructed no more than 36 inches 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 percent of the required window area.
 - c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 inches 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 inches.
 - 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 roof line at least 12 inches and/or a cornice that projects from the building face at least 6 inches.
 - 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

Proposed Code Amendment

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 two feet in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 feet 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 feet in height, shall be set back a minimum of five feet 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 or 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 and outdoor storage and outdoor garbage and recycling areas shall be screened so they are not visible from streets and other ground-level private open space and 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 Antenna ¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions ²
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

Proposed Code Amendment

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

P = Permitted

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

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

19.201 DEFINITIONS

“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 MEASUREMENTS

19.202.2 Vertical Measurements

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 Density Calculations

D. Minimum Density

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.

E. Maximum Density

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.

19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY OVERLAY ZONE WG

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

Proposed Code Amendment

19.700 PUBLIC FACILITY IMPROVEMENTS

19.707 AGENCY NOTIFICATION AND COORDINATED REVIEW

19.707.1 Agency Notification

- 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.

19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Types
Miscellaneous: Barbed Wire Fencing	Chapters 19.500 Subsection 19.502.2.B.1.b-c	II

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

Proposed Code Amendment

Title 19 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 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C REPEALED****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 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 GMU 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 (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. ~~For the purposes of this section, drive-through facilities are considered an accessory use and must conform to Section 19.606.3.~~
- F. Drive-Through Uses

Proposed Code Amendment

For the purpose of this section, drive-through uses are not considered an accessory use 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.

GF. 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 General Commercial Mixed Use Zones Uses			
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 Section 19.905 Conditional Uses
Multifamily	P	<u>CU</u>	Subsection 19.505.3 Multifamily Housing Section 19.905 Conditional Uses
Mixed use ²	P	<u>P</u>	Subsection 19.505.6 Nonresidential Development
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 Section 19.905 Conditional Uses
<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, brokerage houses, bank or credit unions; headquarters , or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics.	P	<u>P</u>	

Proposed Code Amendment

Indoor recreation. Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature. Examples include: gyms, dance studios, tennis, racquetball and soccer centers, recreational centers, skating rinks, bowling alleys, arcades, shooting ranges, and movie theaters.	P	<u>P</u>	
Retail-oriented sales. Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public. 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 car sales and other auto-oriented retail uses.	P	<u>P</u>	
<u>Drinking establishments.</u> <u>Drinking establishments primarily involve the sale of alcoholic beverages for consumption on-site.</u> <u>Examples include: tavern, bar, or cocktail lounge.</u>	<u>P</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
Eating and drinking establishments. Eating and Drinking Establishments primarily involve the sale of prepared food and beverages for consumption on-site or take-away. <u>Eating establishments may include incidental sales of alcoholic beverages.</u> Examples include: restaurants, delicatessens, retail bakeries, taverns, brew-pubs, coffee shops, concession stands, and espresso bars.	P	<u>P</u>	
Medical marijuana facility.⁴ 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.	<u>P</u>	<u>P</u>	Subsection 19.303.6 Standards for Medical Marijuana Facilities

Proposed Code Amendment

Vehicle sales and rentals. 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>	<u>N</u>	
Personal service oriented. Personal service oriented firms are involved in providing consumer services. Examples include: hair, tanning and spa services, pet grooming, photo and laundry drop-off, dry cleaners, and quick printing.	P	<u>P</u>	
Repair-oriented. ² Repair-oriented uses are establishments providing product repair of consumer and business goods. Examples include: repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, office equipment, tailors and seamstresses, shoe repair, locksmiths, <u>and upholsterers, and some automobile and boat service and repair.</u>	P	<u>P</u>	
Vehicle repair and service. ³ 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>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.</u>	<u>P</u>	<u>CU</u>	Section 19.905 Conditional Uses
Day care. ³⁶ Day Care is the provision of regular child care, with or without compensation, to four 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. Examples include: nursery schools, before-and-after school care facilities, and child development centers.	P	<u>P</u>	

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Commercial lodging. Commercial Lodging includes for-profit residential facilities where tenancy is typically less than one month. Examples include: hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.	P	<u>P</u>	
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. Examples include: Boarding house and cooperative housing	CU	<u>CU</u>	Section 19.905 Conditional Uses
Commercial parking facility. 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. Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots and commercial shuttle parking.	CU	<u>CU</u>	Section 19.611 Parking Structures
Manufacturing and Production			
Manufacturing and production. ^{4Z} 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. 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	<u>P</u>	
Institutional			
Community service uses	CSU	<u>CSU</u>	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted

