



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

August 10, 2021

Present: Joseph Edge, Vice Chair
Greg Hemer
Adam Khosroabadi
Robert Massey
Jacob Sherman

Staff: Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Justin Gericke, City Attorney

Absent: Lauren Loosveldt, Chair
Amy Erdt

(00:00:05)

1.0 Call to Order – Procedural Matters*

Vice-Chair Edge called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

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

(00:00:29)

2.0 Informational Items

No information was presented for this portion of the meeting.

(00:00:37)

3.0 Audience Participation

No information was presented for this portion of the meeting.

(00:01:26)

4.0 Work Session

(00:01:37)

4.1 Summary: Comprehensive Plan Implementation - Draft Code/Map Amendments –Batch #1

Vera Kolias, Senior Planner shared an update about the Comprehensive Plan Implementation project. The policy mandates were to increase the supply of middle

housing, increase city-wide tree canopy and preserve existing trees, and manage parking to enable middle housing. Draft code and maps were under development. The Comprehensive Plan included a policy to create an equitable distribution of housing choices throughout the city. Some of the key amendments were to:

- Consolidate the eight residential zones to six
- Allow lot size to determine permitted housing types
- Allow middle housing to be permitted as attached or detached units
- Require one parking space per unit and allow the space to be located in the driveway or setback
- Require tree preservation, protection, and replacement of removed trees in new development and private property

The code will still have development standards, such as maximum lot coverage, building height, minimum landscaping, and setbacks. The outcome will be code amendments that balance the city's goal for a 40% tree canopy and implementation of the housing policies outlined in House Bill 2001.

The purpose of this meeting was to present the comprehensive plan and land use map, zoning map, permitted uses, definitions, parking, ADU review and design, and development standards. On August 10, there will be a discussion about flag lots and back lots, natural resource code, and Title 17 – Land Division. On August 24, which will be the final meeting prior to the public hearing there will be a focus on tree code, and design and development standards for middle housing.

There was a proposal for new definitions related to middle housing. Those included middle housing, multi-unit development, quadplex, triplex, and uses allowed by right. Some of the key code amendments regarding ADUs were to allow them by right and subject them to design and development standards, and revisions to the footprint requirement for accessory structures more than 3 years old when converted to an ADU. There was a proposal to create a new Type II variance for Type B ADUs for a 25% increase in size over the maximum square feet currently allowed instead of a Type III variance. Yurts will no longer be an allowed detached ADU because Yurts do not meet the building code.

Commissioner Sherman asked about the rationale of the different sizes of an ADU and the 25% variance option. **Kolias** responded, this would give the applicant some flexibility as they designed their ADU. A Type II ADU would require a Neighborhood District Association and public notice. This aligned with other variances within the code for setbacks, lot coverage, and fences. **Commissioner Sherman** understood that the code only allowed one ADU per lot. They were interested in discussing the possibility of an attached and detached ADU per lot. **Kolias** responded, currently, the plan was one ADU per lot. **Kolias** wanted to discuss this further. **Commissioner Hemer** shared, one or two ADUs should be maximum to ensure if cottage clusters needed to be built that should be the focus instead of building multiple ADUs. **Vice Chair Edge** shared, each duplex, triplex, or quadplex should be allowed to have an ADU. Also, single dwelling units should be permitted two ADUs per lots as long as they followed the code requirements, such as maximum lot coverage, minimum vegetation, and other requirements. **Commission Khosroabadi** asked, were there any cons to allowing more

than one ADU on a lot? **Kolias** responded, they did not think there were any cons and wanted the group to keep in mind that as the code was written there were not any parking requirements for ADUs, therefore ADU parking is likely to occur on the street. **Commissioner Sherman** shared, two ADUs should be outright permitted and it did not matter if the ADU would be attached or detached. **Commissioner Hemer** shared, where density was happening additional ADUs should not be permitted. **Vice Chair Edge** asked, if staff would be willing to draft language regarding ADUs with middle housing for a later discussion?

