

FINAL REPORT

CITY OF MILWAUKIE CODE ASSESSMENT



AUGUST 2009

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Oregon Transportation & Growth Management
Smart Development Code Assistance

Prepared by:
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planning group

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I. Executive Summary

Over the past few years, the Milwaukie Planning Commission, City Council, and planning staff have identified numerous problems with the City's Zoning and Land Division codes. These problems include outdated review procedures, confusing language, and building standards that don't always provide the aesthetic desired by the community. Though code amendment projects have consistently been included on the Planning Department's work program, progress in updating the codes has been slow.

In early 2009, the Transportation and Growth Management (TGM) program awarded Milwaukie a grant to fund a phased code evaluation and amendment project. The TGM code assistance program is intended to help local jurisdictions modernize their codes to address the principles of smart development. The program also helps jurisdictions update their codes to make them easier to understand and implement, and bring them in line with the community's current vision for future growth. The TGM program contracted with Angelo Planning Group (APG) to assist Milwaukie with this project. City staff, primarily Katie Mangle and Susan Shanks, provided valuable direction and assistance to APG during this first phase of work.

The first phase of the project allowed the City to strategically review several problematic sections of the code and identify examples of code approaches the City could consider to address those problems. An Action Plan has been prepared to provide a framework for future code amendment work that will be completed with anticipated Phase 2 funding from the TGM code assistance program.

This Final Report compiles the various "deliverables" for the Phase 1 work, including the following:

- Code Evaluation Memo
- Action Plan
- Presentation Materials
- Meeting Summaries

While the schedule for the Phase 1 code assessment was quite aggressive, several opportunities were provided for input on the key code problems, potential options for solutions, and priorities:

- Telephone interviews with four different "stakeholders" to identify key code problems;
- Two work sessions with the Planning Commission and one work session with the City Council to review the Code Evaluation Memo;
- One work session with the Planning Commission to review the Action Plan and discuss priorities for Phase 2; and
- A work session with the City Council to review the Action Plan and discuss priorities is scheduled for September.

The following four topic areas have been identified by staff and the Planning Commission as high priorities for Phase 2 work. Additional refinements to the priorities may occur after the City Council reviews the Action Plan and as a scope of work is negotiated for Phase 2:

- Single-family Design Standards
- Infill Compatibility Standards
- Administrative Provisions and Approval Criteria
- Commercial Zones – Uses and Design Standards

APG Observations

APG has provided code assistance services to many cities throughout Oregon and we are very familiar with the codes of most jurisdictions in the Portland region. Similar to many communities, Milwaukie has modified its code on an incremental and piecemeal basis to respond to growth and development pressures, local issues of concern, and evolving regional and statewide land use rules and requirements.

Pressures that work to make development codes more complex are unrelenting. It is very difficult to keep a “big picture” understanding of how different code requirements or procedures may overlap or even conflict as individual sections are updated to address single-purpose topics or geographic areas. Code amendments are often drafted by different individuals and the resulting format, level of detail, and clarity of the code language can vary widely. As codes become more complex and unwieldy, internal and external pressures often call for simplification.

While starting fresh with a comprehensive overhaul of a development code might be ideal, it is generally recognized that such projects are very expensive, challenging, and time consuming. We offer the following observations for the City of Milwaukie to consider as it moves forward with phased code updates.

1. Code organization is important. Take time at the beginning of the next phase of work to develop a Table of Contents and overall format for the code that would provide a framework for a comprehensive, phased reorganization of the code over a multi-year time period.
2. The TGM Model Code provides a good example to use for an updated chapter on land use procedures. Many procedures for land use decisions are established by state law. The Model Code provides a simple and clearly written model that could be easily tailored to Milwaukie.
3. It may be helpful to consolidate all applications into a single chapter of the code, and use a standard format for the headings (e.g., purpose, procedure, approval criteria, etc.). Approval criteria establish the context for issues that must be addressed by the applicant, staff, and decision makers. A careful review and fine-tuning of approval criteria could provide more flexibility, where appropriate, and could also make the code easier to implement. A simple and well organized table that identifies all land use applications with cross-references to the applicable procedure, decision authority, and appeal authority would provide a valuable tool for both applicants and staff.
4. The City of Milwaukie does not currently require an application for “Development Review” or “Site Plan Review.” Most cities in the Portland region require at least an administrative review (public notice with staff decision) for new multi-family, commercial, and institutional development. Including a new development review section in the code could replace the transition area review and would provide a good context for review of compliance with

general development and design standards. We strongly recommend that the City consider this approach in Phase 2.

5. In combination with a new Development Review section, the City could also give more attention to specific design standards for different types of development such as single-family residential, multi-family residential, and commercial. A two-track approach could be considered, providing an option between a “clear and objective design standards” track and a more flexible or discretionary “design guidelines” track.
6. As summarized in the Evaluation Memo, some of the use requirements and development standards in the downtown zones are quite restrictive relative to the zoning regulations that apply in other designated town centers and main streets in the region. Some minor refinements to the existing regulations could provide needed flexibility as the market evolves while remaining true to the vision in the Downtown and Riverfront Plan.
7. Milwaukie’s code currently takes a “hybrid” approach to permitted land uses. Most zones list specific uses that are permitted outright or with conditional use approval. The use lists are outdated, and the Planning Director often has to make a determination of whether a proposed use (such as a yoga studio or doggie day care) is similar to permitted uses. Other zones (such as the downtown and manufacturing zone) are based on a more general description of use “categories.” The use category approach can provide more flexibility and adaptability over time. We recommend the use category approach for those reasons. However, it is not a quick or easy task to shift from a “list” approach to a use “category” approach. It may make sense to do a little more research on the advantages and disadvantages of different approaches before implementing a shift. Additionally, the City could consider reducing the number of individual zones along with a shift to a use category approach as part of periodic review.

Memorandum

Date: July 2, 2009

To: Katie Mangle, City of Milwaukie
Susan Shanks, City of Milwaukie

From: Mary Dorman, AICP
Serah Overbeek, AICP

cc: Rachel Ferdaszewski, TGM Code Assistance Grant Manager

Re: Task 2 - Code Evaluation Memo

Development regulations, by their nature, are often complex and difficult to understand. Even planning staff, developers and planning commissioners, who regularly work with codes, often have problems with interpreting and implementing their local land use regulations. The TGM code assistance program is intended to help local jurisdictions modernize codes to address the principles of smart development and also help make a city's codes and procedures clearer and easier to understand and implement.

In early 2009, the state Transportation and Growth Management (TGM) program awarded Milwaukie a grant to fund a phased code review and revision project. The first phase of the project allows the City to strategically review several problematic sections of the zoning Code and identify options and priorities for potential amendments that the City could adopt in the future with anticipated Phase 2 funding from the TGM code assistance program.

The purpose of this memorandum is to provide an evaluation of specific areas of Milwaukie's Zoning and Land Division Ordinances to identify problems and options for improvements. The code review and this evaluation memo focus on the following key areas identified in the scope of work for the Phase 1 code assessment:

- Residential design standards
- Land use review criteria and procedures
- Downtown zone standards and uses
- Manufacturing zone standards and uses

For each area listed above, this memo provides an assessment of existing code language, a discussion of any problems or issues that were identified, and options for improvements. Where appropriate, examples from the Model Code and other jurisdictions are also provided in the Attachments.



I. Residential Design Standards

There are a number of areas within the city's residential standards identified as needing revisions and improvements.

- Single-family residential design standards
- Compatibility standards for residential infill and redevelopment
- Multi-family design standards
- Housing type variety and accessory dwelling units

Overview of Existing Single Family Residential Design Standards

Section 19.425 of the Milwaukie code contains design standards that apply to new single and two-family dwellings. These standards regulate main entrance orientation, street-facing windows, and require at least three building elevation features such as bay windows, recessed entry, porches, roof eaves, and certain exterior building materials.

There are also some standards located in the individual use zones in Chapter 19.300. These standards are more related to site layout than the design of the building. These standards regulate setbacks, building height, lot coverage and frontage, and vegetated areas.

Problems with Residential Design Standards

The existing residential design standards are minimal and do not always result in the type of aesthetic that is desired in single-family residential neighborhoods.

1. The location of garages is not currently regulated in Milwaukie's code and can result in "snout house" development in which the garage dominates the street-facing elevation, both in bulk and in proximity.
2. In addition, staff has indicated that developers frequently choose not to provide roof eaves (which are one of the optional design features in Milwaukie's existing design standards) because the current definition of lot coverage requires that eaves be counted towards the maximum lot coverage standard. In order to maximize lot coverage, developers chose to omit roof eaves, which results in development that is typically considered less aesthetic and not visually compatible with surrounding homes.
3. The existing lot coverage standards for the lower density residential zones (R-10, R-7, and R-5) may be overly restrictive in terms of allowable building footprint. In order to maximize building square footage within a small building footprint, builders may be compelled to construct taller buildings that may be out of character with surrounding development.
4. Currently, the residential design standards only apply to new single-family development and not to exterior remodels or expansions of existing homes. Staff is concerned that un-regulated expansions may result in the same types of problems described above. Staff is considering whether or not residential design standards should apply to expansions as well as new development.



Discussion of Potential Solutions

Staff would like to consider options to supplement the existing design standards. This section provides examples of design standards and approaches used in other jurisdictions. A number of residential design alternatives are also discussed in the following section about infill compatibility and won't be repeated here.

