



Work Session

WS

Milwaukie City Council



**MILWAUKIE CITY COUNCIL
WORK SESSION**

City Hall Conference Room
10722 SE Main Street
www.milwaukieoregon.gov

**AGENDA
OCTOBER 4, 2016**

A light dinner will be served.		Page #
1.	4:00 p.m. Seismic Retrofit for City Facilities Staff: Samantha Vandagriff, Building Official	1
2.	4:30 p.m. Housekeeping Code Amendments Briefing #1 Staff: Vera Koliias, Associate Planner	7
3.	5:00 p.m. Continuation of Coho Point Discussion Staff: Alma Flores, Community Development Director	38
4.	5:30 p.m. Adjourn	

Meeting Information

- The time listed for each item is approximate; the actual time each item is considered may change due to the length of time devoted to the previous item. The Council may vote in Work Session on non-legislative issues.
- Executive Sessions: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2).
 - All Executive Session discussions are confidential and those present may disclose nothing.
 - Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed.
 - Executive Sessions may not be held for the purpose of taking final actions or making final decisions.
 - Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503-786-7555. During meetings the Council asks that all pagers and cell phones be set on silent mode or turned off.



MINUTES
MILWAUKIE CITY COUNCIL
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WORK SESSION
OCTOBER 4, 2016
City Hall Conference Room

Mayor Mark Gamba called the Work Session to order at 4:01 p.m.

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

Staff Present: City Manager Bill Monahan, City Recorder Scott Stauffer, Assistant to the City Manager Mitch Nieman, Building Official Samantha Vandagriff, Planning Director Denny Egner, Associate Planner Vera Koliass, Engineering Director Charles Eaton, Finance Director Haley Fish, and Community Development Director Alma Flores

City Managers Update

Mr. Monahan reviewed the Council Agenda Forecaster and asked for Council's opinion on moving the November 17, 2016, Study Session to November 10, 2016. The group discussed the idea and it was group consensus to move the November Study Session to November 10, 2016.

Mr. Monahan explained changes to the agenda for the Regular Session to follow this meeting. He noted an item was added to the Consent Agenda regarding the 2nd element to the pro tem judge contract. He explained the Kronberg Park draft intergovernmental agreement (IGA) from the Oregon Department of Transportation (ODOT) had not been received yet. He asked the group if they were comfortable designating the City Attorney to review the IGA or if they wanted to simply carry it to the October 18, 2016, meeting. The group agreed they did not need to see it, discussed the timeline, and noted the item would be kept on the agenda for the Regular Session meeting.

Mr. Monahan discussed conversations with the project manager regarding the requests for proposals (RFPs) regarding the library project, and discussed possible Council participation in interviews on November 17, 2016. It was the group consensus that Councilor Power and Councilor Churchill would be the Council representatives at the library RFP interviews.

Seismic Retrofit of City Facilities

Ms. Vandagriff explained that the City's seismic retrofit needs had come up at the emergency operations center (EOC) shake-out earthquake event. She explained that police buildings were required to be seismic retrofitted by January 1, 2022. She explained the steps needed to get the Public Safety Building (PSB) retrofitted, including the hiring of a seismic engineer to first evaluate the building. She discussed funding and grants and noted it would require supplemental budget funding for assessments.

Housekeeping Code Amendments Briefing #1

Ms. Koliass introduced the topic and reviewed the package of proposed housekeeping code amendments. She referenced the Planning Commission's comments included in the staff report, including their desire to revisit the Willamette Greenway Overlay.

The group noted concerns with the proposed changes and subject areas, including home occupations, fence code, and sign code. They discussed the order of importance

for which changes to address first, and agreed the topics should be discussed further in depth.

Council President Batey and **Ms. Koliass** discussed the Commercial Limited (CL) zones, the Island Station area, and 22nd Avenue.

Ms. Koliass asked for Council's thoughts regarding the Willamette Greenway zone, and the group discussed the zone. The group decided to schedule another Work Session discussion about the Housekeeping Code Amendments. **Mr. Monahan** said staff would identify which Work Session meeting in October or November 2016 to bring this back for discussion.

Continuation of Coho Point Discussion

Ms. Flores reviewed Council's last discussion on the topic, noted the changes requested by Council, and asked for Council input. The group discussed the topic, building design, and downtown use. The group also discussed the housing crisis and affordable housing.

Ms. Flores asked about specific language to be included in the proposal, including language regarding green standards, affordable housing, parking, and design standards. The group discussed whether or not to proscribe what the building type could be. It was noted that the Council was on the same page about which criteria, goals, and objectives to offer up to the development community.

Ms. Flores reviewed the handout. **Council President Batey** and **Mayor Gamba** mentioned the bridge across McLoughlin Boulevard as an aspirational goal for the site.

The group talked about possible consultants for the south downtown plaza project. They noted the Sunday Parkways debrief would occur at the October 18, 2016, Regular Session meeting.

Mayor Gamba adjourned the Work Session at 5:24 p.m.

Respectfully submitted,



Amy Aschenbrenner, Administrative Specialist II



MILWAUKIE

Dogwood City of the West

Memorandum

To: City Council

From: Alma Flores, Community Development Director

CC: Bill Monahan, City Manager

Date: September 30, 2016

Re: Community Development Department Projects - City Council Update for October 4, 2016

Community Development/Economic Development

- Triangle Site Acquisition and Food Cart Pod
- Opportunity Sites: Harrison and Main Site (City Block 14) and Cash Spot site
- Urban Renewal Planning
- Economic Opportunities Analysis/Target Industry/ED Strategy
- Partnerships
- Grants: Milwaukie Equitable Housing Grant
- Tools and Incentives/Business Workshops
- **Wayfinding Systems Plan—Downtown**
- Neighborhood Profiles
- **North Milwaukie Industrial Area Plan**
- Exploring a Construction Excise Tax Ordinance
- **Enterprise Zone Boundary Expansion**
- **Business Assistance Workshops**
- **Downtown Improvements**

Engineering

- Riverfront Park
- **17th Avenue Multi-Use Trail**
- **ADA Ramp Improvements (CDBG)**
- McLoughlin Utility Improvements
- **2016 Sidewalk Improvements**
- 42nd Ave Paving

Planning

- **Annexations**
- **Code Updates/Amendments**
- **Visioning and Comprehensive Plan Update**
- **Land Use and Development Review**

Building

- No updates

Community Development/Economic Development

Wayfinding Systems Plan—Downtown

- At the September 20 meeting, Council adopted the Downtown Wayfinding Systems Plan. The final documents have been submitted by Sea Reach, Inc. Staff has submitted a grant application to Metro seeking funding for Phase 1 implementation – fabrication and installation of a portion of the recommended wayfinding signs.

North Milwaukie Industrial Area Plan

- To date, five stakeholder interviews and one focus group have been conducted. The existing conditions analysis and website are expected to be finalized by mid-October. The first Project Advisory and Technical Advisory Group meetings will be held October 13th. The first public event is scheduled for Wednesday, October 26th from 5 to 7:30 p.m. at OLCC, 9070 SE McLoughlin Blvd.

Enterprise Zone Boundary Expansion

- Staff is coordinating with Clackamas County and Happy Valley on a new joint expansion expected to go before City Council November 15th.

Business Assistance Workshops

- In partnership with Albina Opportunities Corporation, a local non-profit that provides loans and advisory services to minority- and women-owned businesses, the City is hosting a workshop titled Taking the Fear & Mystique Out of Business Loans on Wednesday, October 19th from 7:30 to 9 a.m. and Tuesday, November 1st from 5:30 to 7 p.m.

Taking the Fear & Mystique Out of Business Loans:
How to Plan, Secure & Deploy Business Capital

Does your business need capital to achieve your dreams? The notion of getting a business loan can be wrought with fear, confusion, rejection and failure.

In this **FREE** workshop, we share tips and stories to help determine if getting a loan is right for you, plan and prepare for one, navigate through the application process, and successfully deploy and repay that capital so your business can thrive!

.....

WED OCT 19 | 7:30 - 9 AM

&

TUE NOV 1 | 5:30 - 7 PM

PUBLIC SAFETY BUILDING
Community Room
3200 SE Harrison St, Milwaukie


.....

PLEASE RSVP
Amy Koski
503.786.7624
koskia@milwaukieoregon.gov

The City of Milwaukie is partnering with Albina Opportunities Corporation to bring resources to businesses in Milwaukie and the Portland-Metropolitan region.

Albina OPPORTUNITIES CORPORATION

FEATURED SPEAKER

 Robin Wang is the Executive Director of Albina Opportunities Corporation, a local non-profit that provides loans and advisory services to minority and women-owned businesses. Prior to AOC, Robin was a business owner for 10 years standing in your same shoes and wrestling with the challenges of running and growing a business. His proudest accomplishment in those 10 years was that he "never missed a payroll!" He brings more than 20 years of experience working in or owning various small business ventures.

Downtown Improvements

- On Monday, September 26, a second bike repair stand was installed downtown. The repair stand is located at the east end of the Adams Street Connector near the light rail station. Thanks go out to Matt Menely of Bike Milwaukie for helping make this happen.