Kolias presented the draft parking code updates. The proposed code was one space per unit, not including ADU's, with an option to have the required space in the driveway or within the setback. There were conversations about parking alternatives, which included the parking modification process or considering incentives for income-restricted housing. There were conversations to incentivize income-restricted housing through the parking requirements. The Planning Department proposed a by right reduction in minimum off-street parking for development meeting a specific level of affordability. Possible code language discussed was to allow any multi-unit dwelling unit or middle housing dwelling unit that was affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development to receive a 25% parking reduction. The reduction would only apply to the income-restricted units. **Commission Khosroabadi** shared, the incentive for affordable housing was beneficial to the city and had the ability to drive more development for affordable housing. **Commissioner Sherman** shared, the percentage could be higher. Maybe 50%. **Commissioner Massey** shared, 25% was not a needle mover. **Commissioner Hemer** shared, the parking reductions should be based on income tiers because some of individuals in the restricted-income housing may have a car. **Vice Chair Edge** shared, they wanted to review the amount of the reduction indexed to the percentage of the AMI the restricted-income housing provided. They agreed with Commissioner Hemer that the developer needed some parking for restricted-income residents. **Kolias** shared, the Planning Department could review the Hillside project and their parking spaces projection. The applicant was developing restricted-income housing and applied for a parking reduction. **Commissioner Sherman** shared, the Planning Department should consider the location of the restricted-income housing and proximity to public transportation. If the two were close maybe the parking modification would permit zero parking spaces. **Kolias** shared, the code already allowed parking modifications for development near public transportation. This was something that needed an additional look to understand how this portion of the code could benefit restricted-income housing. **Commissioner Sherman** shared, it would be beneficial to the City to not require a minimum parking for single family housing. **Kolias** responded, the code needed to be the same for middle housing and single family by state law. **Vice Chair Edge** asked, what Comprehensive Plan policies supported having a minimum parking space per one dwelling unit vs zero parking spaces?

Kolias presented the Comprehensive Plan residential maps updates. The plan was to consolidate four residential land use designations to two, which were moderate density and high density. The Moderate Density Residential (R-MD) Zone included what was R-5, R-7, and R-10. The permitted housing types were single-unit detached on moderate to

small lots and middle housing. Any site with natural resource or natural hazard overlays may require a reduction in density. The High Density Residential Zone included R-1, R-1-B, R-2, R-2-.5, R-3. The permitted housing types were a wide variety of housing types with the predominant housing type being multi-unit development. Office uses were outright permitted and commercial uses were conditional uses in limited areas. The zoning permitted uses in the high density zones were not in alignment. Some of the zones outright permitted multi-unit and in other zones, it was a conditional use. Due to the inconsistent criteria between the different zones, it was difficult to consolidate these zones. The Planning Department proposed to maintain the HD zones as they were. The Planning Department would insert middle housing and amend associated minimum lot sizes and terminology as needed. In conclusion, the city will have 6 zones: R-1, R-1-B, R-2, R-2-.5, R-3 and R-MD. **Commissioner Massey** shared, as the Planning Department considered the congregate housing definition it needed to be more diverse and include halfway housing, like a Northwest Housing Alternatives, and temporary housing shelters. **Kolias** and **Vice Chair Edge** agreed. **Commissioner Hemer** would like the Planning Department to conduct more outreach due to lack of public responses. They wanted the Planning Department to ensure what was being proposed aligned with the Comprehensive Plan and what the residents wanted. **Kolias** responded, they went to Milwaukie's Farmer's Market, among multiple outreach efforts, to answer questions about the code updates. **Laura Weigel, Planning Manager** recommended **Kolias** share an update about the various engagement that they completed thus far. **Commissioner Sherman** agreed that was a great idea. It would be valuable to start each meeting sharing an updated outreach plan with the Planning Commission. **Kolias** shared, there was an article about the project in every pilot newsletter since September 2020.

Commissioner Sherman asked about the criteria for townhomes and cottages and wondered how the criteria impacted the tree canopy goals. **Kolias** responded, the criteria was based on House Bill 2001. A cottage cluster had to be part of a cluster and the lot must be at least 1,500 square feet (sf) for each cottage. **Commissioner Sherman** encouraged the Planning Department to take the first sentence from the townhomes' statement and add it to the cottage clusters' statement. They also would like more information about the cottage clusters setbacks. **Kolias** shared, the consultant looked at the cottage cluster codes from other cities and the model code from House Bill 2001. They asked to hold off on discussing this until August 24th, when the Planning Department was returning to present the cottage cluster code. From now until then, there was a possibility for some tweaks to the code. **Commissioner Sherman** asked, about the design standards and wanted to make sure those standards were not lost as the City will allow other types of development.