Garages. As mentioned previously, the design and location of a garage can significantly affect the appearance of a house and its compatibility with surrounding houses. The city can control this affect by regulating the location and size of street-facing garages. Several example code approaches are provided below.

- The Model Code recommends establishing front, side and rear setbacks of 20 feet for attached and detached garages.
- The City of Portland Community Design Standards (Chapter 33.218) require that attached garages facing a street be no more than 40 percent of the length of the street-facing façade, or 12 feet, whichever is greater. The front of the garage can be no closer to the front property line than the front of the house. In addition, garage doors must be less than 75 square feet in area.
- The City of Beaverton requires all attached garages to be recessed at least four feet from the front of the building, not including porches, when facing a public street.
- The City of Canby code provides a number of options for garages that are intended to prevent garages from obscuring or dominating the main entrance of the house. If the garage standards are not met, then the developer must comply with additional design standards. The design “menu” offered is similar to Milwaukie’s except that it incorporates garage design and requires more design elements. Section 16.21.030 from Canby’s code is provided in Attachment C.

Roof eaves. The city could consider revising its current definition of lot coverage. The existing definition is:

“Lot coverage” means the footprint of a building or buildings on a lot, measured from the outermost projection of the structure expressed as a percentage of the total lot area.

The Model Code recommends lot coverage be defined as the total percentage of a lot “covered by building(s) or impervious surfaces, as allowed by the applicable land use district development standards.”

The City of Beaverton defines building coverage as “That percentage of the total lot area covered by buildings, including covered parking areas.” Furthermore, if the city wants developers to provide eaves, the code could be revised to require eaves rather than making them an optional design element.

Lot coverage. Additionally, the city may also want to reconsider the existing lot coverage standards, particularly in the lower density residential zones. Currently, the lot coverage maximums for the R-10, R-7 and R-5 zones are 30 and 35 percent. For a 7,000 square foot lot, the lot coverage standard of 30 percent would mean a building footprint no greater than 2,100 square feet, including any garage and accessory structures. This limitation may be compelling developers to build taller houses with more bulk in order to get the desired square footage within the allowable building footprint. The Model Code recommends a lot coverage maximum of 40 percent for single-family detached dwellings in the low density zones. Some jurisdictions allow as much as 50 to 60 percent lot coverage for single-family homes. The Model Code also allows greater lot coverage for duplexes (60 to 70 percent in low and medium density zones).



Increasing the lot coverage standard may also encourage a greater variety of housing types. More discussion about housing types is provided in the next section.

There are a number of other design standards that the city could consider to supplement the existing code language. Generally, the city will need to decide what level of regulation for single-family housing is appropriate for Milwaukie. Because the city does not require any land use review for single-family development, design standards should be clear and objective so that no discretionary review is necessary to determine compliance.

Single-family remodels. The city will also need to decide if design standards should be applied to single-family remodels. Currently, the code only requires design standards for “new one and two family dwellings” and does not address the issue of remodels that add square footage to a home. The Model Code recommends that residential development standards apply to major remodels, which are defined as projects that increase the floor area by 50 percent or more. In the City of Canby, remodels that add less than 50 percent of the existing floor area, or are not visible from a public street, are exempt from the design standards. If the city opts to require design standards for some remodels, it should specify whether or not the standards apply to the entire structure, or just that portion being remodeled.

Overview of Existing Residential Infill Standards

Section 19.416 of the Milwaukie code is intended to provide a transition area between multi-family, commercial, or industrial developments that are located within 100 feet of a lower density area. For example, these standards would apply when a new commercial development was proposed adjacent to a residential zone. The standards would require some kind of physical separation between the two zones, such as a roadway or open space. They may also limit the allowable density of the new development, based on the density of the lower-density zone. The code also contains a section of design standards for new one and two family dwellings, but the provisions have not been considered effective in terms of promoting compatibility.

Problems with Residential Infill

The transition area provisions mentioned above do not address compatibility between exiting residential development and new infill or remodel development within the same zone. Under the current code, developers tend to maximize the allowable building envelope which can result in new infill structures that do not “fit in” with surrounding development in terms of both bulk and design. This is especially true in neighborhoods that contain primarily older homes that were developed around the same time, and therefore have similar qualities (for example: front porches, setbacks, heights, and architectural features). Infill development often does not include these same qualities and can look incongruous with the rest of the neighborhood. The discussion below includes several examples of approaches that have been taken in other jurisdictions to address this issue.

Discussion of Potential Solutions

Model Code. The Model Code contains a section of residential infill standards that are intended to “ensure compatibility of new development and redevelopment in existing subdivisions.” These provisions focus on setbacks and building heights, but also include a statement about comparable architecture. The full text from this section of the Model Code is provided in Attachment A and summarized below.



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- New single-family homes must have a building height and front yard setback similar to adjacent, existing single-family homes on the same side of the street.
 - The building design of the new home must follow, or borrow from, a recognized architectural style of the community (Craftsman, Bungalow, Tudor, Colonial, etc.). This includes elements such as color, materials, roof shapes, windows and doors, and other architectural details.

If the city were to implement a similar approach, it should consider how such standards would be implemented and reviewed, in particular the height limitations. It may be problematic to require a developer to assess existing building heights, and the measurements would need to be confirmed by city staff in order to ensure compliance. If building plans for the existing houses are not readily available, this could require a site visit and extra staff time and resources. Furthermore, the current height limit in Milwaukie's residential zones is typically 35 feet, which generally allows for two stories. If a developer were limited to only one story because the adjacent existing houses were only one story, this may be perceived as unfair.

City of Canby. Canby's development code contains provisions for infill homes that are intended to "promote compatibility between new development and existing homes, and to provide for the efficient use of residential land." The standards apply to new infill homes and remodels of existing homes where the remodel increases the floor area by more than 50 percent, not including garage area. The following is a summary of the standards.

- For infill residences exceeding one story, the maximum allowable lot coverage is 35 percent, not including garages. This is a lower percentage than typically allowed in Canby's residential zones (no lot coverage limit exists for the low density R-1 zone, and the lot coverage standards for medium and high density zones are 60-70 percent).
- Garages may be up to 50 percent of the length of the street-facing façade and may not be closer to the street than the primary residence.
- Front yard setbacks must be within five feet of the setback for the closest existing home on the same side of the street.
- Infill homes cannot exceed 28 feet in height.
- A height step-up standard applies so that building height at the interior and rear setback lines does not exceed one story.

City of Salem. The City of Salem's Development Design Handbook includes design guidelines and standards for compact residential development that is intended to be used in established single-family districts with properties no larger than five acres. The purpose of the Compact Development overlay zone is to allow for a variety of housing types while assuring through design guidelines and standards that new development adapts to the established character of existing neighborhoods. The standards include provisions for landscaping, street trees, building orientation and articulation, private open space, and parking and circulation. To encourage compatibility between new and existing structures, the height of new buildings is limited to 28 feet at the required minimum setback. An additional one foot of building height is allowed per one foot of additional setback beyond the minimum (up to the maximum building height of the underlying zone). The full text from the design handbook is included in Attachment D.

It's important to note that these standards only apply in areas the city has identified as having significant character that should be maintained and protected. The Compact Development overlay zone applies



primarily to single-family neighborhoods within the urban growth boundary. New construction in those areas must go through development design review and are subject to the design guidelines and standards. Applicants may choose to either meet the design standards (which require no public notice or hearing) or meet the design guidelines (which requires notice and discretionary review).

City of Portland. Portland’s Zoning Code contains a chapter (Chapter 33.218) of community design standards that can be applied in certain situations as an alternative to going through the design review process. The chapter includes objective standards that do not require a discretionary review by the city. Eligible applicants can chose to either meet the clear and objective standards in this chapter or go through the discretionary design review process. To be eligible for this option, the project must be located in a designated design overlay zone (Alternative Design Density Overlay, Design Overlay, Historic Resources Protection Overlay, and some plan districts). The stated purpose of the community design standards is to “ensure that new development enhances the character and livability of Portland’s neighborhoods.” Some highlights from the community design standards chapter are provided below.

- Neighborhood contact is required for proposals that create three or more new dwelling units.
- A vicinity plan is required and must show the footprint and lot lines of the proposed development, and footprints and lot lines of all abutting development on the same side of the street.
- Setbacks for the new development are based on setbacks of existing abutting development.
- Building elevations larger than 500 square feet must be divided into distinct planes by a porch, dormer, bay window, or recessed entrance.
- Buffers are required between new developments in higher density residential zones abutting existing development in lower residential zones.

Portland also uses varying lot coverage standards in conjunction with height and setback standards to control the overall bulk of structures in the single-family zones (Chapter 33.110). The standards are intended to ensure that “taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses.” Allowable lot coverage depends on the size of the lot. An example table from the Portland code is provided below.

Table 110-4 Maximum Building Coverage Allowed in the RF through R2.5 Zones [1]	
Lot Size	Maximum Building Coverage
Less than 3,000 sq. ft.	50% of lot area
3,000 sq. ft. or more but less than 5,000 sq. ft.	1,500 sq. ft. + 37.5% of lot area over 3,000 sq. ft.
5,000 sq. ft. or more but less than 20,000 sq. ft.	2,250 sq. ft. + 15% of lot area over 5,000 sq. ft.
20,000 sq. ft. or more	4,500 sq. ft. + 7.5% of lot area over 20,000 sq. ft.

Notes:

[1] Group Living uses are subject to the maximum building coverage for institutional development stated in Table 110-5.