Engineering

17th Avenue Multiuse Path

- The Contractor has completed a majority of the paving within the roadway. Permanent striping will be completed over the next two weeks.
- As the Contractor pours ADA ramps, performs landscaping, and completes the swale and the path, there will continue to be intermittent closures and flagging. The Contractor is allowed to close lanes and detour traffic as allowed by their contract.
- Traffic signal improvements will likely be completed in November as the Contractor is waiting on the fabrication of the poles.
- There will be detour plans in place intended for traffic approaching the closures. Motorists can expect up to 20-minute delays through the project. The project team will do our best to keep you aware of any major changes, but day to day traffic control will be determined by the Contractor.
- The City continues to advise all users of 17th Avenue to seek alternate routes where practical.

ADA Ramp Improvements (CDBG)

- Construction is continuing on Lake Road and Washington Street. The project is constructing new sidewalk access ramps along Lake between 26th and 32nd and on Washington between 23rd and 25th, including installation of a second pedestrian activated signal at the high school. Work is schedule to be completed by mid-October, weather dependent.

2016 Sidewalk and ADA Rmap Enhancement

- The project consisting of upgrading existing curb ramps and sidewalks along SE Van Water Street from SE 30th Avenue to SE 32nd Avenue as well as adding curb ramps and sidewalks to provide connectivity at the intersection of SE Lake Road and SE 38th Avenue was out for bid on September 19, 2016 and will close on October 6, 2016. It is expected to be awarded 7 days after and commence construction by mid October.

Planning

Annexations

- A-2016-004 – Application for expedited annexation for 5802 SE Westfork St has been received; scheduled to go to Council on Nov 1, 2016.
- A-2016-005 – Application for expedited annexation for 10284 SE Wichita Ave has been received, scheduled to go to Council on Nov 1, 2016.
- A-2016-006 – Clackamas Community College has submitted an application to annex the Harmony Road campus. Staff intends to bring this forward to the Council in early 2017 with an effective date following the completion of the new building. This provides continuity for the project by allowing the building permitting and inspection to be completed by the County.

Code Updates/Amendments

- The Council approved code amendments regulating marijuana businesses on September 20th. On September 21st, Jimmy Bruce applied for a business license for a marijuana production (grow) site in the M-zone portion of the North Milwaukie Industrial Area. Staff is not issuing the license until the marijuana regulations go into effect on October 19th. The use is a permitted use in the M-zone. The proposed site is within 1500 feet of the site that Ron Buel was pursuing on Mailwell Dr. If Mr. Bruce is successful in getting a state permit for a production site, the location will effectively eliminate the opportunity for Mr. Buel to use the site on Mailwell Dr. given the City's 1500 foot separation requirement.
- Staff has begun work on a series of "housekeeping" code amendments. A Council work session is scheduled for October 4th.

Visioning and Comprehensive Plan Update

- As of September 28, six "Community Conversations" have been held, with a total attendance of approximately 105 community members. There are currently six more Community Conversations scheduled between now and October 14, and staff continues to reach out to groups and organizations to schedule additional meetings.
- The Vision Town Hall is scheduled for November 2 at the Waldorf School's Gymnasium. Brian Scott (<http://www.bdsplanning.com/about/>) will be the guest speaker and help frame the discussion of community values, aspirations, growth, and change. There will be an Open House starting at 6, with refreshments, music, and tabling opportunities for community organizations. The Town Hall program will begin at 6:30 pm. Staff will be aggressively promoting the Town Hall, including handing out postcards at this weekend's Sunday Parkways event.
- The next meeting of the Steering Committee is scheduled for October 3.
- The next meeting of the Vision Advisory Committee is scheduled for October 6.
- At the October Planning Commission meeting, staff will provide an update on the Community Vision, as well as conduct a Community Conversations exercise.
- Staff will provide an update to the Council on the Community Vision at the October 20 study session.
- Staff is currently reviewing updated versions of the Housing Needs Analysis and Economic Opportunities Analysis. Staff anticipates to update the Council on these studies on October 20 or November 1.

Land Use and Development Review

- Planning Commission:
 - S-2016-001 - A 14-lot subdivision on 2.6 acres at 5126 SE King Road. The hearing on this subdivision has been rescheduled for November 22nd pending submittal of an application for a variance to the arterial street separation standards on King Rd.
 - CU-2016-004 – Proposal for new conditional use to allow professional offices within Bridge City Church (2816 SE Harrison St); application is in completeness review stage, no Planning Commission hearing date set yet.

- Land Use Applications¹:
 - (None at this time)

Building

- No updates

¹ Only those land use applications requiring public notice are listed here.



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **WS 1.**
Meeting Date: **Oct. 4, 2016**

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

Subject: **Seismic Retrofit for City Facilities**

From: Samantha Vandagriff, Building Official

Date: 9/15/16 for the 10/4/16 Work Session

ACTION REQUESTED

Listen to preliminary plan to address Police Station Seismic Rehabilitation regulations.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

N/A

BACKGROUND

Currently, the Milwaukie Public Safety Building (PSB) serves as our emergency operations control (EOC) center in the event of declared emergencies. At a recent emergency management training drill it was mentioned by the building official that the city may need to comply with state seismic rehabilitation regulations for law enforcement agencies. As a follow-up, the building official researched the regulations. Oregon Laws 2001, Chapter 798, section 2, (4) requires the evaluation and rehabilitation of emergency response facilities. The city convened a meeting of several divisions to brainstorm a course of action—1. Update the council on the regulation, 2. Inquire into a structural engineer providing an evaluation of the PSB and the extent of the retrofit. 3. Look into grants that could off-set the cost of the retrofit.

The state began issuing grants via the Seismic Rehabilitation Grant Program in 2007 to help achieve the goals put in place by the law passed in 2001. Per ORS 455.400 Sec. 3 (taken from Oregon Laws 2001, chapter 798 section 3), subject to available funding, all seismic rehabilitations or other actions to reduce the risk must be completed before January, 1 2022.

CONCURRENCE

Alma Flores, Community Development Director and Bill Monahan, City Manager.

FISCAL IMPACTS

TBD

WORK LOAD IMPACTS

TBD

ALTERNATIVES

Be out of compliance with state law.

ATTACHMENTS

1. ORS 455.400
2. Oregon Laws 2001, Chapter 798

455.400 Effect of seismic rehabilitation provisions on exclusive remedy. Nothing in ORS 455.020, 455.390 and 455.395 and this section shall be construed as expanding or limiting the exclusive means by which subject workers and their beneficiaries are compensated for injury, death or disease arising out of and in the course of employment as provided in ORS chapter 656. [1995 c.400 §6]

Note: See note under 455.390.

(Educational Building Seismic Rehabilitation)

Note: Section 3, chapter 797, Oregon Laws 2001, provides:

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4), chapter 797, Oregon Laws 2001, is found by a board to pose an undue risk to life safety during a seismic event, the governing board of a public university listed in ORS 352.002, local school district board, community college board or education service district board, as appropriate, shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. For a board that is subject to ORS 291.224, the board's plan to rehabilitate or take other action to reduce the seismic risk of a building must be included in the capital construction program of the board. A board that is subject to ORS 291.224 shall rank the relative benefit of projects to reduce seismic risk in comparison with other life safety and code requirement projects. Subject to availability of funding, all seismic rehabilitations or other actions to reduce seismic risk must be completed before January 1, 2032. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other action shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.797 §3; 2013 c.768 §162; 2015 c.767 §177]

(Acute Inpatient Care Facility, Fire Station and Police Station Seismic Rehabilitation)

Note: Section 3, chapter 798, Oregon Laws 2001, provides:

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4) of this 2001 Act is found to pose an undue risk to life safety during a seismic event, the acute inpatient care facility, fire department, fire district or law enforcement agency using the building shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. Subject to available funding, all seismic rehabilitations or other actions to reduce the risk must be completed before January 1, 2022. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other actions shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.798 §3]

Chapter 798 Oregon Laws 2001

AN ACT

SB 15

Relating to seismic event preparation; appropriating money; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Subject to the provision of funding by the State Department of Geology and Mineral Industries from gifts, grants and donations made available for carrying out this section, the Health Division shall provide for seismic safety surveys of hospital buildings that contain an acute inpatient care facility. As used in this subsection, “acute inpatient care facility” has the meaning given that term in ORS 442.470. As used in this subsection, “acute inpatient care facility” includes the Oregon Health Sciences University.

(2) Subject to available funding from gifts, grants and donations made available for carrying out this section, the State Department of Geology and Mineral Industries shall provide for seismic safety surveys of fire stations.

(3) Subject to available funding from gifts, grants and donations made available for carrying out this section, the department shall provide for seismic safety surveys of police stations, sheriffs’ offices and similar facilities used by state, county, district and municipal law enforcement agencies.

(4) The division and the department shall ensure that seismic safety surveys conducted under subsections (1) to (3) of this section are conducted in accordance with the Federal Emergency Management Agency publication, “Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook,” FEMA-154, 1988 Edition.

(5) A seismic safety survey under subsections (1) to (3) of this section is not required for any building that has previously undergone a seismic safety survey or that has been constructed to the state building code standards in effect for the seismic zone classification at the site on the effective date of this 2001 Act.

(6) The division or the department, as appropriate, shall ensure that seismic safety surveys required under subsections (1) to (3) of this section are completed by January 1, 2007.