Kolias presented the project's timeline. During July and August, they were hosting Planning Commission work sessions, tracking written public comments, and engaging with the public. From September until the code adoption, there will be Planning Commission and City Council public hearings, the final draft code would be posted, and conduct community engagement activities.

(01:48:08)

5.0 Planning Department Other Business/Updates

Weigel shared, Janine Gates, Assistant Planner was leaving the Planning Department to join the Community Development Department as their Housing and Economic Development Program Manager.

(01:49:00)

6.0 Planning Commission Committee Updates and Discussion Items

Commissioner Sherman asked about federal funding for park development. **Weigel** responded, they were unsure and needed to check with Kelly Brooks, Interim Community Development Director. **Commissioner Sherman** wanted an update about the Milwaukie Bikeway plan. **Weigel** responded, the plan went to Council and they did not decide on the preferred plan. That was still in the works.

(01:54:1828)

7.0 Forecast for Future Meetings

August 10, 2021	Work Session Item: Comprehensive Plan Implementation – Draft Code/Map Amendments – Batch #2
August 24, 2021	Work Session Item: Comprehensive Plan Implementation – Tree Code; Draft Code/Map Amendments – Batch #3
September 14, 2021 (tentative)	Hearing Item: VR-2021-013, Bonaventure Senior Living Walkways

Meeting adjourned at approximately 8:30 PM.

Respectfully submitted,

N. Janine Gates
Assistant Planner



CITY OF MILWAUKIE

AGENDA

August 10, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Hybrid Meeting Format

In accordance with Oregon Revised Statutes governing public meetings, the Planning Commission will hold this meeting in a hybrid format featuring opportunities for public participation both in person and through Zoom video. The public is also invited to watch the meeting online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfae3OnDWLQKSB_m9cAw) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-78>) and follow the Zoom webinar login instructions.

If you would prefer to provide testimony in person, limited public seating will be available at City Hall.

1.0 Call to Order – Procedural Matters — 6:30 PM

2.0 Planning Commission Minutes – Motion Needed

2.1 June 8, 2021

3.0 Information Items

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

5.0 Work Session Items

5.1 Summary: Comprehensive Plan Implementation - Draft Code/Map Amendments – Batch #2

Staff: Senior Planner Vera Kolias

6.0 Planning Department Other Business/Updates

7.0 Planning Commission Committee Updates and Discussion Items — This is an opportunity for comment or discussion for items not on the agenda.

8.0 Forecast for Future Meetings

August 24, 2021 Work Session Item: Comprehensive Plan Implementation – Tree Code

Work Session Item: Design and Development Standards for Middle

September 14, 2021 Housing Hearing Item: VR-2021-013, Bonaventure Senior Living Walkways

September 28, 2021 Hearing Item: DR-2021-001, Coho Point redevelopment (tentative)

Milwaukie Planning Commission Statement

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

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at www.milwaukieoregon.gov/meetings.
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

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

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

Milwaukie Planning Commission:

Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Greg Hemer
Robert Massey
Amy Erdt
Adam Khosroabadi
Jacob Sherman

Planning Department Staff:

Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kelter, Associate Planner
Mary Heberling, Assistant Planner
Janine Gates, Assistant Planner



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

June 08, 2021

Present: Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Amy Erdt
Greg Hemer
Adam Khosroabadi
Robert Massey
Absent: Jacob Sherman

Staff: Laura Weigel, Planning Manager
Vera Kolas, Senior Planner
Janine Gates, Assistant Planner
Justin Gericke, City Attorney

(00:14:08)

1.0 Call to Order – Procedural Matters*

Chair Loosveldt called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

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

(00:15:15)

2.0 Minutes

The April 13, 2021 minutes were approved with a 6 – 0 vote.

(00:17:29)

3.0 Informational Items

No information was presented for this portion of the meeting.