Generally, smaller lots are allowed a higher percentage of lot coverage than larger lots. An alternative to this approach would be to regulate floor area ratio (FAR), which is discussed in more detail in the next section.

[Note: The City of Lake Oswego uses both lot coverage and FAR in the single-family residential zones.]



City of Redondo Beach, California. In a 2003 staff report by the Redondo Beach Planning Department, the issue of incompatible infill development was addressed through adoption of new residential design guidelines. The staff report contains a thorough evaluation of tools that can be used to address compatibility of new single-family homes in established neighborhoods. A summary of the staff report is provided below. Text from the Redondo Beach development code is provided in Attachment E.

- Floor-area ratio (FAR) is an effective tool for limiting the floor area of a building in proportion to the lot size. The city determined that a FAR of 0.60 to 0.70 resulted in homes that were visually compatible with the surrounding neighborhood. Some FAR bonuses are allowed for developments that include certain design elements such as an increased second-floor setback.
- The staff report notes that FAR helps to ensure that the buildable area of homes is proportionate to the lots size, but does not necessarily reduce the appearance of bulk from the public view. To address the issue of bulk, a second story setback can be used and can “soften the impact on adjacent existing single-story homes.”
- The report does not recommend the use of lot coverage standards because they may limit options for homeowners wanting to make a small addition to an existing one-story home. If the lot coverage maximum is already achieved, the only option for an addition would be to add a second story, which may be financially or physically unfeasible. Furthermore, it may limit the ability of homeowners to develop accessory structures on their lot.
- The location of a garage can significantly affect the compatibility of a new home with existing homes. Garages that are built close to the front property line and dominate the street-facing façade are often out of character with older homes, which tend to have detached garages located in the rear of the lot.

Overview of Existing Multi-family Design Standards

The existing Milwaukie code does not include any design standards for multi-family development outside of downtown zones. The code does contain some general development standards that would apply to multi-family housing such as yard requirements and height restrictions. Section 19.416 also contains some provisions that would apply to a new multi-family project being located adjacent to (within 100 feet) a lower density zone. Those transition provisions are intended to provide a buffer between developments in zones of differing densities. However, there are no standards to address design elements that are particular to multi-family developments, such as building mass, open space, and site layout requirements.

Problems with Multi-family Development

Multi-family development is permitted as a conditional use in the R-3 zone and as an outright permitted use in the R-2 zone. Multi-family developments tend to have larger building sizes, different architectural styles, taller building heights, different site layouts, and more parking when compared to single- or two-family developments. As such, new multi-family development located in an established single-family neighborhood can be inconsistent with its surroundings in terms of bulk and aesthetics. The transition area provisions mentioned above only apply when the multi-family development is in a different, adjacent zone; therefore, they are not effective at regulating compatibility between developments in the same zone, specifically the R-2 zone, the majority of which is developed at single-family residential densities.



Staff would like to consider code options for clear and objective design standards to apply to new multi-family developments in order to regulate aesthetics and compatibility with surrounding uses.

Discussion of Potential Solutions

Model Code. The Model Code provides a section of design standards for multi-family housing that may be suitable for adoption into Milwaukie's code. The design standards limit the allowable length or width of the building, require open space, and regulate building orientation and the location of parking areas. The full language from the Model Code is provided in Attachment A.

The Model Code also contains some standards intended to regulate attached townhomes when there are three or more attached dwellings. These standards require alley access for subdivisions consisting primarily of townhomes or duplexes. It also requires common areas to be maintained by a homeowners association. Milwaukie's existing code does not include specific design standards for attached housing, except two-family dwellings (duplexes). The city may want to consider including some of the Model Code standards for attached housing with the multi-family standards.

The Model Code also contains a section on building height step-downs that is applied to new multi-family development abutting an existing single-family residence. The intent of the step-down is to "provide compatible scale and relationships between new multi-story buildings and existing single-story dwellings". The language from the Model Code is provided in Attachment A.

City of Beaverton. The City of Beaverton Community Development Code contains some fairly prescriptive standards for building articulation and variety that apply to any attached residential development in any zone. These standards limit the length of any residential building to 200 feet, which is slightly higher than the Model Code recommendation. It also requires that any multi-family building visible from a public street have a "minimum portion of the elevation devoted to permanent architectural features designed to provide articulation and variety." Architectural features include windows, recessed doors, and changes in material types. The code regulates spacing between architectural features, as well as roof form, building entrances, building materials, and building orientation. The full text from Section 60.05.15 of the Beaverton code is provided in Attachment B.

City of Canby. The City of Canby provides a more flexible approach to regulating compatibility of multi-family developments. The code contains a matrix of design criteria that are intended to promote compatibility and aesthetics. Points are assigned to each design criterion and in order for a development to be considered compatible; it must "score" a certain percentage (65 percent) of available points. Some elements are required, and the rest are optional so long as the total score meets the minimum percentage. There are also bonus points available; however, bonus points cannot be counted towards the minimum 65 percent, so it is unclear if there is any incentive for developers to achieve points beyond the required minimum.

The benefit to this approach is that it provides a balance between prescriptive and flexible standards. Canby has identified elements that it considers critical to multi-family development and those elements are required. Other elements are optional and this allows the developer some flexibility and creativity in meeting the overall point requirement. The full text from Section 16.21.070 of Canby's code is provided in Attachment C.



Overview of Existing Housing Type and Accessory Dwelling Unit Standards

Accessory dwelling units. The city currently has two types of ADUs: Type 1 and Type 2. Type 1 ADUs are defined as being between 225 and 600 square feet in size, not exceeding 40% of the floor area of the primary structure, and meeting the requirements of Section 19.404. This section contains some site and design standards and requires that Type 1 ADUs be approved through a Type II Administrative Review process. Type 2 ADUs are defined as any unit other than a Type 1 ADU and permitted by Section 19.602.10 (conditional uses). Type 2 ADUs generally cannot exceed 50% of the floor area of the primary structure or be larger than 800 square feet in size.

Housing type. A review of the city's use zones in Chapter 19.300 indicates that the city identifies four dwelling types in the code:

- Single-family detached dwelling;
- Single-family attached dwelling, which is two dwelling units sharing a common wall on the same lot (duplex);
- Multifamily, which is either a condominium or apartment structure with three or more units on the same lot; and
- Type 1 and 2 ADUs, which are considered incidental and subordinate to a detached single-family dwelling.

The Milwaukie code currently has nine residential zones, including two mixed-use commercial/residential zones. The lower density zones allow single-family attached and detached dwellings; the medium and higher density zones (R-3 and up) allow multi-family development as well.

Type 2 ADUs are permitted as a conditional use in all the residential zones except the R-1, R-2.5, and mixed-use zones. Type 1 ADUs are not mentioned in any of the residential zones. However, the language in Section 19.404 states that Type 1 ADUs are permitted in all residential zones that allow single-family detached structures (which is true for all Milwaukie's residential zones).

Problems with Housing Type and ADU Standards

Staff would like to explore options for encouraging a greater variety of housing types. However, there are a number of areas in the existing code that could be acting as a barrier to housing type variety.

1. In the lower density zones (R-10, R-7, and R-5), the required lot sizes for duplex dwellings are excessive and may make duplex development infeasible. For example, in the R-7 zone, the minimum required lot size for a single-family detached home is 7,000 square feet. For a duplex, the lot size must be an average of at least 7,000 square feet per unit. This requires a fairly large lot for duplex development. Also, even if lot size is met, duplexes require conditional use approval in the R-7 and R-10 zones.
2. Outside of the downtown zones, there are no provisions for attached, zero lot line houses (townhomes or row houses). This type of housing is not defined in the definitions section of the code, and is not addressed in any of the residential use lists in Chapter 19.300. There is some language in some of the use zones that refers to "interior single-family attached units" that appears to be left-over from a previous version of the code. It is unclear what this language applies to.



3. Type 1 ADUs are not listed as permitted uses in the residential use zones. The language in Section 19.404 states that they are permitted in all residential zones, subject to the standards contained in that section. It would be clearer for the user if Type 1 ADUs were listed as permitted uses in each residential zone.
4. Type 1 ADUs are permitted through a Type II Administrative Review, which requires public notice with the option of a public hearing if requested. This may be an excessive amount of review and act as a deterrent for home owners who may otherwise like to construct an ADU on their property.
5. Type 2 ADUs are permitted as a conditional use in all residential zones except the R-2.5, R-1, and the mixed-use zones (R-1-B and R-O-C). It is unclear if Type 2 ADUs were intentionally left out of these zones, or if it was done in error.
6. Requiring conditional use approval for construction of an ADU may be acting as a disincentive for property owners due to cost, time needed for review, and the ability of the planning commission to impose additional conditions on the ADU.
7. The language in Section 19.602.10, which contains standards for Type 2 ADUs, states that they are “allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition”. This implies that Type 2 ADUs must be attached to a single-family dwelling, rather than be a stand-alone structure. Again, this may serve as a disincentive to property owners who would like to build an ADU that is not attached to the primary residence (like above a detached garage).

Discussion of Potential Solutions

Lot size for duplexes. The Model Code recommends a minimum lot size of 6,000-9,000 square feet for duplexes in low density residential zones. The city may want to consider allowing smaller per unit lot sizes for duplexes to encourage more of this type of housing development. Furthermore, duplexes could be permitted outright on corner lots in lower density zones (R-7 and R-10) or along higher classification streets in order to encourage more duplex development. For corner lot duplex development, each unit could be oriented to a different street to maintain the overall character of a single family dwelling.