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- 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 row houses 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 row houses.
 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 non-residential uses listed in Table 19.303.2 shall be no greater than 10,000 square feet in area per use. A non-residential use greater than 10,000 square feet in area may be approved through a conditional use review pursuant to Section 19.905.
 4. 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.
 - b. A medical marijuana facility shall not be co-located 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.
 52. ~~Vehicle repair and service~~ Repair-oriented uses are permitted in the commercial mixed-use zones ~~GMU Zone~~ only when conducted within a completely enclosed building.
 63. Day care and childcare uses are limited to 5,000 sq. ft.
 74. 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-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 ~~GMU zone~~ 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.

Table 19.303.3 summarizes some of the development standards that apply in the commercial mixed-use zones ~~GMU zone~~. Development standards are presented in detail ~~full~~ in Section 19.303.4 ~~Subsection 19.303.3 (B)~~.

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 ¹	0.5:1	<u>0.5:1</u>	Section 19.303.4.A Floor Area Ratio

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2. Building height (ft)			Section 19.303.4.B Building Height
a. Base maximum	45	<u>45</u>	
b. Maximum with height bonus	57	<u>Height bonus not available</u>	
3. Street Setbacks (ft)			Section 19.501.2 Yard Exceptions
a. Minimum street setback	0-15 ²	<u>None</u>	
b. Maximum street setback	10-20 ³	<u>10</u>	Section 19.303.4.C Street Setbacks
c. Side and rear setbacks	None	<u>None</u>	
4. Frontage occupancy	50%	<u>None</u>	Section 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	<u>85%</u>	Section 19.303.4.E Lot Coverage
6. Minimum vegetation	15%	<u>15%</u>	Section 19.303.4.F Minimum Vegetation
7. Primary entrances	Yes	<u>Yes</u>	Section 19.303.4.G 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
910. 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 Subsection 19.303.4.H Residential Density Subsection 19.501.4 Density Exceptions
a. Stand-alone residential			
(1) Minimum	25	<u>11.6</u>	
(2) Maximum	50	<u>14.5</u>	
b. Mixed-use buildings	None	<u>None</u>	
2. Signs	Yes	<u>Yes</u>	Section 14.16.040 Commercial Zone

1. ~~Commercial~~ Parking facilities and public parks and plazas are exempt from the minimum floor area ratio requirement.
2. Residential edge standards apply to properties as shown on Figure 19.303.5.
3. Commercial edge standards apply to properties as shown on 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 floor area ratios help to ensure that the intensity of development is controlled. In some

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cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The minimum floor area ratio in Table 19.303.3 applies to all nonresidential building development.
- b. Required minimum floor area ratio shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FAR.
- 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 floor area ratio requirement.

- a. Parking facilities
- b. Public parks and plazas

B. Building Height

1. Intent

~~Minimum and Maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another.~~

2. Base Maximum Building Height Standard

- a. The base maximum building height in the GMU zone is 3 stories or 45 feet, whichever is less, unless the height bonus in Subsection 19.303.4.B.3 below is applied.
- b. The maximum building height in the NMU zone is 3 stories or 45 feet, whichever is less. No building height bonus is available in the NMU zone.

3. Height Bonuses

A building in the GMU Zone can utilize one of the development incentive bonuses of this subsection.

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 certified) are permitted an additional story or an additional 12 ft of building height, whichever is less.

C. Street Setbacks

1. Intent

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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 in Figure 19.303.5.
- b. In the GMU Zone, maximum street setback is 20 feet. 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 feet.
 - (2) The area within the street setback, if provided, shall be landscaped.
- c. In the NMU zone, the maximum street setback is 10 feet unless the yard exception standards of Section 19.501.2 apply.
- ~~d~~e. The setback area may include usable open space such as plazas, courtyards, terraces and small parks.
- ~~e~~d. Usable open space may be counted toward the minimum vegetation requirement in Subsection (F) below.
- ~~f~~d. 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.

[Figure 19.303.4.C.2.b. Commercial Edge Treatment]

D. Frontage Occupancy Requirements

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. The requirements apply as follows:

For block faces identified on Figure 19.303.4.D, 50 percent of the site frontage must be occupied by a building or buildings. If the development site has frontage on more than one street, the frontage occupancy requirement must be met on one street only.