(00:17:38)

4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:18:07)

5.0 Public Hearing Items

(00:18:11)

5.1 5840 SE Morris St Accessory Structure Spacing Variance

Vera Kolias, Senior Planner shared the staff report. The applicant and current owner of the residential property at 5840 SE Morris St, recently completed a renovation on the home consisting of a new front porch, deck, and adding living space to the ground floor. The site contained a mapped Water Quality Resource Area (WQR) and was nearly entirely covered by a mapped Habitat Conservation Area (HCA) and the 100-yr floodplain. During the project, the applicant constructed a new 192-sq ft shed designed to match the house and was underneath the deck at the rear of the home. The shed was not included on the building permit plans and was not discovered until the final inspection process. It was built to align with the edge of deck but closer than the minimum required 60 inches to the house. The shed did not increase land coverage or vegetation. The applicant knew the size of the shed was exempted from a building permit but was unaware of the minimum spacing requirement. The applicant was seeking a variance to allow the recently constructed 192-sq ft shed to remain with a 43-inch separation from the house rather than the minimum 60 inches required in MMC 19.502.2.A.1.b(3). A Type III variance was required.

The Planning Commission discussed the zoning standards for accessory structures. **Chair Loosveldt** asked, if the deck would have received approval with the structure below it and was that a safety concern? **Kolias** responded, based on their conversations with the Building Department the shed was not a safety hazard. **Commissioner Khosroabadi** asked, how would an owner know there was a 60 inch requirement since they did not need a building permit? **Kolias** responded, the Building Department would share their requirements and encourage the applicant to check with the Planning Department. Also, there was a document sharing the standards and approval criteria for sheds. The applicant needed to contact the Planning Department to learn that information.

The applicant shared, he was unaware of the setback requirement. They used the accessory structure worksheet and was unsure how the spacing requirement was missed.

The Planning Commission discussed the approval criteria for the applicant's accessory structure. **Commissioner Edge** shared, this was a reasonable request because the accessory structure did not further impact the Habitat Conservation Area and this was a technicality issue.

The proposal was approved with a 6-0 vote.

(00:41:56)

5.2 11503 SE Wood Ave Accessory Structure Size Variance

Janine Gates, Assistant Planner shared the staff report. The applicant and current owners of the residential property at 11503 SE Wood Ave, submitted a variance for an accessory structure to exceed the MMC Table 19.502.2.A.1. Residential Accessory Structure Height and Footprint Standards maximum requirement. The lot was developed with a single-family home, one car garage, and three accessory structures. The applicant wanted to use the older accessory structure as a garden accessory structure.

and artist's studio. In addition, they wanted to demolish two accessory structures and build the proposed accessory structure. The applicant proposed a 42' x 40' accessory structure that will be built on the western edge approximately 60' from the west boundary of the property, 296' from the street frontage, and 5' from the southern boundary. The applicant was aware that the proposed accessory structure exceeded the maximum size requirement and was requesting that the structure be similar in size to other accessory structures in their neighborhood.

The Planning Commissioners wanted to ensure the applicant did not go over maximum lot coverage. **The applicant** shared, based on the design and where the owners would like the new structure, the two sheds must be demolished. They would demolish the structures prior to constructing the new proposed structure.

The proposal was approved with a 6-0 vote.

(01:03:39)

6.0 Work Session

(01:03:48)

6.1 Comprehensive Plan Implementation - Draft Code / Map Amendments

Kolias shared an update about the Comprehensive Plan Implementation. The policy mandates were to increase the supply of middle housing, tree canopy and preserve existing trees, and manage parking to enable middle housing. Draft code and maps were under development. The Comprehensive Plan includes a policy to create an equitable distribution of housing choices throughout the city. Some of the key amendments were to:

- Consolidate the eight residential zones to two
- Allow lot size to determine permitted housing types
- Allow middle housing to be permitted as attached or detached units
- Require one parking space per unit and allow the space to be located in the driveway or setback
- Require tree preservation, protection, and replacement of removed trees on new development and private property

The code will still have development standards, such as maximum lot coverage, building height, minimum landscaping, and setbacks. There was a discussion to allow alternatives to parking locations, such as a car park or other creative solutions.

Staff met with the Neighborhood District Associations in June to provide an overview of the concepts going into the draft code and to outline the adoption process. Next steps included draft code and maps, meetings with the Comprehensive Plan Implementation Committee, Planning Commission, City Council, and continuing to engage with the public.

The Planning Commission discussed the opportunity for public meetings during the adoption process. **Commissioner Hemer** shared, there were probably members from the public without internet or access to cable who were interested in participating.

They would like to see meetings held in person. **Kolias** responded, the goal was to host public testimony in October and hoped it was safe enough to do in person activities.