Zero lot line housing. The city could consider revising the definitions section to include a definition for this type of housing. The Model Code defines a townhome as “a dwelling unit located on its own lot which shares one or more common or abutting walls with one or more dwelling unit. The common wall must be shared for at least 50 percent of the length of the side of the dwelling.” In addition, the city would need to revise the allowable use lists in the residential zones in order to permit townhome development where desired. As mentioned previously, the Model Code contains a section of development standards for townhome developments that could be used to regulate design and site layout.

ADUs. There are a number of revisions that the city could consider in order to clarify the ADU standards and encourage ADU development.

- For consistency, Type 1 ADUs should be listed as permitted uses within the zone use lists. The city may also want to clarify whether or not Type 2 ADUs are allowed as conditional uses in the R-2.5, R-1, and the mixed-use zones (R-1-B and R-O-C) zones.
- The Model Code recommends permitting ADUs through a Type I procedure, which is an administrative decision that does not include public notice, public hearing, or opportunity for



appeal. The Model Code contains a set of clear and objective standards that must be met for ADU development. The Milwaukie code has some standards in place for Type 1 ADUs; however, the city may want to amend the standards to make them more objective and reduce the level of required review to Type I Administrative Review.

- There does not appear to be a significant difference between Type 1 and Type 2 ADUs, and the current approach may be resulting in unnecessary confusion for property owners. The city may want to consider re-evaluating the existing ADU standards and explore the option of combining the two types into one, amending the standards, and reducing the level of review required. The City of Portland has a chapter for ADU development standards that may provide a useful example. That chapter has been included in Attachment F.

II. Procedures

Overview of Existing Procedures

Section 19.1011 contains a list of procedure types for the city and describes the process associated with each procedure, including public notices, hearings, decisions, and appeals. Currently, the city has five procedure types: Type I Administrative, Type II Administrative, Minor and Major Quasi-Judicial, and Legislative. The procedure types apply to different types of application proposal based on the level of review that is necessary to ensure compliance with standards and regulations. The city currently has approximately 32 different types of applications, most of which have an associated approval procedure type.

Problems with Existing Procedures

A review of the city's land use and subdivision review procedures and criteria revealed a number of areas that are problematic and may benefit from some amendments and reorganization.

1. Approval procedure types are located in several different chapters of the code. Conditional use procedures are found in Chapter 19.600, public transportation improvement review procedures are in Chapter 19.1400, plan and map amendment procedures are located in Chapter 19.900, and general administrative procedures are in Chapter 19.1000. Additionally, the city reviews some projects under a Conditional Use application and some under a Community Service Use application. The distinction between the two applications is not clear and it may be possible to combine them for the sake of clarity and simplification. According to staff, these ordinances were implemented at different times in a "piecemeal" fashion, which has led to the lack of cohesive organization.
2. Milwaukie's existing code does not have a traditional development review chapter that allows the city to review new development beyond the building permit process. Many projects are captured under the Conditional Use or Community Service Use applications, or under the Transportation Plan Review application. However, under the current code, it would be possible for a new multi-family or commercial development outside of the downtown to skip land use review entirely and go straight to building permit. There may be certain circumstances under which this may not be desirable and the city would prefer to review the project through a land use process.
3. The existing code provides five different types of review: Type I Administrative, Type II Administrative, Minor and Major Quasi-Judicial, and Legislative. The Major Quasi-Judicial review



appears to be used solely for the purpose of reviewing zoning map or comprehensive plan map amendment requests. Having a separate procedure type for amendments may be unnecessary and overly complex. Additionally, the naming of review types is somewhat inconsistent and could lead to confusion.

4. It can be difficult to determine what review type is required for the various different kinds of approvals (conditional use, variance, partition, etc). There is no table or section in the code that contains a comprehensive listing of all development types and their associated review type.
5. Some applications are currently processed using a level of review and/or review criteria that may be excessive relative to the proposed project. Specifically, the review processes for ADUs, Transition Area Review, and Home Improvement Exceptions have all been identified by staff as being a higher lever of review than is typically necessary for those types of proposals.
6. Staff has indicated that the variance criteria in Section 19.702.1 are difficult to meet and that writing findings can be challenging. The criteria currently contain vague language using terms that are not well defined. Applicants have trouble interpreting the criteria and staff have trouble writing defensible findings for the criteria.
7. The table for determining review type within the city's land division ordinance is confusing. This issue is compounded by the language in Section 17.12.020.B, which lists a number of ways the review type can be changed by the planning director. The city could explore ways to streamline and clarify the land division review language.
8. The existing code does not appear to provide a process for modification of approved plans. It is unclear how an applicant could apply for, and receive approval to modify a plan that was previously submitted and approved by the city through a land-use process. The city may want to consider incorporating provisions for a modification process into the review standards.
9. The process for a Director's Interpretation is located in Section 19.1001.4 with other basic administration provisions and does not have a specific review type associated with it. For clarity, and to ensure a consistent procedure, this language might be more appropriately located with the other procedure types and have a specific review type associated with it (Type I or II).
10. Section 19.809.1 of Milwaukie's code contains provisions for a Director's Determination, which is used to establish the legal status of a non-conforming use, structure, or other zoning requirement. However, staff has indicated that they often "stretch" this definition to apply it in other situations. Furthermore, the current Type I Administrative review process for a Director's Determination is not always realistic due to the complexity of the determination to be made. The city may want to consider ways to revise the language in this section to apply to additional situations, and adjust the review process as necessary.

Discussion of Potential Solutions

Generally, it appears the city would benefit from consolidation and reorganization of its existing review procedures and criteria, along with some new code sections to address the gaps identified above. The Model Code's Article 4 - Administration of Land Use and Development provides a solid framework for a consolidated procedures and land use review chapter that would address many of the issues listed above. There are a number of other jurisdictions that also provide code examples of efficient approaches to land use review procedures. Because many of the procedures are established by Oregon state law, they tend to be similar from city to city. For the purposes of this memo, the Model Code is a good place to start and



will give Milwaukie staff a general sense of organization and content. As the city moves into the second phase of this project and considers code amendments, it may benefit from a more detailed evaluation of additional code chapters on procedures and applications from other jurisdictions.

The following is an outline of chapters contained within Article 4 of the Model Code. Due to its length, the full text of Article 4 is not included with this memo, but is available online from the TGM website¹.

Article 4 - Administration of Land Use and Development

4.1 - Types of Review Procedures

4.2 - Land Use Review and Site Design Review

4.3 - Land Divisions and Property Line Adjustments

4.4 - Conditional Use Permits

4.5 - Master Planned Developments

4.6 - Modifications to Approved Plans and Conditions of Approval

4.7 - Land Use District Map and Text Amendments

4.8 - Code Interpretations

4.9 - Miscellaneous Permits - Temporary Uses, Home Occupations

The Model Code also contains a chapter dealing with variances (Chapter 5.1) that may provide a useful example of variance criteria. The Model Code identifies three classes of variance. Class A variances are simple deviations from a numerical standard such as setbacks or landscape area. They are processed as Type I applications and the criteria are clear and objective. Class B variances apply to specific elements, such as a variance to housing density standard or a street tree requirement. Each type is listed separately and has its own set of criteria that are reviewed through a Type II process. Class C includes any variance that is not considered a Class A or B variance. Class C variances are processed through a Type III procedure and have more discretionary criteria. The full text from the Model Code is provided in Attachment A.

III. Downtown Zones

Overview of Existing Downtown Zones – Chapter 19.312

The City Council adopted the Milwaukie Downtown and Riverfront Plan (Plan) in 2000. The plan provides a framework for new development and redevelopment that recognizes and builds upon the character and history of the downtown and reconnects Milwaukie to the Willamette River. To implement the Plan, the City Council adopted five downtown zones to reflect the distinctions between different areas of the plan, and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific use and development standards, public area requirements, and design standards were adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

The City recently adopted Transportation Code Amendments which changed how the public area requirements are implemented in the downtown zones. Specifically, downtown and non-downtown projects are now treated the same with regard to impact-based triggers for transportation improvements.

¹ <http://www.oregon.gov/LCD/TGM/modelCode05.shtml>



Additionally, the fee in lieu of construction (FILOC) option is now available for projects in the downtown area as it is elsewhere in the city. The City is also evaluating the feasibility of an urban renewal district to provide a tool to support and leverage public improvements that can help attract and shape development in the downtown area.

Key provisions of the code relating to the Downtown Storefront (DS), the Downtown Office (DO) and the Downtown Residential (DR) zones are highlighted below. Attachment G includes the code figures that illustrate the applicability of the standards.