SECTION 2. (1) The Health Division shall send the seismic safety surveys conducted pursuant to section 1 (1) of this 2001 Act to the State Department of Geology and Mineral Industries. Notwithstanding section 1 (6) of this 2001 Act, if the department determines that a survey is not fully and properly completed, the department may refuse to accept the survey and may return the survey to the division for correction or completion.

(2) The department may accept seismic safety surveys for buildings that are exempt under section 1 (5) of this 2001 Act if the department determines that the surveys are fully and properly completed and are sufficiently similar to other surveys to be useful. The

surveys accepted by the department under this subsection do not need to be surveys conducted by the division or the department.

(3) The department shall use seismic safety surveys accepted under subsections (1) and (2) of this section or conducted pursuant to section 1 (2) or (3) of this 2001 Act to make an initial evaluation of the seismic safety of each surveyed building.

(4) Subject to available funding and after consultation with the department, the acute inpatient care facility, fire department or fire district or law enforcement agency shall conduct such additional seismic safety evaluations of buildings as the facility, fire department or fire district or law enforcement agency considers to be necessary. The facility, fire department or fire district or law enforcement agency shall conduct the evaluations using the life safety standard set forth in the Federal Emergency Management Agency publication, "Handbook for the Seismic Evaluation of Buildings: A Prestandard," FEMA-310, 1998 Edition, or a stricter standard selected by the acute inpatient care facility, fire department or fire district or law enforcement agency that conducts the survey.

SECTION 3. Subject to available funding, if a building evaluated under section 2 (4) of this 2001 Act is found to pose an undue risk to life safety during a seismic event, the acute inpatient care facility, fire department, fire district or law enforcement agency using the building shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. Subject to available funding, all seismic rehabilitations or other actions to reduce the risk must be completed before January 1, 2022. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other actions shall be developed in a manner that gives consideration to preserving the character of the building.

SECTION 4. (1) The Health Division shall report to an appropriate committee of the Seventy-second Legislative Assembly and an appropriate committee of the Seventy-third Legislative Assembly regarding the progress the division has made toward completion of the seismic safety surveys described in section 1 of this 2001 Act.

(2) The State Department of Geology and Mineral Industries shall report to an appropriate committee of the Seventy-second Legislative Assembly and an appropriate committee of the Seventy-third Legislative Assembly regarding the progress the department has made toward completion of the seismic safety surveys described in section 1 of this 2001 Act.

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the State Department of Geology and Mineral Industries, for the biennium beginning July 1, 2001, out of the General Fund, the amount of \$1, which may be expended for the purpose of carrying out the provisions of sections 1 and 2 (1) to (3) of this 2001 Act.

SECTION 6. Notwithstanding any other law, the amount of \$1 is established for the biennium beginning July 1, 2001, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the State Department of Geology and Mineral Industries for the purpose of carrying out the provisions of sections 1 and 2 (1) to (3) of this 2001 Act.

SECTION 7. For purposes of sections 2 (4) and 3 of this 2001 Act, funding is available only if the Legislative Assembly provides the funding pursuant to a grant of bonding authority approved by the people at the first general election held throughout the state on or after January 1, 2002.

SECTION 8. This 2001 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect on its passage.

Approved by the Governor July 19, 2001

Filed in the office of Secretary of State July 19, 2001

Effective date July 19, 2001



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **WS 2.**
Meeting Date: **Oct. 4, 2016**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Housekeeping Code Amendments Briefing #1**

From: Vera Koliass, Associate Planner

Date: September 26, 2016 for the October 4, 2016
Worksession

ACTION REQUESTED

No action. Review the package of housekeeping code amendments developed by staff and provide direction about implementing the changes under consideration. This is a briefing for discussion only.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

September 13, 2016: Staff discussed the proposed package of housekeeping amendments with the Planning Commission in a worksession. The Planning Commission comments are summarized below.

BACKGROUND

Over the course of several years, Planning Department staff has been tracking issues with current zoning code language and has made suggested corrections. These items have been identified through a variety of means, including multiple instances of the same questions from the public that are not easily answered, code interpretation applications, and onerous land use review procedures for specific types of small development proposals, to name a few. To date, there are over 100 individual items on the "code fix" list.

In order to address this list, the Planning Department will strive to bring forward a small package of "housekeeping" code amendments each year. Housekeeping amendments are clarifications or minor tweaks, and are not generally intended to affect the meaning or intent of existing regulations, rather than amendments that are a significant change in policy.

The current package of proposed code amendments involve the following code sections (Please refer to Attachment 1 for draft language and brief explanatory commentary):

- MMC 19.303 – Commercial Mixed-Use Zones – accessory uses
- MMC 19.306 – CL zone – permitted uses
- MMC 19.310 – BI zone – permitted uses
- MMC 19.401 – Willamette Greenway Overlay – applicability; review process
- MMC 19.402 – Natural Resources – various
- MMC 19.502 – Accessory Structures – clarification of definition
- MMC 19.607 – Off-Street parking in residential areas
- MMC 19.904 – Wireless Communication Facilities – applicability and review process
- MMC 19.907 – Downtown Design Review – exemptions for minor site improvements
- MMC 19.911 – Variances – revision for fence height
- MMC 19.1104 – Expedited Annexation – revision to County/City zone
- MMC 14.16 – Signs – M-TSA clarification; roof signs and multiple frontages clarification

The revisions are intended to correct and clarify the code to improve its administration without changing basic policy or intent.

The Planning Commission provided comments at the September 13 worksession as follows (only sections that generated comments are listed):

- **MMC 19.306 – CL zone** – permitted uses
 - Suggested that the CL zone areas be rezoned to NMU. They understand that this is bigger than housekeeping. Otherwise, no comments as proposed.
- **MMC 19.401 – Willamette Greenway Overlay** – applicability; review process
 - Concurred with list of exemptions; do not agree with the proposed 250-ft boundary for Type II and Type III review. Prefer to have the City revise the WG zone boundary through a separate process. Recommended that staff revise the proposed amendment to only revise the definitions and add the list of exemptions.
- **MMC 19.502 – Accessory Structures** – clarification of definition
 - The Commission had questions regarding the passage and wanted clarifications to ensure that the passage was for humans and to specify whether the passage had to be on the ground level.
Per the Building Official staff will add "passage/hallway" to the language, which will suffice. The connecting structure does not have to be on the ground, as it could provide access at the second floor.
- **MMC 19.607 – Off-Street parking in residential areas**
 - Staff proposed 2 options (reduce the minimum distance to 5 ft OR define a gradual widening). The Commission would like to see language that would allow for EITHER option – in case one option is more applicable to a particular property than the other.
- **MMC 19.907 – Downtown Design Review** – exemptions for minor site improvements
 - The Commission stated that improvements for bike racks, benches, and trash cans that meet design standards should be exempt. If someone wants to propose another type/design for the amenity, then design review via the DLC should be required.
- **MMC 19.911 – Variances (fences)**
 - The Commission stated that a \$1,000 Type II application seems expensive and out of proportion to the project cost (for a fence). There should be a way to have it be less expensive. “Make it simple and fair”.
- **MMC 14.16 – Signs** – M-TSA clarification; roof signs and multiple frontages clarification
 - The Commission wanted confirmation that this is consistent with the recent Bob’s Red Mill review process. Staff confirmed that it is; therefore the Commission concurred with the proposed language.

CONCURRENCE

The Planning Commission held a worksession to discuss these amendments on September 13 and provided comments in advance of a future public hearing. A video recording of the Planning Commission discussion is available at <http://www.milwaukieoregon.gov/planning/planning-commission-157>.

FISCAL IMPACTS

The amendments are not expected to significantly alter the cost of administering the code. In fact, by their very nature, they are intended to simplify the process by providing more clarity to the code.

WORK LOAD IMPACTS

The amendments are expected to simplify and thereby potentially reduce some of the work load of the planning department for administration of the code.

ALTERNATIVES

The October 4, 2016 meeting is a worksession. No alternatives are being presented. Staff is seeking comments and questions related to the proposal so that we can return with alternatives and options at a later public hearing.

If there are significant issues, the Council could choose to schedule an additional worksession for further discussion. This could delay the adoption and effective dates of the amendments.

ATTACHMENTS

1. Draft code amendment language

2016 Housekeeping Code Amendments

MMC 19.306 C-L Zone

Discussion

Proposal: Staff is proposing that the list of outright permitted uses in the C-L zone that are included in MMC Section 19.306.1 be amended so that eating establishments (restaurants) less than 3,250 sf in floor area are an outright permitted use in the entire C-L zone, and those that exceed 3,250 sf in floor area are a conditionally permitted use. The proposed amendment would also delete Figure 19.306.1.E, as with the proposed amendments the figure is no longer accurate or relevant, and the properties in the figure are no longer within the C-L zone.

Support: MMC 19.306 includes the list of permitted uses and development standards for the city's Limited Commercial (C-L) zone. The C-L zone is a commercial zone that allows for a limited number of uses either by right or as a conditional use. It falls between the city's Neighborhood Commercial (C-N) zone, which allows no outright permitted uses and a short list of conditionally permitted uses (as detailed in MMC 19.305.2), and city's General Commercial (C-G) zone, which allows for a large number of commercial uses by right (as detailed in MMC 19.307.1). There are currently six outright permitted uses identified in MMC 19.306.1, including eating establishments if they are identified in Figure 19.306.1.E and they are less than 3,250 in floor area. Eating establishments are prohibited at C-L zoned properties not identified in Figure 19.306.1.E, even with a Conditional Use permit.