The Planning Commission discussed a residential plan proposed by **Commissioner Hemer** who thought the Planning Department needed to create a residential plan to ensure the housing being built was the housing that was needed. He also thought housing types could be promoted based on an incentive program. **Chair Loosveldt** asked, if there was a plan that existed? **Vice Chair Edge** responded, the housing need analysis. **Kolias** added, the housing need analysis explained what type of housing was needed and how much of it was needed. **Commissioner Hemer** responded, there needed to be a multilayered City plan that included wastewater and other plans. **Laura Weigel, Planning Manager** shared, there was a wastewater management plan, sewer master plan, and transportation management plan. Those plans identified potential projects for 20, 30, and 50 years. While they did not address police and fire those departments will be triggered as more population comes.

The Planning Commission discussed the schedule of the adoption process. **Chair Loosveldt** shared, members of the plan believed it was fast paced. They asked, why the Planning Department was attempting to complete the plan by December 2021 instead of the State of Oregon's 2022 deadline. This would allow the community to engage in a post pandemic environment. **Kolias** responded, housing was a goal of City Council and they requested the Planning Commission to move forward with implementing a new code for middle housing. To respond to those inquiries, the Planning Department planned to engage with the community for the next six months. Those events will take place during several worksessions, community conversations, and written testimonies. The State of Oregon required the code to be in place and adopted by June 30, 2020. The City's code could be in place and adopted six months early. City Council wanted to move forward in hope of having new housing opportunities built sooner. By December 2021, the City would have worked on this project for almost 18 months.

The Planning Commission discussed how the new code would impact land division. **Commissioner Edge** asked, how would land division be impacted by the code updates? Would there be an opportunity for the commissioners to review that information before it was implemented? **Kolias** responded, a land division would still be possible with the updated code. There will probably be some additions to Milwaukie Municipal Code (MMC) Title 17: Land Division. The goal for this milestone was compliance with House Bill 2001 and that included ensuring Title 17 and the updated code were communicating.

(01:37:46)

7.0 Planning Department Other Business/Updates

No information was presented for this portion of the meeting.

(01:38:00)

8.0 Planning Commission Committee Updates and Discussion Items

No information was presented for this portion of the meeting.

(01:40:25)

9.0 Forecast for Future Meetings

June 22, 2021: No Business is Currently Scheduled for this Meeting
July 13, 2021: Work Session Item: Comprehensive Plan Implementation – Draft
Code/Map Amendments
July 27, 2021: Work Session Item: Comprehensive Plan Implementation – Draft
Code/Map Amendments

Meeting adjourned at approximately 8:30 PM.

Respectfully submitted,

N. Janine Gates
Assistant Planner



CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Date: August 3, 2021, for August 10, 2021, Worksession

Subject: Comp Plan Implementation Project Update – Draft map and code review #2

ACTION REQUESTED

No action. Review the proposed draft plan, map, and code amendments related to housing, trees, and parking in residential areas and provide direction about implementing the changes under consideration. This is a briefing for discussion only and is the second of three scheduled discussions.

ANALYSIS

Proposed Review Process

All of the proposed code amendments were included in the packet for the first review worksession. As a reminder, due to the complexity of the code amendment package, staff proposes to divide the review and discussion topics between a total of three worksessions as follows:

- August 5: Comprehensive plan and land use map; zoning map; permitted uses; definitions; parking; ADU review and design and development standards
- August 10: Flag lots and back lots; NR code; Title 17 – land division
- August 24: Tree Code; Design and development standards for middle housing

The revised draft code at the conclusion of this series of worksessions will be posted in early September for the October 12 and October 26 public hearings.

Project Background

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options throughout the state. In November 2019, Council discussed how to proceed with code amendments after the updated plan was adopted, setting the stage for the recently initiated implementation project.