Downtown Storefront. The Downtown Storefront (DS) zone was established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie. Along a five-block stretch of lots fronting on Main Street as shown on Figure 312-2:

- Ground-floor retail/restaurant uses are *required*
- Office and residential uses are *not allowed* on the ground floor but are permitted up upper floors
- Personal/business service uses are *limited* to a maximum of 25 percent of the ground floor area of individual buildings

The development standards for the DS zone require:

- A *minimum* building height of 35 feet for lots fronting on Main Street
- A *maximum* street setback of 10 feet
- Ground-floor windows and doors

Downtown Office. The Downtown Office (DO) zone was established to accommodate office, entertainment, and hotel uses along high-visibility arterial streets. Retail uses are limited to support the primary uses and encourage retail development along Main Street. Within the DO zones shown on Figure 312-1:

- Offices, entertainment and hotel uses are *permitted*
- Residential uses are *limited* to the second floor or above
- Eating and drinking establishments and retail trade uses are *limited* to 5000 square feet in floor area per use and may only be developed as part of a mixed use building

The development standards for the DO zone require:

- A *minimum* building height of 25 feet
- A *maximum* street setback of 10 feet
- Ground floor windows and doors along specific streets

Downtown Residential. The Downtown Residential zone was established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Within the DR zones shown on Figure 312-2:

- A variety of housing types are *permitted*



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- Office, personal/business services and retail trade uses may only be permitted as part of a mixed use building that includes housing. These uses are limited to the ground floor and may not exceed 5000 square feet in floor area

The development standards for the DR zone require:

- A minimum density of 30 units/acre for stand-alone multifamily apartment/condominium dwellings and senior/retirement housing
- Minimum densities of 10 units per acre for the downtown residential transition area
- 15% landscaping
- Off-street parking

Design Review. When the Downtown Zones were adopted, the City also implemented a design review process for major exterior alterations and new development that only applies in the downtown area. The design review process is outlined in Section 19.312.7 of the code. Key elements of the process are highlighted below:

- The code provides three different design review tracks based on the proposed use and the scale of the development (e.g., Type I for stand-alone residential and exterior maintenance; Type II for minor exterior alteration visible from public spaces; and Minor Quasi-judicial review for major exterior alteration and new development)
- Design standards are provided for walls, windows, roofs
- Specific types of windows and roofs are *prohibited* as are specific building materials
- The design guidelines used in design review are not included in the Zoning Ordinance but are instead adopted by resolution of the City Council
- The code does not include any illustrations of the design standards or guidelines

Problems with the Downtown Zones

The City is committed to the vision outlined in the Downtown and Riverfront Plan. However, after implementing the Downtown Zones for nine years, staff has found that the specific and prescriptive standards do not provide enough flexibility to accommodate a gradual transition between existing uses and buildings and the future vision.

Primary problems with the existing Downtown Zones are summarized below:

1. Many of the existing uses (such as offices) and one-story buildings in the Downtown Storefront (DS) zone are “non-conforming” with zoning regulations that require ground-floor retail uses and 3-story buildings.
2. The downtown zones are very prescriptive regarding use and are unclear as to what would constitute an allowed use in some instances, specifically:
 - a. The Downtown Residential (DR) zone is very restrictive of non-residential uses unless they are part of a mixed use building. Since *all* of the buildings in the DR zones have non-conforming uses and buildings, the code should provide better guidance about how to handle incremental changes in buildings and uses before an entire site is redeveloped.



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- b. The ground-floor retail requirement in the DS zone and the limitations on personal and business services and office uses in the DO and DR zone have had the effect of preferring vacant storefronts over active uses.
 - c. The definition of “personal/business services” in Section 19.103 (Definitions) lists example uses, but doesn’t really define the broader characteristics of the use. This makes it difficult to determine if some proposed uses that aren’t listed as examples are permitted in the Downtown Zones.
3. The minimum height (35 feet/3 stories) for buildings fronting on Main Street in the DS zone is quite aggressive when compared with regulations adopted for other designated town centers within the region.
 4. The Design Standards section (Section 19.312.6) is difficult to follow and understand. The addition of tables and illustrations would be helpful. Also, the list of prohibited materials is highly restrictive.
 5. Major exterior alterations and construction of new buildings in the Downtown Zones must go through a discretionary design review process. The design guidelines do not provide sufficient direction to developers or review bodies to determine compliance with the guidelines.
 6. The public area requirements that apply only in the Downtown Zones may be acting as a disincentive to new private investment in the downtown area.

Discussion of Potential Solutions

Reactivating Main Street is a major focus on the Downtown and Riverfront Plan and the Downtown Zones. However, it can be difficult to attract the desired higher density development and mix of uses that support more urban streetscapes if the market is not ready. Even with a long-term vision that is codified through zoning as in Milwaukie, requirements for ground-floor retail may not be supported economically in the short to medium-term because an increase in land values and demand is needed to drive higher-density, mixed-use redevelopment projects. This challenge is heightened if cities lack the funds to invest in the public infrastructure of sidewalks and other downtown amenities.

Consider Type II review for change of use. Many of the existing buildings and uses in the downtown zones do not conform to the use restrictions and limitations or development standards of the existing ordinance. Section 19.312.3 states:

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800, Nonconforming Uses.

Categorizing buildings and uses as “nonconforming” complicates financing for improvements and also provides a barrier to incremental and organic changes to existing buildings in the interim period before redevelopment is supported by the market. The City may want to consider providing a Type II review option distinct from the Nonconforming Use Chapter to provide more flexibility for a transition of uses in existing buildings that could help to activate the downtown area.

Consider more flexible approach to ground-floor uses. Many jurisdictions in the Portland region have backed away from rigid requirements for ground-floor retail uses, and have instead required new building spaces to be designed so that they can be adapted to active uses such as retail once the market is ready.



These more flexible standards seek to establish good “bones” for active uses such as high ceilings, large floor plates, specific construction types and transparent faces of the buildings fronting on public spaces.

Some code examples from other jurisdictions are summarized below, with example code language provided in Attachment H.

Portland. The City of Portland has adopted zoning ordinance standards for “active building uses” in several town centers, including Hollywood, St. Johns and Kenton. The standards typically apply to *new development* on sites with frontage on designated enhanced pedestrian streets (such as Sandy Boulevard in the Hollywood District). *Alterations or exterior improvements to existing development are exempt from the regulations.*

Portland’s zoning standards for town center districts focus more on the location and design of the building and are more flexible in allowing a range of ground floor office and personal service uses in addition to restaurants and retail that can help to activate pedestrian streets. Additionally, *Portland’s regulations do not limit ground-floor office or service uses to a specified square footage or percentage of the total floor area.*

Hillsboro. The City of Hillsboro has adopted standards for “street level uses” in Mixed Use Districts. The intent of these standards is to establish mixed use developments, with commercial storefronts, and create a vibrant pedestrian environment.

The range of uses permitted in Hillsboro’s Mixed Use Districts is considerably broader than the uses listed in the Milwaukie and Portland ordinances. For example, Hillsboro permits street level uses such as personal, business and consumer services, daycare, product repair or services for consumer and business goods, medical clinics, and community service uses in addition to retail and eating and drinking establishments. The “storefront” space dimensions are similar to Portland’s, with minor differences (12 foot height in Portland vs. 13 feet in Hillsboro; 25 foot depth in Portland vs. 30 foot depth in Hillsboro).

Gresham. The City of Gresham has adopted a Downtown Plan District that includes six specific sub-districts. The historic downtown core along Main Street is included in the Central Urban Core (CUC) sub-district. The range of uses permitted in the CUC sub-district is quite broad, and includes offices, clinics, retail trade, retail service, business service and mixed-use development. There is no specific requirement for ground-floor retail uses along Main Street in Gresham.

Lake Oswego. The majority of the downtown core area of Lake Oswego is included in the East End Commercial (EC) zone. A very broad range of uses are permitted in the EC zone, with some limitations on the size of individual uses. Permitted uses include but are not limited to retail sales and service, food markets, restaurants, personal services, business services, offices and medical clinics. Beyond the flexible approach to permitted uses, Lake Oswego has adopted very specific requirements for building design in the downtown area.

To complement basic zoning requirements, the City of Lake Oswego has successfully established active ground floor retail uses in its downtown district by making targeted public investments and leveraging their negotiating power through the use of urban renewal. In 1986, the Lake Oswego Redevelopment Agency (LORA) adopted an urban renewal plan for the downtown district, making tax increment financing available for new downtown projects. LORA then negotiated with developers to provide ground floor retail uses with various incentives. While the code does not explicitly prohibit non-retail uses from the ground floor, the standards help to foster a



building environment that is conducive to ground floor retail over other types of uses such as banks, hair salons and copy shops.

As development and redevelopment has occurred over the last decade with substantial investments in the downtown area and market demand, rents in the district have increased to the extent that ground floor space is not as affordable for non-retail uses such as personal service uses and offices. Through this process, market forces encourage non-retail uses to locate on the upper floors, while the ground floor use is reserved for retail businesses that are typically able to pay higher rents.

Reconsider minimum building heights. As noted earlier, the existing code requires a minimum building height of 35 feet for new buildings that front on specific blocks of Main Street in the Downtown Storefront zone. The purpose of the height standards is to promote a compatible building scale and establish a consistent streetscape. Buildings fronting on other streets in the DS zone shall be a minimum height of 25 feet.

Many jurisdictions in the Portland region have backed away from rigid requirements for *minimum* building heights in town centers and corridors, and instead have focused on providing targeted incentives for taller buildings in appropriate areas. Also, some jurisdictions have written code standards to require that new 1-story buildings be designed to accommodate later addition of a 2nd or 3rd story.

Code examples from other jurisdictions are summarized below, with excerpts of code text provided in Attachment I.

Portland. The Portland Zoning Code does not require a minimum building height in any of the designated town center or corridor plan districts. As noted above, Portland has instead taken the approach of providing incentives for taller buildings in specific locations. The Commercial Storefront (CS) zone is applied along many of the traditional corridor streets in Portland, including streets such as Division, Fremont, Belmont, Clinton, etc. A maximum Floor Area Ratio (FAR) for this zone is set at 3 to 1, with a maximum building height of 45 feet. Additionally, a minimum of 50% of the site area must be covered by a building.

Portland's zone standards focus on maximum building setbacks, ground floor window standards, and no requirements for off-street parking to reinforce an active pedestrian environment. However, there is no requirement that new buildings be constructed to a minimum height or include a minimum of 2 stories.