There are currently two areas of the City that are zoned C-L. These include three parcels at the intersection of SE Harmony Road and SE Linwood Ave, and three parcels along SE 22nd Ave just south of SE McLoughlin Blvd. The area along SE 32nd between SE Boyd St and SE Olsen St was previously zoned C-L, but was rezoned to Neighborhood Mixed Use (NMU) as part of the Moving Forward Milwaukie project.

Eating establishments were added as outright permitted uses for those properties identified in Figure 19.306.1.E as an interim solution to permit eating establishments at several existing businesses along SE 32nd Ave while the Moving Forward Milwaukie project was in process and the Neighborhood Mixed Use zone was being created. Now that the area along SE 32nd Ave is no longer zoned C-L, staff is proposing that MMC Sections 19.306.1 and 19.306.2 as well as Figure 19.306.1.E be amended to reflect this fact.

With the removal of the properties identified in Figure 19.306.1.E, one option to amend the code would be to simply remove eating establishments as a permitted use in the entire C-L zone (that is, delete Section 19.306.1.E entirely). However, in reviewing the Comprehensive Plan's Land Use Element (Chapter 4), there is support for allowing small eating establishments as an outright permitted use in the C-L zone.

The C-L zone is not specifically referenced in the Land Use Element. However, it appears that the C-L Zone is consistent with the definition of a "Local Convenience Center", which is described in the Planning Concepts for Objective #6 of the Economic Base and Industrial/Commercial Land Use Element. Local convenience centers are described as "a commercial facility to provide for frequent, convenient shopping needs", which should "serve from 2,000-4,000 people on ¼ to ½ acre individual sites or may be adjacent in a strip. Typical uses may include a quick-stop grocery, laundry, fast-food restaurant, etc. *The business at the intersection of Linwood and Harmony is an example.*" (Emphasis added)

Based on the description of local convenience centers in the Comprehensive Plan, it appears that they are consistent with the two areas of the city that have a zoning designation of C-L. The shopping centers on either side of the intersection of SE Linwood and SE Harmony are specifically called out in the description, and the area near SE 22nd and SE McLoughlin is very similar in nature and scale to the area at SE Linwood and SE Harmony. The Comprehensive Plan also seems to suggest that fast-food or other small restaurants were envisioned as a permitted use within these areas.

Staff is proposing that the existing 3,250 sf maximum floor area for eating establishments be maintained so as to ensure that any future eating establishments that are permitted by right are appropriate in size and scale for the immediately surrounding neighborhoods. Eating establishments over 3,250 sf would be added as a conditionally permitted use, which staff believes is appropriate given the fact that eating establishments of any size are conditionally permitted within the C-N zone (a more restrictive commercial zone), as detailed in MMC 19.305.2.

Recommendation: Based on a review of the Comprehensive Plan's Land Use Element as well as the list of conditionally permitted uses in the C-N zone, staff is proposing that MMC 19.306 be amended so that eating establishments under 3,250 sf in floor area are an outright permitted use in the entire C-L zone (MMC 19.306.1.E); eating establishments over 3,250 sf in floor area are a conditionally permitted use in the entire C-L zone (MMC 19.306.2.N); and Figure 19.306.1.E is deleted.

19.306 LIMITED COMMERCIAL ZONE C-L *

* **CodeAlert:** This topic has been affected by Ordinance No. [2120](#). To view amendments and newly added provisions, please refer to the [CodeAlert Amendment List](#).

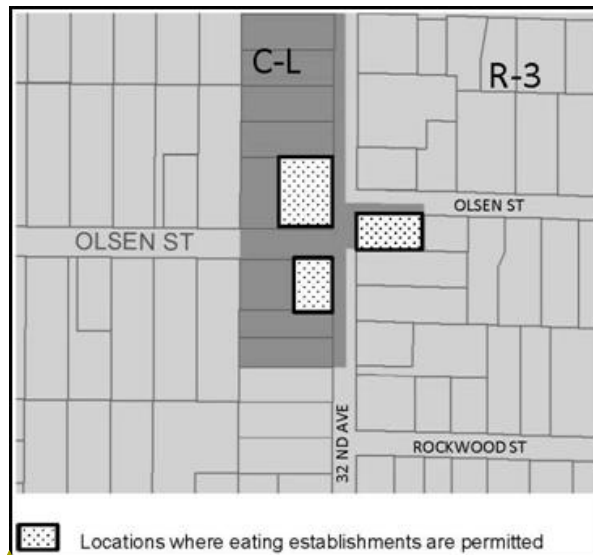
In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature.
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific, or statistical organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- D. Personal service business such as a barber shop, tailor shop, or laundry and dry cleaning pickup station.
- E. Eating establishments, ~~when located on a site depicted in Figure 19.306.1.E, and~~ provided the floor area does not exceed 3,250 sq ft and the use does not include drive-through facilities.

Figure 19.306.1.E
Eating Establishment Locations in the C-L Zone



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- F. Medical marijuana facilities subject to the standards of Subsection 19.306.3.L.
- G. Any other use similar to the above and not listed elsewhere.

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Funeral home;
- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. Single-family detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock;
- I. Duplex or multifamily development;
- J. Senior and retirement housing;
- K. Residential home;
- L. Congregate housing facility;
- M. High-impact commercial, except adult entertainment businesses;

N. Eating establishments that exceed 3,250 sf in floor area;

ON. Any other use similar to the above and not listed elsewhere.

19.306.3 Standards

In a C-L Zone the following standards shall apply:

- A. Lot size. None, except as follows for dwelling. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,000 sq ft. Lot width shall be at least 50 ft. Lot depth shall be at least 80 ft.
- B. Front yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- C. Side yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- D. Rear yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- E. Transition area. A transition area shall be maintained according to Subsection 19.504.6.
- F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft except as permitted under the Land Division Ordinance.
- G. Off-street parking and loading. As specified in Chapter 19.600.
- H. Height restriction. Maximum height of any structure shall be 3 stories or 45 ft, whichever is less.
- I. Open use. A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than 6 ft high.
- J. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15% of the total area of the lot.
- K. Transportation requirements and standards. As specified in Chapter 19.700.
- L. Medical marijuana facilities shall meet the following standards:
 - 1. 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.
 - 2. A medical marijuana facility shall not be colocated with another business.
 - 3. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
 - 4. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.

19.306.4 Prohibited Uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment businesses. (Ord. 2094 § 2, 2015; Ord. 2089 § 2, 2015; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

DRAFT

MMC 19.310.2 BI Zone

1. Contractor base of operations as an allowed use

Proposed Fix: Add language to include contractor base of operations as a permitted use in the BI zone, consistent with land use file #CI-2015-001.

19.310.2 Uses Permitted Outright

A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.

1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site;
2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing;
4. Trade schools primarily serving the business community within the area.

B. Business and professional offices, including product design, sales, service, packaging; corporate headquarters or regional offices.

C. Warehousing and distribution.

D. Construction: Contractors and Related Businesses. This category comprises businesses whose primary activity is performing specific building or other construction-related work, on- or off-site. Examples include: residential and nonresidential building construction, utility/civil engineering construction, specialty trade contractors, and moving companies. Any associated on-site office use must be accessory to the primary construction business.

DE. Any other use similar to the above uses but not listed elsewhere.

MMC 19.401 Willamette Greenway Zone WG

1. Definitions of "change of use" and "intensification"

Proposed Fix: Add language from Goal 15 to provide consistency and include language clarifying projects that are not considered change of use or intensification.

- MMC 19.401.4

“Change of use” means making a different use of the land or water which requires construction; alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures; and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios) and which do not impact any views to or from the river, shall not be considered a change of use.

“Intensification” means any change of use; or action which increases or expands the area or amount of an existing use or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the WG Zone includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios), and which do not impact any views to or from the river, shall not be considered an intensification of use.

2. Review process – define and provide for applicability for: Exempt, Type II, and Type III review

Proposed Fix: Provide for categories or lists of projects that are exempt from WG land use review, trigger Type II land use review, and trigger Type III land use review.

- MMC 19.401.5

A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.B and Subsection 19.401.5.D.

B. Willamette Greenway review is not required for any of the activities listed below:

- a) Changes to the interior of a building where there are no exterior alterations;
- b) Normal maintenance and repair as necessary for an existing development;
- c) Removal of vegetation on the Nuisance Plants List;
- d) Addition or modification of existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors by public or municipal utilities;
- e) Flood emergency procedures, and maintenance and repair of existing flood control facilities;
- f) Placement of signs, markers, aids, etc., by a public agency to serve the public;
- g) Establishment of residential accessory uses, such as lawns, gardens, and play areas (excluding structures), subject to the vegetation buffer requirements of Subsection 19.401.8;

- h) Alterations of buildings or accessory structures which do not increase the size or alter the configuration of the building or accessory structure footprint;
- i) Ordinary maintenance and repair of existing buildings, structures, parking lots, or other site improvements;
- j) Minor repairs or alterations to existing structures for which no building permit is required;
- k) A change of use of a building or other structure that does not substantially alter or affect the land upon which it is situated;
- l) Construction of driveways;
- m) Reasonable emergency procedures as necessary for the safety or protection of property;
and
- n) Other activities similar to those listed in "a," through "m," above. The Planning Director shall make such determinations and provide notice in accordance with MMC 19.903.