E. Lot Coverage

The maximum area that may be covered by primary and accessory buildings shall not exceed 85 percent of the total lot area.

F. Minimum Vegetation

The minimum vegetation area that shall be retained or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total lot area.

G. 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

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- a. All new buildings shall have at least one 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 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.

[Figure 19.303.4.D Frontage Occupancy Requirements]

H. 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 standalone 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 an R-5 zone, the following standards apply.

- A. A minimum setback of 15 feet shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 feet of 37th Ave and Monroe St shall provide a step back of at least 6 feet for any portion of the building above 35 feet.

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- C. A height bonus consistent with Section 19.303.3.B(4)(b) may only be applied to buildings or portions of a building that are at least 50 feet away from the adjacent residential zone.
- D. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

[Figure 19.303.5 Residential Edge Treatment]

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 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 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.404 MIXED USE OVERLAY ZONE MU REPEALED

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.
-

19.505.7 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~~.
- ~~23.~~ The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Section 19.505.3 Multifamily Housing.
- ~~32.~~ 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 Section 19.505.5 Rowhouses and Section 19.505.6 Live/Work Units.

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.

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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. Locate the primary entry to the building at the corner
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret or a pitched roof at the corner of the building or within 20 feet 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 behind the front building façade at least 3 feet.

- 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.

[Figure 19.505.7.C.1 Key Corners]

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 percent of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40 percent of each applicable building facade.
- c. Accent materials are permitted on no greater than 10 percent 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.

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- e. For existing development, façade modifications that affect more than 50 percent of the façade shall comply with standards in this section. 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 a polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished or glazed finishes)	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 non-residential and mixed-use buildings, 30 percent 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 feet above finished grade, whichever is less.
- b. For all buildings, the following applies:

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- (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 edge of windows along pedestrian ways shall be constructed no more than 36 inches 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 percent of the required window area.
 - c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 inches 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 ~~in the downtown~~, 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 inches.
 - 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 roof line at least 12 inches and/or a cornice that projects from the building face at least 6 inches.
 - 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

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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 two feet in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 feet 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 feet in height, shall be set back a minimum of five feet 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 or 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 and outdoor storage and outdoor garbage and recycling areas shall be screened so they are not visible from streets and other ground-level private open space and 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 Antenna ¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions ²
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

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DMU	N	P2	P2	P2
GMU	N	P2	P2	P2
<u>NMU</u>	<u>N</u>	<u>P2</u>	<u>P2</u>	<u>P2</u>
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

P = Permitted

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

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

19.201 DEFINITIONS

“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 MEASUREMENTS

19.202.2 Vertical Measurements

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.~~19.902.2.B.2.~~

19.202.4 Density Calculations

D. Minimum Density

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~~dividing the acreage~~net area by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

E. Maximum Density

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~~dividing the acreage~~net area by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY OVERLAY 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:~~

Proposed Code Amendment

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

In an L-F Zone the following regulations shall apply:

19.700 PUBLIC FACILITY IMPROVEMENTS

19.707 AGENCY NOTIFICATION AND COORDINATED REVIEW

19.707.1 Agency Notification

- 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-~~13b~~ 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.

19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Types
Miscellaneous: Barbed Wire Fencing Bee Colony	Chapters 19.500 Subsection 19.502.2.B.1.b-c Subsection 19.503.1.D	II III

October 2, 2015

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 200 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.

RECEIVED

OCT 05 2015

CITY OF MILWAUKIE
PLANNING DEPARTMENT

Larry D. Jakobson
10425 SE 42nd AVE
Milwaukie, OR 97222

Received via email
on 10/5/15

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



MILWAUKIE

Dogwood City of the West

To: Planning Commission

From: Dennis Egner, Planning Director

Date: October 6, 2015, for October 13, 2015, Work Session

Subject: File #ZA-2015-003 Short-Term Rentals

File Types: Zoning Ordinance Text Amendment

Applicant: Dennis Egner, Planning Director, City of Milwaukie

NDA: All with residentially zoned land

ACTION REQUESTED

No formal action requested. The Commission may choose to provide general direction for development of a draft code amendment in advance of a public hearing.