The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city's goal for a 40% tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

The scope of work for this project includes the following tasks:

1. Public Engagement
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. **Code and Map Review and Reconciliation – We're here.**
7. Final Code and Map Changes and Adoption

Project Schedule

Project overview and timeline – Part 1			
September 2020	January – April 2021	March – May 2021	May - June 2021
Code Audit Identified existing policies and regulations that prevent implementation of the Comprehensive Plan.	Code Concepts Based on the code audit findings, described six multi-faceted approaches for amending Milwaukie's implementing ordinances.	Selected Proposed Code Amendments – community testing Specifically identifies which code sections will be amended to remove barriers associated with building middle housing, and residential parking. Open House #2	Milestone: Adoption-ready draft amendments Presentations to NDAs Open House #3
Code Adoption Process			
July – Aug 2021	September 2021	Oct - Nov 2021	December 2021
Planning Commission worksessions Engage Milwaukie Written comments–tracked in spreadsheet	Revised draft code and maps 35-day public notice Code posted Social media; postcards; Engage Milwaukie	Planning Commission public hearings Public testimony Spreadsheet tracking written comments Final Draft Code and Maps	City Council public hearings Public testimony Spreadsheet tracking written comments Adopted Code and Maps

Please refer to Attachments 1 – 3 from the July 27 staff report for the draft proposed code amendments in underline/strikeout format and the existing and proposed maps. These attachments

will be the ones referenced in all of the worksession discussions, although the discussions will be focused on specific sections during each worksession, as noted above.

Key Changes – Batch #2

Per the proposed review process noted above, the key changes in this second batch of amendments are summarized in this section.

Flag Lots

As discussed at the [April 27 meeting](#), flag lots represent some development potential in the city. Code amendments easing the flag lot standards would provide the opportunity for more infill development that could be described as “hidden density,” allowing these properties to meet minimum density requirements (see Attachment 1 for proposed code language).

Staff proposes code language to incentivize middle housing by:

- Reducing the front and rear yard setbacks on flag lots to 20 ft for middle housing (currently the setbacks are 30ft)
- Allowing the pole portion of a flag lot to count toward minimum lot size for middle housing
- Allowing “back lots” only for middle housing – essentially a flag lot with an easement instead of a pole

Currently, the code prohibits flag lots in new subdivisions, presumably to discourage flag lots. In order to promote additional middle housing, back lots could be permitted in subdivisions. Staff has included a key question about whether or not this should be included in the proposed code amendments.

There are also a few proposed revisions to Title 17 to incorporate back lots into the flag lot section, in addition to the code amendments in 19.504.

Natural Resources Code (MMC 19.402)

No significant amendments are proposed in 19.402. The proposed amendments include references to the new tree code and revising the Habitat Conservation Area disturbance calculation to include middle housing.

A more substantial review of this code section is scheduled for 2023-2024. Staff will continue to work on reviewing potential amendments related to the Needed Housing Statute (ORS 197.307) and the required clear and objective standards when reviewing development in a mapped natural resources area. The goal is to have a 2-track process: a clear and objective track and an alternative, discretionary track.

Title 17 – Land Division and SB 458

The majority of the proposed revisions to the land division code relate to Oregon Senate Bill 458 (SB 458) (see Attachment 2).

Senate Bill 458 was adopted by the Oregon Legislature in 2021 and signed by the Governor on May 26, 2021. It becomes effective on January 1, 2022 and it only applies to middle housing land divisions permitted on or after June 30, 2022.

SB 458 is a follow-up to HB 2001 and allows lot divisions for middle housing that enable them to be sold or owned individually. The intent of House Bill 2001 was to create new housing types and homeownership opportunities for first-time homebuyers. The measure allowed local governments to regulate the siting and design of middle housing, but it did not address regulatory barriers to selling, such as both units of a duplex when the property was not subdivided into two separate lots. SB 458 makes this possible.

SB 458 sets forth a series of parameters on how a city must process middle housing lot division applications. The city must apply an “expedited land division” process defined in ORS 197.360 through 197.380. The expedited land division process is an alternative procedure application intended to streamline the review of land divisions under state law. While typical land use applications must be completed within 120 days, an expedited land division must be processed within 63 days or extended by the governing body of a local jurisdiction (not to exceed 120 days). Additionally, an application for a middle housing land division would be processed as a Type II application (with adjusted timeframes) rather than a Type III subdivision, as the code currently requires for an application creating more than 3 lots.

Under SB 458, applicants must submit a tentative plan (preliminary plat) for the division and it must include specific information, including:

- Separate utilities for each dwelling unit,
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area,
- One dwelling unit per each resulting lot or parcel (except common areas), and
- Demonstration that the buildings will meet the Oregon residential specialty code.