~~B. C.~~ The Oregon Department of Transportation shall be notified of a hearing on a conditional use in the WG Zone. The notice shall be sent via "certified mail, return receipt requested."

~~C. D.~~ The provisions of the WG Zone in Section 19.401 shall apply until adoption of the Willamette Greenway Design Plan.

D. A Willamette Greenway review is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this section. The review may take either of the following forms: ~~Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change in use or intensification. Approval shall be granted only if the criteria in Subsection 19.401.6 are met.~~

(1) Willamette Greenway Development Permit. A Willamette Greenway Development Permit is a permit for any non-exempt intensification, development, or change of use occurring on a property within the WG Zone that is more than 250 feet away from the nearest point of the Willamette River. A Willamette Greenway Development Permit shall be processed as a Type II procedure under Section 19.1005. An application for a Willamette Greenway Development Permit shall be granted if all of the following criteria are met:

- (a) The proposed intensification, development, or change of use is consistent with:
 - (i) The applicable standards of this Section; and
 - (ii) The proposed intensification, development, or change of use complies with all applicable development standards in Chapters 19.300, 19.400, 19.500, 19.600, and 19.700.

(2) Willamette Greenway Conditional Use. A Willamette Greenway Conditional Use is required for any intensification, development, or change of use occurring on a property within the WG Zone that is less than 250 feet away from the nearest point of the Willamette River. A Willamette Greenway Conditional Use shall be processed as a Type III procedure per Section 19.905. Approval shall be granted only if the applicable criteria in Subsection 19.401.6 are met.

E. Submittal Requirements

A vegetation/buffer plan must be submitted for each application for a Willamette Greenway Conditional Use or Development Permit. A buffer plan is required only if the proposed development impacts the vegetation buffer defined in Subsection 19.401.8.

F. Written notice, including a copy of the application, will be sent upon receipt to the Oregon Parks and Recreation Department by certified mail—return receipt requested. The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and State Marine Board shall also be notified of each application.

G. Written notice shall be provided to the Oregon Division of State Lands after the land use action is final for activities affecting wetlands or submerged or submersible lands within the WG zone. The notice shall include local government conditions of approval.

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2016 Housekeeping Code Amendments
MMC 19.402 Natural Resources

1. Construction Management Plans as permits instead of Type I applications

Proposed Fix: Take Construction Management Plans off the list of Type I applications and specify that they are reviewable like building permits and erosion control permits.

- MMC Table 19.402.3.K
[Remove the row for “Construction management plans” from the table.]

Table 19.402.3.K			
Types of Process Review for Various Activities			
Activity (and applicable code sections)	Type of Review Process		
	Type I (19.1004)	Type II (19.1005)	Type III (19.1006)
Construction management plans (Subsection 19.402.9)	✓		

- MMC 19.402.6
 A. ~~Construction Management Plans~~
 Construction management plans, as outlined in Subsection 19.402.9, are subject to Type I review.
[Adjust the numbering for the rest of 19.402.6 accordingly.]
- MMC 19.402.9
 1. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

2. Exemption for Erosion Control Measures

Proposed Fix: Add language to MMC 19.402.4.A to specify that installation of City-approved erosion control measures is not considered disturbance and is exempt from NR review.

- MMC 19.402.4
 A. Outright Exemptions
18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

3. Major pruning applies only to trees, not shrubs

Proposed Fix: Remove the discrepancy between the definition of “major pruning” established in MMC 19.201 (which only addresses trees) and the list of outright exempt activities in MMC 19.402.4.A. The inclusion of “and shrubs” in Subsection A-6-e suggests that shrubs are also subject to the limitations of “major pruning” and might need additional review for pruning or removal, which is not the intent.

- MMC 19.402.4.A.6
 e. Major pruning of trees ~~and shrubs~~ within 10 ft of existing structures.

4. Correction to Type I Tree Removal Language

Proposed Fix: Revise the language in MMC 19.402.6.B.1 to clarify that this section applies except where Subsection B-2 says it does not. Revise the text of Subsection B-2 to clarify its applicability.

- MMC 19.402.6
 - B. Limited Tree Removal
 - 1. The Planning Director may approve an application for limited tree removal or major pruning within WQRs and HCAs, ~~subject to~~ except where exempted by Section 19.402.6.B.2, under any of the following circumstances:
 - 2. The provisions of Subsection 19.402.6.B.1 do not apply to tree removal proposed in association with development or other activities regulated by Section 19.402, for which other approval criteria and mitigation standards ~~may~~ apply.

5. Tree size for mitigation

Proposed Fix: Revise the “replacement tree” language in this section dealing with mitigation plantings. In Type I tree removal situations (MMC 19.402.6.B), the code already provides sizing standards for “replacement” trees, so MMC 19.402.11.B.3 should be more clear in addressing other general mitigation planting situations.

- MMC 19.402.11.B
 - 3. Plant Size

~~Replacement~~Required mitigation trees shall average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation ~~S~~shrubs shall be at least 1-gallon size and 12 in high.

6. “New” disturbance of WQRs (Type II and Type III review)

Proposed Fix: Clarify that the Type II and Type III review provisions related to routine repair and maintenance of existing structures allow up to 150 sq ft of new WQR disturbance.

- MMC 19.402.7.D
 - 3. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by no more than 150 sq ft within the WQR.
 - 4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area ~~disturbs~~ by no more than 150 sq ft within the WQR.
- MMC 19.402.8.A
 - 10. Routine repair and maintenance, alteration, and/or total replacement, ~~and/or change of use~~ of existing legal buildings or structures that that increases the existing disturbance area by more than 150 sq ft within the WQR.

7. Maximum Disturbance Allowance for Non-Residential HCA Sites

Proposed Fix: Add language to MMC 19.402.11.D.1.b to clarify that 10% of the HCA on a non-residential site is the maximum area that can be disturbed using the Type I review process.

- MMC 19.402.11.D
 - 1. Disturbance Area Limitations in HCAs
 - b. All Other Uses

A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection 19.402.11.D.2.

8. Overlap of WQRs and HCAs

Proposed Fix: Add language to the Applicability section (MMC 19.402.3) to clarify that, where WQRs and HCAs overlap, the WQR overlap area is effectively not considered HCA, is not available for HCA-only exemptions, and is not included in HCA calculations for allowable disturbance.

- MMC 19.402.3
 - E. Where WQRs and HCAs overlap, the WQR overlap area is not included in any calculations of HCA area for purposes of determining whether HCA-only exemptions are allowed or for calculating allowable HCA disturbances.

[Adjust the numbering for the rest of 19.402.3 accordingly.]

9. Underground streams and HCA designation

Proposed Fix: Where protected water features are underground and not subject to the provisions of Section 19.402 (as per Subsection 19.402.3.I), clarify that the associated WQR and HCA designations shown above ground for those features are not in effect.

- MMC 19.402.3
 - I. Those portions of streams, creeks, and other protected water features that appear on the NR Administrative Map but are enclosed in pipes, culverts, or similar structures are not subject to the provisions of Section 19.402, except where a proposed activity will expose or directly disturb the protected water feature, such as with excavation. For WQRs, the underground portion of the protected water feature is not considered a protected water feature for purposes of determining the WQR location as outlined in MMC Table 19.402.15. For HCAs, the boundary verification options provided in MMC 19.402.15 may be used as necessary to determine whether the underground nature of the protected water feature affects the representation of HCA on the NR Administrative Map.

10. Clarification of “utility facility” with respect to stream culverts & pipes

Proposed Fix: Adjust the definition of “utility facility” in Section 19.201 to include pipes or culverts that convey streams and other protected water features, so that repair/replacement of such infrastructure can be subject to the same exemptions or review as other utility facilities.

- MMC 19.201

“Utility facilities” means buildings, structures, or any constructed portion of a system which provides for the production, transmission, conveyance, delivery, or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater facilities but do include pipes, culverts, and similar enclosed structures that convey protected water features.

11. HCA mitigation options in discretionary review

Proposed Fix: Clarify that HCA disturbance that triggers Type III review can be mitigated using the options presented in MMC 19.402.11.D as a guide, as an alternative to coming up with a completely independent formula/ratio.

- MMC 19.402.12.C
 - C. Limitations and Mitigation for Disturbance of HCAs
 - 1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 shall submit an Impact Evaluation and Alternatives

Analysis, as outlined in Subsection 19.402.12.A, and shall be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

12. NR Administrative Map verification

Proposed Fix: Loosen the requirement to allow only a “professional engineer” to submit a hydrology report for map verification of drainages. Other hydrology-related professionals should also be capable of providing credible reports to verify drainages.

- MMC 19.402.15.A.2.a(1)
 - a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant shall submit a hydrology report, prepared by a professional engineer, hydrologist, wetland specialist, or other qualified natural resource professional, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant shall provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

13. Process for large-scale revisions to NR Administrative Map

Proposed Fix: Clarify that large-scale changes to the NR Administrative Map, such as changes that the City chooses to initiate involving multiple properties and for which the City may not be able to obtain all the necessary property owner authorizations, should be handled in a similar manner to regular zoning map amendments. Adjust Table 19.901 to show Type V review as an option instead of Type IV, which was an error that already needed correction.