Gresham. The table of Development Standards in Gresham's Downtown Plan identifies a minimum building height of 2 stories for the Central Urban Core (CUC). However, the code also includes flexibility for expansion of existing buildings and also provides an option to build a 1-story building that can accommodate later installation of a second floor.

Lake Oswego. The Building Siting and Massing Standards for the EC zone require that new buildings be at least two stories tall. However, the code also provides some flexibility for one-story buildings for entry areas, outdoor restaurants, or as a step down to an adjacent one story viable structure or when a minimum height of 20 feet is maintained at the right-of-way or street side building edge.

Reconsider prohibited materials. Milwaukie's existing design standards for the Downtown Zones prohibit EFIS or other synthetic stucco panels and split-face or other masonry block at the street level of all buildings in the downtown zones. Additional materials are prohibited at all levels of buildings in the



downtown zones, including plywood paneling; vinyl or metal cladding; composite wood fiberboard or composite cement-based siding; metal panels, except at penthouse level.

Building materials are constantly evolving. Is it appropriate or necessary to prohibit specific building materials if a discretionary review process is required for new non-residential construction? The city may want to consider limiting the list of prohibited materials to stand-alone residential buildings and letting the developer make the case regarding durability, compatibility, etc. for specific materials that are subject to discretionary design review.

Consider changes to the Design Review Process. As described earlier in this memo, the Design Landmarks Committee (DLC) reviews major exterior alterations and new development in the Downtown Zones, and provides a recommendation to the Planning Commission for a final minor-quasi judicial land use decision. Because discretionary design review is only required in the Downtown Zones, the uncertainty and extra expense associated with the design review process may be a disincentive to private investment and new construction in the downtown area.

Design review decisions are subject to the 120-day clock for final local land use decision after an application has been accepted as complete. Scheduling a design review application for review by both the DLC and the Planning Commission can be cumbersome for an applicant and staff. Additionally, the role and responsibility of the DLC relative to the Planning Commission should be clarified.

The City might want to consider if it would be more useful for the DLC to provide design input to the applicant earlier in the process, perhaps shortly after a pre-application conference with staff. A more informal “design guidance” approach could be used to provide input and insights on key design objectives that should be addressed as more detailed plans are prepared for review by the Planning Commission. This could be a separate application, with a modest review fee.

The city could also consider if the minor quasi-judicial design review process should be limited to construction of new buildings only, with exterior alterations handled through a staff review. Additionally, photographs and/or simple illustrations could be included in the code or in a separate handbook to provide examples of the types of buildings that are considered consistent with the design standards and guidelines.

IV. Manufacturing Zone

Overview of Existing Industrial Zones

The Milwaukie Comprehensive Plan includes several goals, objectives and policies that support business retention and redevelopment to maintain local employment opportunities and the industrial tax base. The Milwaukie Zoning Ordinance includes two zones that implement the Industrial plan designation and policies for industrial land.

- Manufacturing zone (M) – Section 19.314
- Business Industrial zone (BI) – Section 19.324

The M zone is applied to the North Industrial and Johnson Creek Boulevard Industrial Areas. The BI zone is applied to the International Way Industrial Area located to the north of the Milwaukie Expressway. There are several key distinctions between the two industrial zones as summarized below:



- The purpose statements for the two zones are similar with a few subtle differences. The stated purpose for the M zone focuses on employee-intensive industrial uses, with commercial and office uses limited to accessory uses which serve the industrial area. The stated purpose for the BI zone describes a mix of employee-intensive industrial and office uses with associated services.
- Manufacturing, processing, packaging, assembly, warehousing and distribution of products are permitted uses in both the M and BI zones. However, the M zone requires that at least 25% of the total project involve an industrial use, while the BI zone allows business and professional offices including corporate headquarters with no minimum percentage requirement for industrial use.
- The M zone also includes a requirement that the combined uses shall provide at least ten (10) employees per acre. The BI zone does not include a specific requirement for employees per acre.
- The M zone is more restrictive than the BI zone in terms of prohibited uses. New residential uses, churches and public schools are prohibited in the M zone. The BI zone does not prohibit these uses.
- Small portions of the North Milwaukie M zone and the BI zone are mapped as Title 4 “Employment” areas. Retail uses greater than 60,000 square feet gross floor area per building or businesses are prohibited on all lots in mapped “Employment” areas in both the M and BI zones.
- The BI zone includes a broader list of limited retail and service uses and conditional uses relative to the M zone. Additional uses that are listed in the BI zone include retail outlets associated with manufacturing uses, banks, public and private community buildings and public storage facilities.
- “High-impact commercial businesses” are listed as a conditional use in the M zone but are not listed in the BI zone. As defined in Section 19.103 of the Zoning Ordinance, examples of these businesses include drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.
- Site development requirements are the same for the M and BI zones for front yard setbacks (20 feet), height (45 feet), landscaping (15%) and site access (one curb cut of 45 feet maximum per 150 feet of street frontage). However, outside storage is prohibited in portions of the BI zone but is allowed with screening in the M zone. The BI zone also includes “principles” for site and building design that are not provided in the M zone.
- The M zone includes a requirement for a discretionary “Transition Area Review” for industrial projects proposed within 120 feet of areas zoned for residential development. The M zone is contiguous to residential zones to the east of the railroad and west of 17th Avenue. The BI zone does not include this “Transition Area Review” requirement.

Problems with Manufacturing (M) Zone

1. The existing ordinance does not include clear definitions or descriptions of permitted industrial uses or use categories.
2. Similar to many jurisdictions, the Milwaukie Zoning Ordinance is based on a traditional approach of listing uses that are permitted, limited, conditional or prohibited. If a use is not specifically listed, it is presumed prohibited unless the community development director determines that a use is “similar” to those listed. The director’s decision regarding similar uses may be appealed to the Planning Commission.



3. Section 19.103 (Definitions) includes definitions for some, but not all, uses listed in the Milwaukie Zoning Ordinance. However, *no* definitions are provided for industrial uses such as manufacturing, processing, fabrication, packaging, assembly, etc.
4. Given the lack of specific definitions for industrial uses, property owners, industrial users and the community development director often have to struggle with the challenge of trying to decide if a specific proposed use fits the very broad and general list of uses in the M zone. For example, would a HVAC business that involves a minor amount of on-site fabrication fit the category of “fabrication” and be considered a permitted use?
5. The M zone lacks clear and objective use and development standards to achieve the policy objective to retain the zone primarily for industrial employment. The existing zone only requires that at least 25% of the total project involve an industrial use.
6. The zone is not clear in defining what is considered the “total project” – is it gross site area, building square footage, number of employees? The zone does not provide guidance for defining the total project area when a site contains multiple tenants.
7. The zone does not provide guidance on what uses are considered in measuring 10 employees per acre. Is it just the industrial employees, or does it also include any combination of office and/or commercial employees which might be included in the total project? Is the 10 employee per acre measured relative to gross site acreage or building square footage? Additionally, it is not clear whether or how this employee density standard is monitored or enforced, particularly when a site contains multiple tenants.
8. The size limitations on retail uses that are included in the M zone to comply with regional Title 4 requirements only apply to a very small portion of the zone. The prohibition of retail uses larger than 60,000 square feet is not applicable to the portion of the M zone that is not within the Title 4 “Employment Area” boundary.

Discussion of Potential Solutions

Include definitions for general industrial uses in Chapter 19.103 (Definitions) or consider a “use category” approach. As noted above, the Milwaukie Zoning Ordinance does not include definitions or examples of general industrial uses that are permitted in the M zone. The City could standardize the terms for industrial uses listed in the M and BI zones and also include specific definitions for the industrial uses in Section 19.103 to provide better descriptions of the characteristics and examples of what is included in a general category such as manufacturing and production, industrial service, wholesale sales, etc.

As another option, the City could consider shifting to a standardized “use category” approach rather than relying on long lists of uses that may quickly become outdated. The *TGM Model Development Code* recommends the use category approach and provides a model chapter that cities can tailor to their needs. Each category (such as Industrial) includes descriptions of the characteristics of the uses, typical accessory uses, examples and exceptions. The City of Portland has adopted a use category approach that includes the following six categories for Industrial Uses:

- Manufacturing and Production
- Warehouse and Freight Movement
- Wholesale Sales



-
- Industrial Service
 - Railroad Yards
 - Waste Related

Excerpts from the Portland Zoning Code that describe the industrial use categories and the Use Table for the Employment and Industrial Zones are included in Attachment F to provide an illustration of how this approach is implemented in Portland. Based on our experience, we have found the use category approach to be clear, comprehensive and easy to understand. It is also helpful to have consistent use tables included in all of the zones rather than have widely different use lists.

However, transitioning from a detailed use list approach to a more generalized use category approach for all zones is not a quick or easy task. The city could consider “testing” the use category approach by first including it only in the BI and M zones.

Attachment J includes a Table of Permitted Use Categories for the two industrial districts in Gresham. Milwaukie may want to consider a similar approach to providing a more comprehensive description of use categories and example uses for the BI and M zones. Also, by presenting the use information for both zones in a single table, it would be easier to see the distinctions between the two industrial zones.

Clarify use and development standards for the M zone. There are options to improve the clarity of the M zone by organizing the sections in a more logical format and revising the text to describe the uses and development standards in clear and objective terms.