Additionally, cities retain the ability to require or condition certain things, including further division limitations, street frontage improvements, and right-of-way dedication if the original parcel did not make such dedications. They may not subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or minimum/maximum street frontage, or requirements inconsistent with House Bill 2001.

Jurisdictions are still permitted to require off-street parking and all other land use regulations in accordance with the parameters set forth in administrative rule, OAR Chapter 660, Division 046, but they may not require that each resultant lot or parcel have off-street parking. Such a lot or parcel would be provided access to off-street parking via easement. Similarly, a city cannot require street frontage for the lots created and cannot limit how many lots within the land division that do not have street frontage. For example, cities will not be able to apply minimum street frontage requirements for individual units for plexes and cottage clusters. However, for lots that do have street frontage, the city is allowed to require street frontage improvements.

Since the adoption of SB 458, the Department of Land Conservation and Development (DLCD) has been working through many questions from planners regarding the implementation of these provisions. Staff will continue to work through the details required for the code amendments, but we wanted to introduce this topic to the Planning Commission in advance of the public hearings. Staff's goal is to incorporate the necessary amendments during this amendment process, but if DLCD's guidance is not able to match the current timeframe, staff will return in the spring with a separate amendment package to address SB 458.

Key Questions for Discussion

1. Does the Commission concur with the proposed flag lot and back lot standards?
 - a. Would the Commission consider a smaller front yard setback for the rear lot, but maintain the standard rear yard setback?
 - b. Does the Commission recommend allowing back lots in subdivisions?
2. Does the Commission concur with the proposed amendments in MMC 19.402?

ATTACHMENTS

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

	PC Packet	Public Copies	Packet
1. Draft code amendments related to flag lots (underline/strikeout format)	☒	☒	☒

Key:

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

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

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-78>.

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

~~“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.~~

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership.

Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504 SITE DESIGN STANDARDS

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

Proposed Flag lot and back lot code language – DRAFT for August 10, 2021 Worksession discussion

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

~~C.~~ 3. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

~~D.~~ 4. Frontage, Accessway, and Driveway Design

~~1.~~ a. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

~~2.~~ b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

~~3.~~ c. Driveway Design and Emergency Vehicle Access

(1) ~~a.~~ Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) ~~b.~~ Driveways serving single flag lots shall have a minimum paved width of 12 ft.

(3) ~~c.~~ Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

~~d.~~ A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

~~e.~~ Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.

~~f.~~ The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

~~g.~~ Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

~~h.~~ Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

A back lot may be created by partition or within a new subdivision and only to serve middle housing. The allowance to create a back lot within a new subdivision only applies to back lots created after January 1, 2022.

1. Yard Setbacks for Back Lots

a. Front and rear yard: the minimum front and rear yard requirement for back lots is 20 ft.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for back lots.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

d. Driveways serving 2 back lots, shall be consolidated and have a minimum shared driveway width of 16 ft.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

ED. Protection of Adjoining Properties – Flag Lots and Back Lots

Flag lots and back lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting

in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Impacts to neighboring lots due to use of the flag lot, or back lot, driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figure 19.504.8.E.

- a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
- b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
- c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.D