- MMC 19.402.15.A
 - 3. Type III or V Boundary Verification

Corrections to mapped WQRs or HCAs that are not subject to processing according to the provisions outlined in either of Subsections 19.402.15.A.1 or A.2, such as in cases where the City initiates the change without property owner authorization and/or where the changes involve more properties than for which it is practicable to obtain all property owners’ authorization, shall be processed in accordance with the procedures for zoning map amendments as provided in Subsection 19.902.6. Such corrections shall be processed with either Type III or Type V review, accordingly, but do not constitute amendments to the zoning map itself, only to the NR Administrative Map.

Table 19.901 CONTINUED Land Use Applications		
Application Type	Municipal Code Location	Review Types
Natural Resource Review	Section 19.402	I, II, III, IV V

MMC 19.502 Accessory Structures

1. Accessory structure or addition?

Proposed Fix: Add language to clarify under what circumstances a structure is an addition and not an accessory structure.

- **MMC 19.502.2 Specific Provisions for Accessory Structures**

- b. Other Development Standards

- (4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed, ~~and~~ meets the building code definition of a conditioned space, and provides for interior passage (minimum width of 36 in) between the primary structure and the new structure. Alternately, if a new structure shares a wall with the primary structure for a minimum length of 48 in then it is not considered an accessory structure.



Memorandum

To: Bill Monahan, City Manager
From: Denny Egner, Planning Director
CC: Alma Flores, Community Development Director
Date: August 25, 2016
Re: Fence Recommendations

Issue

Should standards, variance procedures, or variance fees be adjusted for fences?

Background

In July, Code Enforcement Officer Tim Salyers notified Rebecca Banyas that her newly constructed fence on the southwest corner of Sparrow St and 22nd Ave does not meet code requirements. Mr. Salyers said the fence would need to be modified or that a variance was needed. The fence is approximately 6 feet in height and extends along 22nd Ave and a portion of Sparrow St. On August 5th, I visited the site and met with Ms. Banyas and her contractor. I noted that, given the topographic changes, there is a very strong likelihood that a variance would be approved for the fence. I provided a variance application form to Ms. Banyas. Following my meeting, Ms. Banyas requested that the City Manager waive the variance fee.

Standards, Procedures, and Fees

Requirements for fences are set forth in MMC 19.502.2.B.1.a and state that in residential zones, maximum fence height is 42 inches for front yards and 6 feet for rear, street side, and side yards.

MMC 19.200 includes definitions and figures to help illustrate definitions. Figure 19.201-6 depicts the location of each type of yard and clearly notes that any portion of a lot that is in front of the primary structure is considered part of the front yard, including the portion of a lot that is along a street side lot line provided it is to the front of the primary structure.

Variance procedures are addressed in MMC 19.911. There are two types of variances described: Type II or Type III. Type II variances are processed by staff without a public hearing and, with the exception of variances for building design, allow limited adjustments to numerical or dimensional standards (e.g. a 40% dimensional variance to a side yard). The Type III process involves a hearing before the Planning Commission and is used for any variance that doesn't fit into the Type II category.

The processing fee for a variance is dependent on the type as follows:

- Type II - \$ 1000
- Type III - \$ 2000

Options

Options to adjust the standards, procedures, or fees are described below, along with a brief summary of advantages or disadvantages.

- Standards – The standards could be adjusted to include clear and objective standards that specify when it is appropriate to allow taller fences in the front yard. The primary purpose for height limitations on fences in front yards is to create a more open, inviting, and appealing streetscape. Six-foot fences up and down residential streets could create a defensive, fortress-like environment.
 - Advantages: Potentially simpler and more customer friendly.
 - Disadvantages: This approach would require a code amendment. It would be difficult to define and administer this concept, e.g. how would you measure the topographic change that makes it appropriate to allow a fence? Would a 30-inch height differential between the edge of the road surface and the lot elevation be appropriate to allow a six-foot fence? How does this get measured? Would we require a topographic survey?
- Procedures – Today, all fence variances go through a Type III review process which requires public notice and a hearing before the Planning Commission. The City could establish a new Type II variance procedure for limited adjustments to fences. One option would be to use the Type II process for variances for fences up to six feet in height in the front yard or up to eight feet in height for fences in the rear, street side, or side yard. The proposed variance would still need to meet variance criteria, but the process would be simpler and less expensive.
 - Advantages: Simpler, quicker process that still provides notice to surrounding property owners and the potential for a public hearing on appeal.
 - Disadvantages: We would need to process a code amendment to establish this process. It could be part of the set of housekeeping amendments that are currently being developed. Even with the code amendment, there will still be a variance process required and a \$1000 application fee.
- Fees – A final option is to adjust the Fee Schedule for a variance. Currently, any Type III variance requires a \$2000 application fee. The fee has been set to cover the average cost of processing a variance. There is an argument to be made that it is unfair to charge a \$2000 fee for a fence variance when the fence itself may cost less than \$2000. An option is to simply reduce fees for fence variances to a lesser amount, e.g. \$500.
 - Advantages: This is a simple solution that could be handled quickly through a resolution to adjust the Fee Schedule.
 - Disadvantages: This approach may encourage more fence variances. Variances will still require staff time and fees will generally not pay for the cost of processing the variance.

Recommendation

The staff recommendation is to create a Type II variance procedure for limited adjustments to fences. Fees would not be adjusted for these variances and would remain at \$1000. Based on the current estimated timeline for proposed Housekeeping Code amendments, staff could expect to have this code amendment before Council in December or January. Rebecca Banyas could apply for the variance following adoption.

MMC 19.600 Off-Street Parking and Loading

1. Driveway alignment with driveway approach

Proposed Fix: Adjust the requirement that residential driveways may not be wider than the driveway approach for the first 10 ft from the front property line. One option is to simply reduce the 10-ft minimum distance (e.g., to 5 ft); another is to include language that allows a gradual widening of the driveway width from the front property line.

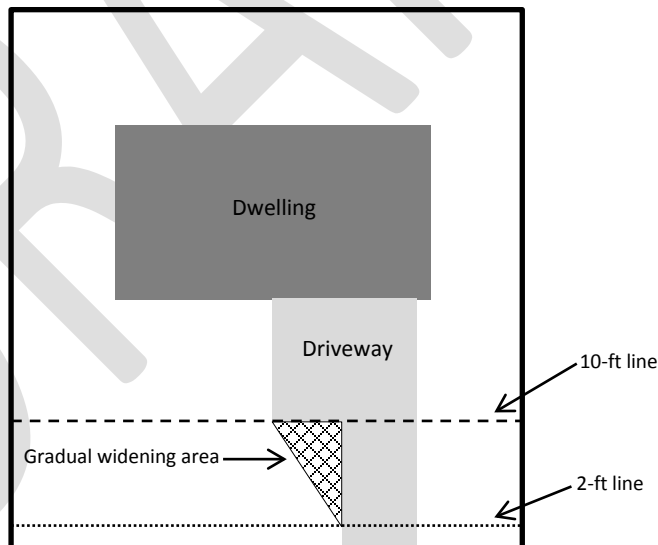
- MMC 19.607.1.E (Additional Driveway Standards)

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within ~~10 ft~~ 5 ft of the right-of-way boundary.

OR

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 10 ft of the right-of-way boundary; except that a gradual widening of the on-site driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width:distance onto property), starting 2 ft behind the front property line (see Figure 19.607.1.E).

Figure 19.607.1.E
Driveway Widening Limitation



2016 Housekeeping Code Amendments
MMC 19.904 Community Service Use - WCF

1. Clarify applicable approval criteria

Proposed Fix: Add language to clarify that wireless communication facilities have different approval criteria from other CSUs.

• **19.904.4 Approval Criteria**

An application for a community service use, except a Wireless Communication Facility in Subsection 19.904.11, may be allowed if the following criteria are met:

- A. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;
- B. Specific standards for the proposed uses as found in Subsections 19.904.7-~~10~~11 are met;
- C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;
- D. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and
- E. The location is appropriate for the type of use proposed.

2. Revise and clarify application review procedures to reflect FCC ruling

Proposed Fix: Provide for a Type I review process for modifications to existing WCF that are not significant (use language from the FCC rules to clarify); revise Table 19.904.11.C to reflect the revisions and clarify the permitting process.

• **19.904.11 Standards for Wireless Communication Facilities**

C. Application Process

1. Modification of WCFs involving the following activities are subject to Section 19.1004 Type I Review provided that the proposal does not substantially change the physical dimensions of the support structure:
 - a) changing the number of antennas
 - b) removal of existing transmission equipment
 - c) replacement of existing transmission equipment

For the purposes of this section, a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- 1) for towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

- 2) for towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- 3) for any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- 4) it entails any excavation or deployment outside the current site;
- 5) it would defeat the concealment elements of the eligible support structure; or
- 6) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

2. Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in 19.904.11.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.11.C.
3. All proposed new monopole towers are subject to Section 19.1006 Type III Review. Also see Table 19.904.11.C.

Comment [VK1]: Taken directly from the FCC decision/rules. Too wordy??

Comment [LA2]: I think this is useful information.