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

- **September 23, 2015:** Staff held a worksession with owners/operators of local short-term rental businesses and Neighborhood District Association (NDA) representatives. The meeting was attended by ten local owners/operators and two representatives from NDAs.
- **July 23, 2015:** The City Council held a study session to discuss the sharing economy and provide staff with direction regarding program development and regulation. The Council directed staff to move forward with a process to provide greater flexibility for short-term rentals.
- **February 17, 2015:** During the Community Development Update at the Council meeting on February 17, 2015, the Planning Director noted that staff was developing an interim approach to allow short-term rentals in single family zones provided that a room was only rented once per month. This approach was in response to concerns about code enforcement on a number of short-term rental operations following a complaint about an Airbnb rental in a single family neighborhood. (See Attachment 1 for the final February 23, 2015 version of the interim approach).
- **February 7, 2015:** The City Council held a goal setting forum at City Hall on February 7, 2015. Among the 228 comments received at the forum were several that addressed the sharing economy and opportunities for short-term rentals. Council members

expressed interest in the subject but did not prioritize it during further discussion of goals.

B. What are short-term rentals?

Short-Term Rentals are housing units and rooms that are rented out for periods less than 30 days in length. There are three types of short-term rentals:

- Hosted – where the primary occupants are present during the rental;
- Unhosted – where the primary occupants vacate the unit during the rental period; and
- Vacation rental – where there are no primary occupants.

Hosted and unhosted rentals are generally considered to be an accessory use to a primary residence. A vacation rental is a primary use and is more commercial in nature.

Short-term rental operators typically rely on services such as Airbnb and Vacation Rentals by Owner (VRBO) to rent rooms and houses.

Short-Term Rental operators may or may not offer services similar to a typical Bed and Breakfast. Most Bed and Breakfast operators live in the house with the rental rooms and offer breakfast with a night's lodging.

C. Zoning Ordinance – Relevant Definitions and Provisions

The Milwaukie Zoning Ordinance includes definitions for a number of relevant words and terms. Selected words and terms are listed below and the definitions are included as Attachment 2.

- Boarding, lodging, and rooming house;
- Home occupation;
- Hotel;
- Motel or tourist court;
- Accessory dwelling unit; and
- Dwelling unit.
- The Zoning Ordinance also includes a provision to allow a guest house (a unit without a kitchen) to occupy a lot as an accessory use provided is not occupied for more than four months within a calendar year (see Attachment 2).

D. Permitted Uses and Zoning

Under today's regulations, the zoning ordinance does not allow any form of short-term rental housing in the City's low density residential zones (R-5, R-7, and R-10). Neither Bed and Breakfasts nor Boarding, Lodging, and Rooming houses are permitted in the zones. Bed and Breakfasts and Boarding, Lodging, and Rooming Houses are both allowed through the conditional use process in the Medium and High Density Zones. In addition, approval through the conditional use process is required to allow a hotel or motel in the R-2, R-1, and R-1-B zones. The City's proposed and adopted mixed use zones (DMU, GMU, and NMU) would allow Bed and Breakfasts and Hotel/Motel uses as permitted uses (The DMU has been adopted and goes into effect on October 31, 2015; the GMU is in the process of being adopted by the City Council; hearings on NMU are just beginning at the Planning Commission). These zones would also allow Boarding, Lodging and Rooming Houses through the conditional process. Under current provisions in the GC zone, Bed and Breakfasts and Hotel/Motel uses are allowed by conditional use and Boarding, Lodging, and Rooming Houses are not allowed. None of the uses are currently allowed in the CL zone. See Attachment 3 for a comparative table.

E. Permit/Development Review - Decision Types

The City follows four types of review procedures to review and issue various permits. Each are described briefly below. Additional review procedures (not included) are used for decisions regarding zone changes, plan amendments, and code text amendments.

Permit/Development Review - Decision Types						
Review Type	Typical Use	Decision Maker/ Criteria	Public Hearing	Notice	Planning Fee	Appeal Body
Ministerial Review	Res. Building Permit Plan Check; Home Occupations ¹	Planning Staff – Verifies that standards are met	None	None	\$0–200 fees by other depts. ²	None
Type I – Ministerial Review	Commercial development review	Planning Director – Makes findings that standards are met	None	Notice of decision goes to the NDA and applicant	\$200 ⁴	Planning Commission
Type II – Administrative Review	Minor variances; Land divisions ³	Planning Director – Makes findings that criteria are met	Only if appealed	Yes – to NDAs and neighbors	\$1000 ^{3,4} plus \$200 for pre-ap	Planning Commission
Type III – Quasi-judicial Review	Conditional Use; Major variances	Planning Commission - Makes findings that criteria are met	Yes	Yes – to NDAs and neighbors	\$2000 ⁴ plus \$200 for pre-ap	City Council

¹ Home occupation review is not a permit but is conducted as a business registration completed by the finance department. Planning's role is limited to verifying that the use allowed in the zone.