Rather than requiring the community development director to determine if a particular use is “accessory” to an industrial use, the City could consider adopting specific size limitations on retail trade uses similar to those that were recently adopted for Title 4 mapped “Industrial” areas. Under those amendments, individual retail trade uses are limited to a maximum of 5,000 square feet of gross floor area and multiple retail trade uses limited to a maximum of 20,000 square feet of gross floor area (whether in a single building or multiple buildings).

In Portland’s Heavy Industrial (IH) zone, Retail Sales and Service or Office uses are limited to a maximum of four per site, with up to 3,000 square feet per use. Conditional use approval is required to exceed this standard, and there is a prohibition of more than 12,000 square feet of Retail Sales and Service or Office uses on a site.

With a shift to more clearly defined standards for “accessory” uses in the M zone, and consideration of additional site development standards in proximity to residential zones (such as setbacks and screening/buffering), the City could consider deleting the requirement for a discretionary Transition Area Review.

Finally, the City might want to consider whether it might be appropriate to designate a larger portion of the Northern Industrial Area as a Title 4 Employment or Industrial Area. This would provide stronger recognition and protection of the industrial land base and could also open opportunities for targeted regional transportation investments to support freight movement into and out of the area.

Memorandum

Date: August 27, 2009

To: Katie Mangle, City of Milwaukie
Susan Shanks, City of Milwaukie

From: Mary Dorman, AICP
Serah Overbeek, AICP

cc: Rachel Ferdaszewski, TGM Code Assistance Grant Manager

Re: Smart Development Code Evaluation - Action Plan

This Action Plan has two primary objectives: to summarize existing problems within the Milwaukie Municipal Code (MMC) as described in the Code Evaluation Memorandum, and to identify and prioritize desired outcomes intended to address those problems. The Action Plan does not recommend actual code amendments; instead, it provides a framework for future code work that will be completed during Phase 2 of the Code Assistance project.

The Action Plan focuses on six key areas.

- **Residential design standards.** The City would like to explore tools that could be used to encourage residential infill development that is compatible with the look and feel of existing single-family neighborhoods. This includes an evaluation of new design standards for multi-family developments.
- **Housing variety.** The City would like to consider code amendments to encourage a greater variety of housing types, including accessory dwelling units (ADUs), townhomes, and duplex development.
- **Land use review processes and procedures.** The City would like to clarify, streamline, and consolidate the various different review processes currently used, and explore creation of a new Development Review chapter.
- **Downtown zone standards and uses.** The City would like to explore options to provide more flexibility in uses and selected development standards for the downtown zones while retaining the vision of the Downtown and Riverfront Plan.
- **Manufacturing zone standards and uses.** The City is seeking ways to define and clarify the list of allowed uses, and provide clear and objective standards for development in the Manufacturing zone.



- **Commercial design standards.** The Phase 1 Code Assistance project did not include an evaluation of commercial zones outside of downtown. However, the Planning Commission has indicated that they would like to consider appropriate uses, development and design standards for the four commercial zones as part of the Phase 2 Code Assistance project. Therefore, this topic area is included in the Action Plan.

The Evaluation Memo focused on specific problems and included examples of code approaches the City could consider in drafting code amendments to address those problems. The Action Plan summarizes those problems within the framework of potential code amendment projects - some of them relatively small and targeted, others larger and more complex - without defining the actual code amendment proposal.

For each of the six areas listed above, the Action Plan table provides the following information:

- **Code section.** Where applicable, the affected section of the MMC is listed. In some cases, a new code section is being proposed and there is no existing section to reference.
- **Desired outcome and problem statement.** A summary of the identified problem is provided, along with the desired outcome based on adopted Milwaukie Comprehensive Plan policies. In general, for all changes to the code, the City aspires to achieve the following:
 - Replace subjective, unclear policy with clear standards.
 - Encourage investment while ensuring that development meets Comprehensive Plan goals for high quality, environmentally sensitive, and pedestrian-friendly development.
 - Allow for site-specific design for smart and low-impact development through alternative review processes.
 - Develop standards and procedures that are easy to understand and implement.
- **Proposal type.** “Refine existing approach” indicates that the code already includes provisions to meet Comprehensive Plan objectives and revisions would refine the tools used by the City to meet those objectives. “Develop new approach” indicates that the existing code does not address Comprehensive Plan objectives and new code is needed.
- **Key notes and questions.** Where applicable, significant observations or questions from the Evaluation Memo and Planning Commission and City Council work sessions are provided.
- **Next steps.** This section indicates the critical steps that will need to be taken by the City before new code language can be developed and adopted.
 - “Urban design support” indicates that the City may want to work with an urban designer/architect to develop new design standards and graphics. In general, staff and the Planning Commission expressed interest in using more graphics and tables in the code to convey design standards and guidelines in a more user-friendly fashion.
 - “Additional analysis/research” refers to the need for more research before the City can write new code language. This work could include reviewing model codes and codes from other jurisdictions, analyzing historical development trends, utilizing GIS data, and evaluating building permits to better understand local characteristics.
 - “CC/PC work session” implies that a work session with the Planning Commission and/or City Council will likely be necessary in order to develop and refine code



amendments. CC/PC work sessions would be in addition to the standard public hearings.

- “Public outreach effort” means that the city will likely need to do some targeted outreach to stakeholder groups to guide the code amendment process for specific topic areas. Again, this public outreach would be in addition to the standard public involvement options provided as part of the code amendment adoption process.
- **Priority.** Identifies the level of priority for both City staff and the Planning Commission as low, medium, or high. This is intended to provide guidance for the City in determining which elements should be included in the Phase 2 Code Assistance scope of work and budget.

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L= Low
Residential Design Standards										
Single-Family Architectural Design	19.301 - 19.309, 19.425	<p>Outcome: Promote high quality design and a flexible design approach that supports the character and livability of existing neighborhoods.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ No design standards exist for garages. ▪ No design standards exist for home additions. ▪ Minimal design standards exist for new homes. ▪ Existing design standards, coupled with existing development standards, can result in undesirable designs, i.e. no eaves. 	√		<ul style="list-style-type: none"> ▪ What level of design regulation is appropriate for single-family housing? ▪ Should there be a discretionary design review option to allow for design variations? ▪ Should particular construction materials be required or prohibited (similar to downtown standards)? ▪ If design standards are applied to home additions, should they apply to all or just some types of home additions? ▪ Should the existing design menu approach be refined or a new approach developed? ▪ Should the location and design of garages be regulated? 	√	√	√	√	H
Infill Compatibility		<p>Outcome: Ensure that the scale of new development fits with existing</p>		√	<ul style="list-style-type: none"> ▪ Should infill development be limited by the height and mass of existing development? If so, what are the best tools for 	√	√	√	√	H

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		<p>neighborhoods.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ No requirement that new development consider existing development with regard to height and mass. ▪ Low lot coverage standards minimize building footprint allowance, which often leads to taller/bulkier homes. ▪ Development standards for large and small lots are the same, which can result in larger (and often incompatible) homes on larger lots. 			<p>Milwaukie?</p> <ul style="list-style-type: none"> ▪ Should infill home development be subject to more and/or different regulations than additions to existing homes? ▪ Should development standards be different for different size lots? 					
Multifamily Residential	Not in existing code.	<p>Outcome:</p> <p>Establish design standards for multi-family dwellings to ensure high quality construction and design.</p> <p>Problems:</p>		√	<ul style="list-style-type: none"> ▪ What level of design regulation is appropriate for multifamily housing? ▪ Should standards be clear and objective or should there be a discretionary design review option to allow for design 	√	√	√	√	M

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		<ul style="list-style-type: none"> No design standards exist for multi-family development in non-downtown zones. 			variations? <ul style="list-style-type: none"> Should particular construction materials be required or prohibited (similar to downtown standards)? 					
Housing Variety										
Accessory Dwelling Units (ADUs)	19.301 - 19.309, 19.402.4, 19.602.10	<p>Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population.</p> <p>Problems:</p> <ul style="list-style-type: none"> ADU approval process is often excessive and appears to discourage ADU development. ADU design standards are minimal and difficult to apply due to their subjectivity. Type 1 ADUs are allowed, but not listed, as permitted uses in residential zones. 	√		<ul style="list-style-type: none"> Should the City reduce the level of review required for ADUs to encourage a greater variety of housing types? What kinds of design standards are appropriate for ADUs? Should there be different design standards for conversions vs. additions? Should there be two types of ADUs? Should ADUs be allowed as stand-alone detached structures or as part of existing detached structures? If so, design standards for accessory structures may need to be 		√	√	√	L

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L= Low
		<ul style="list-style-type: none"> ▪ Type 2 ADUs are allowed, but not listed, as conditional uses in residential zones. ▪ ADUs are required to be attached to existing dwellings. 			updated.					
Townhouses	19.301 - 19.309	<p>Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Remnant and fragmented code provisions imply that townhouses are allowed in certain zones, but they are not explicitly listed as a permitted use in any non-downtown residential zones. ▪ Lot size, lot coverage, and setback standards for townhouse developments are unclear ▪ No design standards exist for townhouses in non-downtown 		√	<ul style="list-style-type: none"> ▪ Should townhouses be outright or conditionally allowed in all non-downtown residential zones? Are there areas or zones where townhouses should not be allowed? ▪ What lot sizes are appropriate for townhouse development? ▪ What are the best tools to ensure compatibility with surrounding development? Should there be limitations on the number of townhouses allowed in a row? ▪ Should there be different design standards for townhouses or should they be subject to single or multifamily design standards? 	√	√	√	√	L