Flag Lot Screening

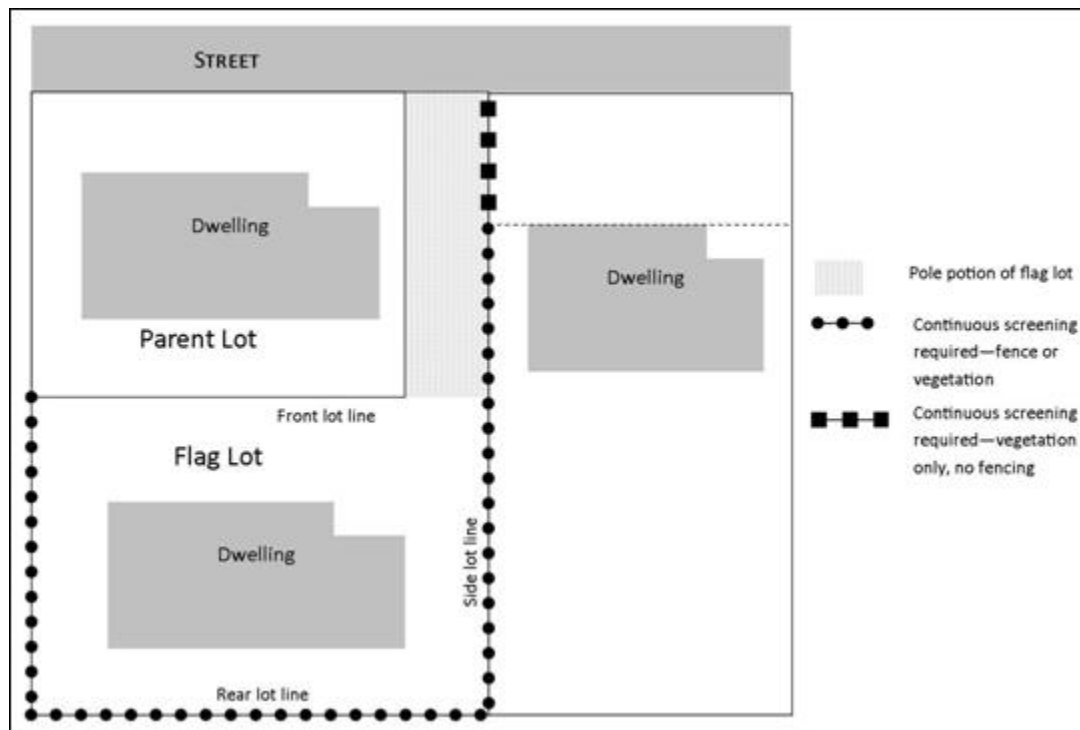
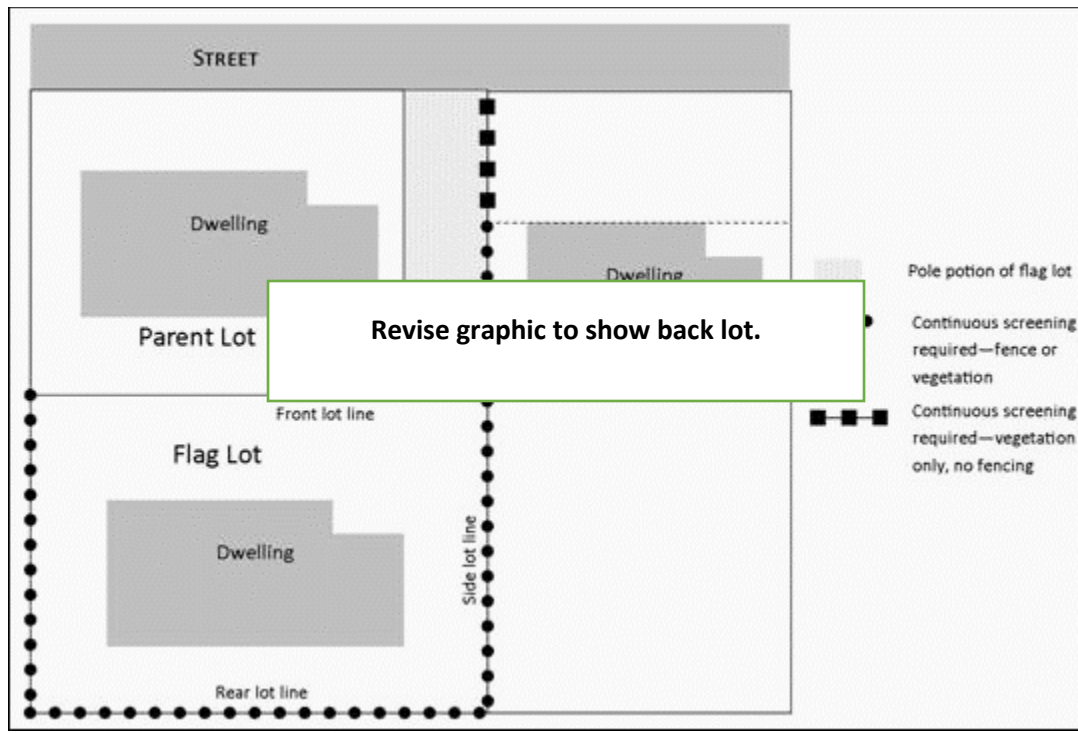


Figure 19.504.8.D.1
Back Lot Screening



FE. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

~~F. Tree Mitigation~~

~~All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.~~

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)