² There is a \$25 to \$200 plan check fee (minor/major) for planning services – collected by the Building Dept. There is no planning related fee for a home occupation business registration.

³ Fees for land divisions are based on the number of lots. Minor land partitions are \$2000.

⁴ Depending on the application, there may also be fees related transportation impacts and systems development charges. These can be significant (\$3500+).

F. Standards and Criteria

Select standards and criteria that may be relevant for a discussion about short-term rentals include the following:

MMC 19.604 GENERAL PARKING STANDARDS**Minimum Parking Requirement**

- Single Family Dwelling – 1 off-street space per dwelling unit
- Accessory Dwelling Unit – 2 off-street spaces (one per dwelling)
- Motel, hotel, boarding house – 1 off-street space per unit
- Bed and Breakfast – 1 space per lodging unit and one for the permanent residence

MMC 19.507.1 HOME OCCUPATION STANDARDS

Home occupation uses are allowed by right; however, they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property.
- B. Maintain the residential character of the building and premises.
- C. Not have the outward appearance of a business.
- D. Not detract from the residential character of the neighborhood.
- E. Be owned and operated by an occupant of the dwelling.

MMC 19.905.4 CONDITIONAL USE APPROVAL CRITERIA

- A. Establishment of a new conditional use, or major modification of an existing conditional use, shall be approved if the following criteria are met:
 1. The characteristics of the lot are suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features.
 2. The operating and physical characteristics of the proposed use will be reasonably compatible with, and have minimal impact on, nearby uses.
 3. All identified impacts will be mitigated to the extent practicable.
 4. The proposed use will not have unmitigated nuisance impacts, such as from noise, odor, and/or vibrations, greater than usually generated by uses allowed outright at the proposed location.
 5. The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.
 6. The proposed use is consistent with applicable Comprehensive Plan policies related to the proposed use.
 7. Adequate public transportation facilities and public utilities will be available to serve the proposed use prior to occupancy pursuant to Chapter 19.700.

KEY ISSUES - DISCUSSION

There are a wide variety of options and issues related to regulation of short-term rental housing. Various options are described below.

Land Use/Approach

The City Council directed staff to develop a more flexible approach for short-term rental housing in Milwaukie. Staff is working under the assumption that it should be possible for property owners and occupants in single family districts to operate short-term rentals. The key issue is how we permit more flexibility while limiting impacts on neighbors.

One option is for the City to allow short-term rental of rooms as an accessory use to a residential dwelling with some limitations. This would mean that people could rent out rooms in

their houses as a by-right use. If someone wanted to exceed the limitations (rent out more rooms, hold events) they would need to get approval through a conditional use process. These options are listed below:

- Accessory Use – Short-term rentals could be permitted by-right as an accessory use subject to specific limitations (e.g. a limitation on the number of rooms rented or the days rented per year).
- Conditional Use – Short-term rentals that exceed the specified limitations could be required to go through a conditional use process. An alternative would be for all short-term rentals to be approved through the conditional use process. This is how Bed and Breakfast businesses are currently permitted in the City's medium and high density zones.

Use Limitations

- Hosted and Unhosted Rentals – Are there special limitations needed for unhosted rentals? Some communities require the owner or operator to occupy the property for a set number of nights per year (Portland requires the operator to be there 270 nights per year). Note: This is a difficult standard to enforce.
- Number of Rooms Available for Rent – Some communities limit the number of rooms that can be rented (Portland has a two-room limit for their by-right approval process). Unhosted rentals would need an exemption or a different type of limitation – maybe related to the number of cars.
- Number of Nights Per Year or Per Month – A limitation on the number of nights the units could be rented may be a way to limit neighborhood impacts. At a meeting on September 23, Milwaukie operators expressed opposition to this approach stating that it would potentially limit the positive economic impact guests have on the local economy – especially local restaurants.
- Event Limitations – Conflicts sometimes arise when short-term rental facilities like bed and breakfasts hold events such as weddings, reunions, or retreats. These can often result in more vehicle trips and more intense short-term activity on the site. It may be appropriate to place limits on the scale of any event held at a short term rental facility. Operators that wish to exceed the limit may be required to go through a conditional use procedure to manage neighborhood impacts.