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	III	P/II	P/II	P/II
M	III	P/II	P/II	P/II
M-TSA	III	P/II	P/II	P/II
C-N	N	P/II	P/II	P/II
C-G	N	P/II	P/II	P/II

C-L	N	P/II	P/II	P/II
Table 19.904.11.C CONTINUED				
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
C-CS	N	P/II	P/II	P/II
OS	N	P/II	P/II	P/II
DMU	N	P/II	P/II	P/II
GMU	N	P/II	P/II	P/II
NMU	N	P/II	P/II	P/II
R-1-B	N	P/II	P/II	P/II
R-1	N	N	P/II	P/II
R-2	N	N	P/II	P/II
R-2.5	N	N	P/II	P/II
R-3	N	N	P/II	P/II
R-5	N	N	P/II	P/II
R-7	N	N	P/II	P/II
R-10	N	N	P/II	P/II

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

II = Type II review—provides for an administrative decision

P = Permitted N = Not Permitted

¹ Rooftop extensions are not to exceed 15 ft in height above the roof top and are not to project greater than 5 ft from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 ft. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 ft in height of the pole that is to be replaced.

3. Revise to clarify standards for new towers

Proposed Fix: Clarify that the Planning Commission is the decision-making body in the Type III review for a new tower.

- **19.904.11 Standards for Wireless Communication Facilities**

E. Use of Existing Tower or Antenna Support Structure

1. All wireless communication providers are required to attempt to co-locate on existing antenna support structures or locate on alternative antenna support structures before applying to construct a WCF that will include a new tower.
2. New towers shall not be approved unless the applicant demonstrates to the reasonable satisfaction of the Planning ~~Commission Director~~ that no existing towers or alternative antenna support structure can accommodate the applicant's need for the placement of an antenna in the vicinity of the applicant's proposed location. Evidence demonstrating that use of an existing or alternative support structure is not possible shall be submitted to the Planning ~~Commission Director~~ and shall include one or more of the following:
 - a. That no existing antenna support structures are located within the geographic area which meet the applicant's engineering requirements in regards to location, size, and structural strength and that alternative antenna support structures are not feasible.
 - b. That use of any existing structure would cause electromagnetic interference with the existing antennas and electronic and other radio frequencies.
 - c. That co-locating on an existing antenna support structure would violate RF emissions standards set by the FCC.
 - d. That fees, costs or contractual provisions required by the owner in order to use an existing antenna support structure are unreasonable. A refusal by the owner to allow co-location shall be considered an unreasonable provision.
3. Evidence demonstrating that alternative support structures were considered, but determined to be technologically insufficient, submitted to the Planning ~~Commission Director~~ for review must be verified and stamped by an engineer licensed in the State of Oregon.

4. **Clarify approval expiration language**

Proposed Fix: *Revise to include a reference to the extension process in the code..*

- **19.904.11 Standards for Wireless Communication Facilities**

H. Expiration of Approval

Authorization under Section 19.904 shall be void after 6 months unless substantial construction has taken place. If substantial construction has not taken place and the approval becomes void, the facility must be completely removed and the site must return to its preexisting condition. Extensions to an existing approval may be requested per 19.908. (Ord. 2112 § 2 (Exh. B), 2015; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2106 § 2 (Exh. F), 2015; Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

MMC 19.907 Downtown Design Review

1. Exemption for Minor Site Improvements

Proposed Fix: Add to the list of exemptions in MMC Subsection 19.907.2.A. a few specific activities related to basic site improvements. The current exemptions list focuses largely on buildings and only addresses site changes related to ADA requirements. It would be helpful to clarify that certain basic site improvements should not require design review.

- MMC 19.907.2.A (Exemptions)

8. Minor site improvements, including but not limited to installation of benches, trash cans, bicycle racks, informational kiosks, site lighting, signs, and other similar improvements as determined by the Planning Director. A guide for determining whether a proposed improvement is exempt shall be consideration of whether there are any applicable design standards provided in Section 19.508.

DRAFT

2016 Housekeeping Code Amendments
MMC 19.1104 Expedited Annexations

Discussion

Proposal: Staff is proposing that Table 19.1104.1.E be amended so that properties with the County's MR-1 zone that go through the expedited annexation process are assigned a zoning designation of R-2 and a Comprehensive Land Use designation of Medium Density.

Support: MMC 19.1104 details the process for Expedited Annexations into the City of Milwaukie. Expedited annexations are processed without a City Council public hearing so long as they are assigned the City zoning and Comprehensive Plan designation detailed in Table 19.1104.1.E for the corresponding Clackamas County zoning designation.

Section 300 of Clackamas County's Zoning and Development Ordinance (ZDO) establishes the Urban and Rural Residential Zoning Districts in Clackamas County. The County's Medium Density Residential (MR-1) zone is a medium density residential zone which assumes a minimum land area of 3,630 sf per residential unit (which calculates to a density of 12 units/acre), and permits (or prohibits) the following residential uses, per ZDO Table 315-1:

- Permitted: Duplexes, Triplexes, Attached Single Family Dwellings, Multi-Family Dwellings, Bed and Breakfasts, Manufactured Home Parks
- Prohibited: Detached Single Family Dwellings, Manufactured Homes

Per MMC Table 19.1104.1.E, County properties with a MR-1 zoning designation that go through the expedited annexation process are currently assigned the City's R-5 zoning designation and Moderate Density Residential Comprehensive Plan Land Use Designation. Per MMC Chapter 19.301, the R-5 zone is a Low Density Residential Zone which permits a limited number of residential uses, including Single Family Detached Dwellings, Residential Homes, Duplexes (through a Type II process), and Manufactured Home Parks (through a Type III process). The R-5 zone prohibits triplexes, attached single family dwellings, and multi-family dwellings, and is inconsistent with the County's MR-1 zone.

Similarly, Objective #2 (Residential Land Use: Density and Location), Policy 3 of the Land Use Element of the Comprehensive Plan notes that areas may be assigned a Moderate Density Land Use Designation when the predominant housing type will be single family detached dwellings on moderate/small lots or duplexes and should have a density of 6.3 to 8.7 units per net acre. The County's MR-1 zone –which has a base density of 12 units/acre, permits medium and high density residential development, but prohibits detached single family dwellings- is also in conflict with the City's Moderate Density Land Use Designation.

The City's expedited annexation process should assign zoning and Comprehensive Plan land use designations that are similar in nature to the existing County zoning. In reviewing the Development Code and Land Use Element, staff believes that the most appropriate zoning designation is the R-2 zone, and the most appropriate Comprehensive Plan land use designation is Medium Density. Per the Land Use Element of the Comprehensive Plan, the Medium Density Land Use designation should have a density range of 8.8 to 21.1 units per net acre, and the implementing zones are the R-2, R-2.5, and R-3 zones. As detailed in MMC 19.302, the following standards apply to the R-2 zone:

- The minimum density is 11.6 units/acre;
- The maximum density is 17.6 units/acre;
- Permitted residential uses include Single Family Dwellings, Duplexes, Rowhouses, Cottage Cluster Housing, and Multi-Family Dwellings

The City's R-2 zone allows for a slightly higher maximum density than the County's MR-1 zone. City staff also considered making a recommendation to amend the city's corresponding zoning designation to the R-3 zone. The R-3 zone has the same minimum density as the R-2 zone (11.6 units/acre) and more closely matches the maximum density of the zone (14.5 units/acre), but only permits multi-family dwellings through a Type III conditional use process (multi-family dwellings are an outright permitted use in the MR-1 zone). Staff would also support a proposal to amend the corresponding zoning designation for the County's MR-1 zone in Table 19.1104.1.E to the city's R-3 zone. However, when comparing the entirety of the city and county zoning ordinances as it relates to development standards and permitted uses, staff believes that the R-2 zone is the most similar in nature to the County's MR-1 zone.

Recommendation: Based on a review of the permitted uses and development standards detailed in the County's Zoning and Development Ordinance and the City's Development Code and Comprehensive Plan, staff is proposing that Table 19.1104.1.E should be amended so that the County's MR-1 zone has a corresponding City zoning designation of R-2 and a Comprehensive Plan Land Use Designation of Medium Density.

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

- A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.
1. Initiation of an expedited boundary change petition must follow the requirements of Metro Code Subsection 3.09.045(a).
 2. A prerequisite to the filing of an expedited boundary change petition is a preapplication conference, at which time the Planning Director shall explain the requirements and provide the appropriate forms. The preapplication conference requirement may be waived by the Planning Director pursuant to Subsection 19.1002.2.B.1 or may be met by requesting a preapplication meeting.
 3. An expedited boundary change petition shall include the materials required by Subsection 19.1102.2.C for annexations and Subsection 19.1103.2.B for other boundary changes.
 4. The applicant shall pay the requisite fee. The fee for an expedited boundary change shall be established by resolution of the Council.
 5. Approval criteria for annexations are found in Subsection 19.1102.3 and for other boundary changes in Subsection 19.1103.3.
- B. Notwithstanding Subsection 19.107.6, an expedited boundary change proposal shall be considered by the City Council without a public hearing. The Council decision on the proposal shall be considered the "final decision" for purposes of compliance with Metro Code Chapter 3.09. If the petition is for annexation, the decision shall be by ordinance.
- C. Notice of petition for an expedited process must be provided to interested persons a minimum of 20 days prior to the final decision and shall follow the expedited notice requirements provided in Metro Code Subsection 3.09.045(b) and ORS 198 and 222. For purposes of this subsection, "interested persons" include the Planning Commission, those residing or owning property within 400 ft of the territory to be annexed, necessary parties as defined in Metro Code Subsection 3.09.02(j), and any persons who have requested notice.