Approval Process

There are a number of options to consider for how short-term rentals could be reviewed and approved – these range from an over the counter business registration for a home occupation to a full-blown conditional use application. Options are listed below.

- Home Occupation – Operators of short-term rental businesses would be required to register as a home occupation with the Finance Department. No notice is required for Home Occupations. Planning does a simple review to make sure code requirements are met – specifically that the proposed use is allowed as a home occupation.
- Type I - Ministerial Review – Type 1 is similar to the process for the Home Occupation but planning conducts a more formal review and makes findings that the use complies

with the code. Notice of a Type I decision is provided only to the applicant and the property owner.

- Type II – Administrative Review – Notice of a pending review is sent out to surrounding properties and the NDA. The Planning Director reviews the comments and makes a decision based on code criteria. Notice of the decision is sent to participants. A public hearing is held only if the decision is appealed.
- Conditional Use – Type III – The Planning Commission holds a public hearing on the request. Notice is sent to neighbors and NDAs. The conditional use process is intended to provide a review procedure where impacts to neighbors can be mitigated through conditions. Portland requires a conditional use review for short-term rentals where more than two rooms are being rented.

Fees/ Room Taxes

Fees and room taxes are something the City will want to consider. Today, the City of Milwaukie does not have a transient lodging tax, nor does it have any hotel/motel units or legal bed and breakfast units. There are some short-term rental businesses that operate in the City and go untaxed by the City. Some options for fees and taxes include:

- Land use application fees – Current planning fees range from \$200 for a Type I review to \$2000 for a Type III review. The Type II application fee is \$1000. Typically under a Type II or Type III process an applicant will also be required to participate in a preapplication conference. The fee for a preapplication conference is \$200.
- Annual Business Registration Fee – The City requires that businesses register with the City and pay a \$110 annual registration fee. The process is administered by the Finance Department.
- Transient Lodging Room Tax – The City does not currently have a transient room tax. It is expected that the City Council will enact such a tax if short-term rentals are allowed. Clackamas County has a transient room tax of 6% but the County exempts rooms rented in private homes where the room rental is incidental to the primary residential use of the structure. In Portland, there is a 6% City room tax and a 5.5% County room tax on short-term rentals. Portland and Multnomah County have an arrangement with Airbnb to collect the tax and remit the tax revenue on a monthly basis.

Inspections/Monitoring

- Monitoring – Some jurisdictions, including Portland, require that the operator of the short-term rental keep a log book of visitors and that these records be made available to the local government for inspection.
- Building inspections – Some jurisdictions, including Portland, require inspections of short-term rentals prior to licensing or permitting the use. The inspections are intended to verify that the sleeping room meets building code requirements including egress requirements. Given that the short-term rentals are considered an accessory use, Portland only requires that the sleeping room meet the requirements that were in place

at the time the sleeping room was created. Upgrades to current standards are not required. Portland requires inspections every six years.

- Smoke detectors – Inspections are also required in some jurisdictions to verify that smoke and carbon monoxide detectors are installed and operating.

Site Improvements/Charges

- Site Improvements - In Milwaukie, a change in use from residential to commercial use generally requires that public facilities be upgraded. Depending on the situation, this may include installation of curbs, sidewalks, parking, storm drainage and landscaping. Site improvements would not be required for small-scale short-term rentals because these would not be considered a change of use.
- Off-Street Parking – Some jurisdictions require off-street parking for short term rentals. It is typical to find one space required for the operator and one for each rental room – this is Milwaukie's requirement for Bed and Breakfasts. In Milwaukie, parking standards may create a significant limitation because required off-street parking cannot occur in the front yard, including a driveway in front of the house. .
- Screening – Screening is typically not required for small scale rentals. The assumption is that they will fit in and add character to the neighborhood.
- Systems Development Charges – Systems development charges are assessed for new development and changes in use where system impacts are increased. The transportation systems development charge is \$1,920 per vehicle trip calculated for the PM peak hour of travel. If Milwaukie takes the approach that small-scale short-term rental housing is an accessory use to a residence, the systems charges would not be imposed because no actual change in use is occurring – residential before and residential after.

KEY ISSUES

Staff has identified the following key issues for the Planning Commission's discussion.

- Should short-term rentals be allowed as an accessory use to a residential use when no more than two rooms are being rented?
- Should short-term rentals be required to obtain a conditional use permit when more than two rooms are being rented?
- Should we allow short-term rentals (up to two rooms) through the simple home occupation process or require a Type I review?
- Should hosted and unhosted rentals be allowed? Under what conditions?
- Should we place limits on the scale of events held at Short Term Rental facilities?
- Does the Commission have any suggestions regarding fees and taxes?
- Should we follow the Portland model where sleeping rooms only need to meet the standards in place at the time they were built?

- Is it appropriate to not consider it a "change in use" when a home is converted to a short-term rental? Does it make a difference as to the number of rooms rented?
- Are there site improvements that should be required for short-term rentals? Screening? Parking? Given the approach that the units are accessory to the primary residential use, should we assume that parking spaces in the front yard can be counted to meet the off-street parking requirements?

RECOMMENDATION

There is no formal staff recommendation. Staff is seeking direction from the Commission regarding development of a proposal to take to a public hearing in December.

ATTACHMENTS

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

	PC Packet	Public Copies	E-Packet
1. Interim Approach for Short-Term Rentals - February 23, 2015	☒	☒	☒
2. Definitions and Accessory Uses (MMC Excerpts)	☒	☒	☒
3. Base Zones Comparisons (MMC Excerpts)	☒	☒	☒

Key:

Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.

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

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

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-135>.

Short-Term Rental Housing in Milwaukie

February 23, 2015

Issue

Over the past few months, the City has received a few complaints about property owners renting out their houses or accessory buildings through airbnb.com or other similar websites such as VRBO.com. In response to these complaints, the City sent notices to all property owners who had listings on airbnb and VRBO. In most of the cases, short-term rentals have been operating in residential neighborhoods in zones where the uses are either not permitted or are only permitted through a conditional use process before the Planning Commission. During the same recent time frame, three new City Council members have taken office and there is strong interest in providing more flexibility to accommodate short-term rental housing and other new "sharing economy" businesses. This memo proposes an interim, partial solution to the current conflict and suggests a process for resolving the issue later in 2015.

Permitted Locations

Title 19 Zoning of the Milwaukie Municipal Code sets forth requirements for permitted uses in the City and provides limited opportunities for short-term rental housing. The code lists the following uses that are considered to be different types of short-term rental housing:

- Boarding, lodging, and rooming house;
- Hotel or motel; and
- Bed and breakfast.

In low density residential zones (R-5, R-7, and R-10), hotel/motel and bed and breakfast uses are not permitted. Boarding, lodging, and rooming houses are permitted through a Type III conditional use review process.

In medium and high residential zones (R-3, R-2.5, R-2, R-1, and R-1-B), bed and breakfast uses and boarding, lodging and rooming house uses are permitted through the conditional use process. Hotel/motel uses are allowed by conditional use in the R-2, R-1, and R-1-B zones. Hotel/motel uses are not allowed in the R-3 and R-2.5 zones.

The more intense commercial zones generally allow some form of short-term rental housing, while the zones with a more neighborhood or retail focus do not. Hotel/motel uses are allowed outright in the R-O-C, Downtown Commercial, and Downtown Office zones (as proposed, they will be allowed throughout downtown in the new Downtown Mixed Use Zone). Hotel/motel uses are allowed by conditional use in the C-L, C-G, M, and M-TSA zones. They are not allowed in the C-N, C-CS, and the BI zones. Bed and breakfast uses are not allowed in commercial or industrial zones. It is possible that a bed and breakfast could be allowed in a zone where a hotel/motel is allowed if the facility is determined to be "similar" to a hotel/motel. The R-O-C zone is the only commercial/industrial zone to allow boarding, lodging, and rooming house uses and they are only permitted as conditional uses.

Interim Approach

Rather than completely shut down the current group of property owners who have been renting out their homes for short-term rental housing, staff has developed an interim approach that will allow limited rental of rooms and units. As outlined above, short-term rentals are generally not permitted in low density residential areas but that is where many of the existing properties that have recently been listed on airbnb are located. The interim solution is to allow rentals to occur as "long-term rental

housing". Long-term rentals are considered those that occur over a 30-day period or longer. In Milwaukie and in most other jurisdictions, local governments do not regulate long-term rentals where a property owner or lessee rents out a room on a month-to-month basis. The interim approach allows "short-term" rentals provided that they function in a manner that is similar to a month-to-month long-term rental, i.e., no room or unit may be rented more than once in a 30-day period.