D. A brief report shall be issued at least 7 days prior to the date of decision, pursuant to the requirements of Metro Code Subsection 3.09.045(c).

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	R-10	Low density residential
R-15	R-10	Low density residential
R-10	R-10	Low density residential
R-8.5	R-7	Low density residential
R-7	R-7	Low density residential
MR1	R-5 R-2	Moderate-Medium density residential
MR2	R-2	Medium density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C3	C-G	Commercial
OC	C-L	Commercial

Table 19.1104.1.E CONTINUED Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
RTL	C-L	Commercial
PC	C-CS	Commercial
I2	M	Industrial
I3	M	Industrial
BP	BI	Industrial

OSM	R-10/CSU	Public
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F. For an expedited annexation request, the City's special area designations shall be applied consistently with the applicable sections of Title 19 Zoning.

Natural resource designations shall be applied consistently with the provisions established in Subsection 19.402.15 for administering the NR Administrative Map.

G. An expedited process cannot be used if a necessary party gives written notice to contest the decision, pursuant to Metro Code Subsection 3.09.045(b) or, in the case of an annexation petition, if the requested zoning designation does not comply with the automatic Comprehensive Plan designation listed above in Table 19.1104.1.E. (Ord. 2110 § 2 (Exh. G), 2015; Ord. 2036 § 3, 2011; Ord. 2025 § 2, 2011)

DRAFT

MMC 14.16.050 Manufacturing Zones (Signs)

1. M-TSA Zone is a Manufacturing Zone for Signage Purposes (Implementation of CI-14-01)

Proposed Fix: Add the Tacoma Station Area Manufacturing (M-TSA) zone to the MMC 14.16.050 list of manufacturing-type zones for signage purposes, as per the code interpretation established by land use file #CI-14-01.

- MMC 14.16.050

No sign shall be installed or maintained in an M, BI, or M-TSA Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.050.

Table 14.16.050 Standards for Signs in Manufacturing Zones M, BI, or M-TSA					
Sign Type	Area	Height	Location	Number	Illumination ¹

2. Roof Signs and Multiple Frontages in Manufacturing Zones (Implementation of AP-2016-001 and VR-2016-005)

Proposed Fix: Codify the recent decisions of the Planning Commission regarding the issue of multi-frontage properties in manufacturing zones. Clarify that (a) freestanding signs can be distributed at any of a property's frontages and (b) roof signs can utilize the total length of all frontages to calculate maximum allowed sign area. In addition, clarify that the number of allowed roof signs is the same as the number of freestanding signs that would otherwise be allowed (maximum of 2).

Table 14.16.050 Standards for Signs in Manufacturing Zones M, BI, or M-TSA					
Sign Type	Area	Height	Location	Number	Illumination ¹
Freestanding signs	1.5 SF per lineal ft. of street frontage and 1 additional SF for each lineal ft. of frontage over 100 ft. ²	Max. 25 ft. from ground level; min. clearance below lowest portion of a sign is 14 ft. in any driveway or parking area.	Not permitted on any portion of a street, sidewalk, or public right-of-way.	1 multifaced sign permitted. ³	Permitted
Wall signs	Max. 10% of building face. ⁴	Not above roofline or top of parapet wall, whichever is higher.	NA.	No limit.	Permitted
Roof signs	Max. 1 SF per lineal ft. of street frontage. ⁵	Max. 8 ft above highest point of building. ⁶	Pending approval by fire marshal ^{6,7} ; may not project over parapet wall.	<u>1 multifaced sign permitted</u> instead of, not in addition to, <u>any projecting or freestanding</u>	Permitted

				signs on a site.	
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Footnote 3 = Where a property's total frontage exceeds 300 feet in length, one additional freestanding sign is permitted ~~for such frontage~~ and may be located on any of the property's frontages. No freestanding sign shall be permitted on the same premises where there is a roof sign.

(new) Footnote 5 = For properties with multiple frontages, the total frontage length of all frontages may be used to calculate the maximum allowed sign area for all display surfaces of a roof sign.

[Adjust the numbering for the rest of the footnotes for MMC Table 14.16.050 accordingly.]

DRAFT



MILWAUKIE CITY COUNCIL
STAFF REPORT

WS 3.
Oct. 4, 2016

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Coho Point at Kellogg Creek—Continue to Discuss Development Criteria for the Request for Qualifications (RFQ)**

From: Alma Flores, Community Development Director

Date: September 22, 2016, for October 4, 2016, Work Session

ACTION REQUESTED

Continued Council discussion and direction regarding development criteria for the Coho Point at Kellogg Creek.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Council participated in a discussion and provided direction at the May 17, 2016 Work Session about next steps for two publicly-owned opportunity sites in downtown Milwaukie, including the “Texaco Site/City Block 14” which will now be called the “Harrison and Main Street Site” located at the city block to the west of City Hall between Main Street and McLoughlin Blvd and the former “Cash Spot” site that includes four tax lots at the southeast corner of SE McLoughlin Blvd and Washington Street which will now be called Coho Point at Kellogg Creek.

Staff asked for direction on next steps related to the future development of these sites, specifically:

- What type of development would Council like to have in place?
 - What criteria, key design aspects and use considerations should be emphasized in the RFP (e.g. mix of commercial and residential uses)?
 - Green building
 - Affordable housing
 - Parking
 - Does Council agree that full entitlement development is a goal for these sites?
- What public-private partnership (PPP) tools should the City make available for development of these sites?
- What should the City's role be in development of these sites? Is the City the owner, a partner, facilitator, seller, etc.?

The outcome of this Work Session discussion was that Council asked for staff to return to discuss the criteria and the process and preliminarily indicated that full land use entitlement would be desired (up to five stories or 65 feet in height) and that the City would conduct a RFQ process with the appropriate outreach necessary to involve the community in the selection of a design when the time came.

Council continued this discussion at the September 20, 2016 Work Session and asked that staff return to further discuss specific criteria.

BACKGROUND

There have been several planning efforts to understand the development potential for the Coho Point at Kellogg Creek site over the years. Most recently, the *Moving Forward Milwaukie: Enhancing Our Commercial Districts* (MFM) project undertook a process to evaluate these sites, identify the desired development for them, and adopt regulations that would permit and support the desired development.

The Coho Point site is a 35,410 sq. ft. (.81 acres) in area and was purchased by the City in 2006 for \$850,000 as part of the condemnation proceedings for the widening of McLoughlin Blvd.

During the 2012 *Fresh Look Milwaukie: Downtown Road Map* and MFM project, public input emphasized that the Coho Point and Harrison and Main Street sites should be developed as attractive, iconic buildings that serve as visual gateways to Milwaukie. Early development concepts included a mix of commercial and residential uses and provided illustrative massing studies. These concepts provided the ability to create pro forma analyses to ascertain the feasibility of development projects. In order to implement the community's vision for downtown overall, the Community Development Director and key staff are frequently contacted by interested parties and have also been actively promoting downtown Milwaukie and publicly-owned opportunity sites. A key question posed by prospective developers and interested parties is what the City intends to do with these properties, and what tools might be available to assist with their development.

A draft RFQ is being developed to serve as a tool for the City to marketing the Coho Point site, and to outline the specific desires of the Council to ensure that the goal of redevelopment is continued and the appropriate project is targeted.

Several due diligence items have been performed in advance of the RFQ process. The City undertook a natural resource assessment of the Coho Point site and a final report was received in February 2016. The report describes the existing conditions of the site, current vegetation inventory, location of water quality resources and their condition, and a detailed verification of the habitat conservation area and FEMA's 100-year floodplain.

The City also undertook a Phase 1 and Phase 2 environmental site assessment and received the final report on August 9, 2016.

CONCURRENCE

Community Development Director and City Manager concur with this approach.

FISCAL IMPACTS

There may be additional due diligence items that will be the requirement of the City to obtain.

WORK LOAD IMPACTS

The Community Development Director is charged with moving this project forward.

ATTACHMENTS

City Council Criteria/Desires to consider for the Coho Point at Kellogg Creek development site
September 30, 2016 for October 4 Work Session discussion

Green/Sustainable Building

- Net Zero or Passive construction - something that gets a building built that is as energy efficient. Interest in functional rather than "green" certification of such a building.
- A good environmental neighbor to the creek and overlay, a good addition and a good fit for our efforts to revitalize downtown.

Housing

- Low income housing - not sure how much or what level but something.
- Four floors of housing over retail
- Housing that is affordable to a variety of incomes
- Transit Oriented Development (TOD) for housing

Design

- Activated roof - solar, green roof, rooftop restaurant...Something that takes advantage of what will be spectacular views in at least two directions.
- Built around our plaza concept with the programming of the main street level that makes sense being on a plaza.
- An extraordinary building that is worthy of being the gateway to our downtown. We should be thinking of both of these buildings as the beginning of how our town will look and feel for the next century rather than what it looks like at the end of the last century.
- Innovative, have character, provide for shopping, services, housing and maybe food and beverage spaces
- The building could be up to five stories if it includes at least two of housing, lodging and green, and I'm ok with that. Given its configuration, we might need to consider some variance on height if the developer does below level parking or something.
- Honor the South Downtown Plan, and try to preserve some river views from the future plaza site