This approach is intended to allow property owners to continue to rent out rooms or units on an interim basis until a more permanent solution can be developed.

Long Term Approach

The zoning code currently places strong limits on bed and breakfasts and other short-term rental housing facilities in Milwaukie. It is assumed that these restrictions were put in place based on a concern about impacts on single family neighborhoods. To develop a permanent approach, it is proposed that we engage neighborhood leaders and the operators of short-term rental housing facilities in a community conversation to identify the right regulatory approach and standards for these uses. The following timeline is proposed:

- June to August – Conduct three meetings with stakeholders to develop a proposal
- September to November – Conduct a worksession and hearing at the Planning Commission
- December – Adopt ordinance amendments at the Council.

Other Issues to Consider

There are a number of key issues that will need to be considered during the development of new code standards for short-term rental housing. These include:

- Process and financial considerations – Will the City require a business license for operators? Will there be a room tax? Will the City require inspections of the facilities?
- Size and definitions – How many rooms can be rented? If rooms have separate kitchens and entrances, should they be required to meet the same requirements Accessory Dwelling Units? How are short-term rentals similar to Milwaukie's a guest house regulations which limit occupancy to 4-months/year with no remuneration?
- Impacts and improvements – How are neighborhood impacts to be measured? What are the traffic and parking impacts? Are the operators required to pay SDCs for creation of new rooms or units? Should street improvements required
- Building code issues – Sometimes units have been created in violation of building codes. How does the City ensure that fire and life safety requirements are being met for rental units?

Excerpt from Milwaukie Municipal Code Sections 19.200 Definitions and Accessory Uses and 19.503 Accessory Uses

MMC 19.201 DEFINITIONS

“Boarding, lodging, or rooming house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

“Home occupation” means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Hotel” means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Motel or tourist court” means 1 or more buildings designed or used as temporary living quarters for transients.

Residential Uses and Structures:

“Accessory dwelling unit” means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to, and smaller than, the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people, independent of the primary dwelling unit.

“Dwelling unit” means a building, or portion of a building, that includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people. Buildings with more than 1 set of cooking facilities are considered to contain multiple dwelling units, unless the additional cooking facility is clearly accessory and the property owner has recorded a covenant with the Clackamas County Records Division, stipulating that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this title.

MMC 19.503 ACCESSORY USES

19.503.1 General Provisions - Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.

**Table 19.301.2
Low Density Residential Uses Allowed**

Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Accessory and Other Uses				
Home occupation	P	P	P	Section 19.507 Home Occupation Standards
Boarding, lodging, and rooming house	N	N	N	
Hotel or Motel	N	N	N	
Bed and Breakfast	N	N	N	

**Table 19.302.2
Medium and High Density Residential Uses Allowed**

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
Single-family dwelling unit	P	P	P	P	P	MMC 19.505.1
Accessory Dwelling Unit	P/II	P/II	P/II	P/II	P/II	MMC 19.901
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	
Commercial Uses						
Hotel or motel	N	N	CU	CU	CU	
Bed and breakfast	CU	CU	CU	CU	CU	
Accessory and Other Uses						
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards

Mixed Use and Commercial Zones – MMC 19.303 to 19.307

Use	DMU	GMU	NMU	GC	CL	Standards/ Additional Provisions
Single-family dwelling unit	N	N	CU	N	CU	MMC 19.505.1
Accessory Dwelling Unit	N	N	CU	N	N	MMC 19.901
Boarding, lodging, and rooming house	CU	CU	CU	N	N	
Hotel or Motel	P	P	P	CU	N	
Bed and Breakfast	P	P	P	CU	N	
Home Occupation	P	N	P	N	N	MMC 19.507

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.

II = Type II review required.

III = Type III review required.

Note: The DMU zone replaces the downtown commercial, downtown residential, downtown storefront, and downtown office zones. It goes into effect on October 31. The GMU zone is in the final stage of the public hearing process at the City Council and is expected to be adopted in October. The public hearings on the NMU zone open before the Planning Commission on October 13. The GMU zone will apply to the GC and ROC zones in the Central Milwaukie area. The NMU zone is intended to apply to the CL area on 32nd Ave and the GC area at 42nd and Harrison/King.