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		zones.								
Duplexes	19.301 - 19.309	<p>Outcome: Encourage a diverse range of housing types to meet the housing needs of all segments of the population.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Required minimum lot sizes for duplexes are restrictive. ▪ Conditional use approval in certain zones may be excessive. 	√		<ul style="list-style-type: none"> ▪ Should duplexes be allowed and/or encouraged along streets with higher classifications (i.e., arterials)? ▪ Should duplexes be outright allowed on corner lots in zones where they are only otherwise conditionally allowed? ▪ Are there areas or zones where duplexes should not be allowed? ▪ What lot sizes are appropriate for duplex development? 	√	√	√	√	L
Review Processes & Procedures										
Amendments and Administrative Provisions	19.900, 19.1000	<p>Outcome: Provide review processes and procedures that are consistent with Oregon state law and that are clear and complete.</p>			<ul style="list-style-type: none"> ▪ How can the City consolidate and streamline the review types to provide consistency and clarity, and avoid unnecessary processing? 		√			H

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		<p>Problems:</p> <ul style="list-style-type: none"> ▪ The City’s administrative procedures are outdated, incomplete, unclear, and poorly organized. ▪ Having five review types may be overly complex. ▪ The process for a Director’s Interpretation is not clear. ▪ There is no existing process for modification of approved plans. 			<ul style="list-style-type: none"> ▪ Should the City establish a process and review criteria for modification of approved plans? 					
Conditional Uses, Variances & Exceptions, and Nonconforming Uses	19.600, 19.700, 19.800	<p>Outcome: Develop reasonable review criteria and an appropriate level of review for all land use actions.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ The City does not have a “Development Review” chapter that allows staff to review new development outside the building 	√		<ul style="list-style-type: none"> ▪ Should the City reorganize its code and establish a Development Review chapter or should we continue to use the same organizational structure? ▪ Should approval criteria be more permissive for some types of variances but not others? 		√	√		H

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		permit process. <ul style="list-style-type: none"> ▪ It can be difficult to determine the appropriate level of review for some land use actions. ▪ The required level of review may be excessive for some land use actions ▪ The approval criteria for variances are difficult to meet. ▪ The provisions for establishing a legal non-conforming use are not always appropriate. 								
Downtown Zones										
Downtown Uses	19.312	Outcome: Foster downtown revitalization by protecting existing businesses, capturing unrealized market niches, and responding to the current marketplace. Problems: <ul style="list-style-type: none"> ▪ There are many existing non-conforming uses. ▪ Permitted uses in each downtown 	√		<ul style="list-style-type: none"> ▪ How can the City provide a more flexible approach to ground-floor uses while continuing to encourage retail uses along Main Street? ▪ Should there be a different approach to nonconforming uses in the downtown zones? 		√	√	√	M

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		zone are overly prescriptive and may be inhibiting downtown revitalization.								
Downtown Design Standards	19.312	<p>Outcome: Ensure high quality construction and design that implements Milwaukie’s urban design vision for downtown.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Design standards are minimal and focus on what the City doesn’t want rather than on what it does want. ▪ Minimum height requirements are restrictive. ▪ List of prohibited building materials is restrictive. ▪ Public area requirements may act as a disincentive to downtown developers. 	√		<ul style="list-style-type: none"> ▪ Should the City could establish more flexible building height standards and develop incentives for construction of taller buildings? ▪ Should the City revise building material restrictions to allow greater flexibility for developers? ▪ How can the City encourage more adaptable ground-floor retail spaces? ▪ Illustrations of the design standards would help applicants and staff implement the code. 	√	√	√	√	M
Downtown Design Review	19.312	<p>Outcome: Establish a design review process that is clear, reasonable, and</p>	√		<ul style="list-style-type: none"> ▪ How can the City clarify and streamline the review process for downtown development 			√	√	M

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L = Low
		<p>effective.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Determining the project type (maintenance, minor alteration, major alteration) and the required level of review is often difficult. Applicability section is overly complex and confusing. ▪ Existing review process can be excessive and may serve as a disincentive to developers. ▪ Design guidelines are difficult to apply due to their subjectivity. They do not provide adequate direction for determining compliance. 			projects?					
Manufacturing Zone										
Use and Development Standards	19.314	<p>Outcome: Promote clean, employee-intensive industries.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Permitted uses are overly broad and 	√	(√)	<ul style="list-style-type: none"> ▪ What kinds of industries are most appropriate for this area? ▪ Is it feasible or realistic to require a certain level of employment? ▪ Is the list of allowed uses overly 		√	√	√	L

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H = High M = Medium L = Low
		<p>either undefined or ill-defined.</p> <ul style="list-style-type: none"> ▪ There is insufficient guidance for measuring and enforcing the requirement that 25% of “the total project involves an industrial use.” ▪ There is insufficient guidance for measuring and enforcing the requirement that “the combined uses shall provide at least 10 employees per acre.” ▪ Size limitations on retail uses only apply in the Title 4 boundary, which is a very small portion of the M zone. ▪ Development standards are minimal and development review process is unclear. 			<p>restrictive and outdated? If so, what is the best way to update and clarify M-zone uses given: (1) the multi-tenant and multi-building characteristics of this area, and (2) the evolving nature of industry in this country?</p>					
Commercial Zones										
Commercial Uses	19.307, 19.309, 19.310, 19.311, 19.313, 19.315	<p>Outcome: Allow uses that meet residents’ shopping and service needs in a way that minimizes neighborhood impacts.</p>	√		<ul style="list-style-type: none"> ▪ Should there be six different commercial zones? ▪ What is the best way to allow for an appropriate mix of uses in the City’s different commercial areas? Should the 		√	√		H

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L= Low
		<p>Problems:</p> <ul style="list-style-type: none"> ▪ Use lists are quite limited for CN and CL zones. ▪ All uses in the CN zone require conditional use approval. ▪ Some newer types of businesses (e.g. yoga studios, doggie daycare) are not explicitly listed in the code. ▪ The definitions for “high-impact commercial,” “commercial recreation,” and “commercial school” are overly broad and outdated. 			<p>scale of the use be a consideration or just the use itself?</p> <ul style="list-style-type: none"> ▪ Should the City undertake commercial district planning to bridge the gap between zoning regulations and design standards? 					
Commercial Design Standards	Not in existing code.	<p>Outcome: Establish design standards for commercial development to ensure high quality construction and design that contributes to neighborhood character.</p> <p>Problems:</p> <ul style="list-style-type: none"> ▪ Milwaukie has minimal design 		√	<ul style="list-style-type: none"> ▪ What level of design regulation is appropriate for commercial development? ▪ Should standards be clear and objective or should there be a discretionary design review option to allow for design variations? ▪ Should particular construction 	√	√	√	√	H

Milwaukie Action Plan Table

Topic	Code Section	Desired Outcome and Problem Statement	Proposal Type		Key Issues and Questions	Next Steps				Priority
			Refine Existing Approach	Develop New Approach		Urban Design Support	Additional Analysis/Research	CC/PC Work Session	Public Outreach Effort	H= High M= Medium L= Low
		standards for commercial development relative to similar-size cities. <ul style="list-style-type: none"> ▪ Transition Area Review (19.403.7) only applies to commercial development next to lower density zones. 			materials be required or prohibited (similar to downtown standards)?					

**ATTACHMENT A:
MEETING & WORK SESSION NOTES**

Memorandum

Date: April 9, 2009
To: Rachel Ferdaszewski, DLCD Transportation & Growth Management Program
From: Mary Dorman, AICP
Angelo Planning Group
cc: Katie Mangle and Susan Shanks, City of Milwaukie
Re: City of Milwaukie Code Assessment
Summary Memo from PMT Meeting #1

This memorandum summarizes the project kick-off meeting held in the City of Milwaukie on April 8, 2009. Participants in the meeting included Rachel Ferdaszewski with the TGM Program, Mary Dorman as lead consultant, and Katie Mangle and Susan Shanks representing the Milwaukie Planning Department.

The purpose of the kick-off meeting was to:

- Confirm the objectives and priorities for the Code Assessment
- Refine the project schedule
- Obtain copies of relevant ordinances and updates on related planning efforts
- Tour some representative projects in the community

This meeting summary is organized to follow the four topic areas highlighted above.

Objectives and Priorities for the Code Assessment

The statement of work outlines four primary code areas that APG should emphasize in the first phase code assessment. Based on discussion with staff, the code areas are prioritized as follows:

1. Residential Design Standards
2. Procedures
3. Downtown Zone Standards
4. Manufacturing (M) Zone Uses & Standards

1. Residential Design Standards

This is a priority issue for the Planning Commission and the community. Primary issues and options to address in the code assessment include the following:

- The existing code does not include specific design standards for multi-family development. Any new standards for needed housing must be clear and objective.
- Milwaukie is experiencing infill and redevelopment pressures within existing neighborhoods. New structures (including adult foster care homes) maximize the building envelope under existing zoning regulations and may not “fit” the scale of existing dwellings in the neighborhood. Explore options to revise or supplement code standards to better address the bulk and massing compatibility concerns, perhaps through floor area ratios, graduated lot coverage standards, transition standards or other approaches. Katie Mangle and city attorney Bill Monahan will address Fair Housing Regulations separately and APG does not need to research this issue.
- Milwaukie has substantial capacity for infill development under existing zoning and development patterns – not looking at changes to ordinance standards to push increased density.
- Milwaukie has adopted basic single-family design standards. However, APG should research options to refine the standards to address garages (location, percent of garage frontage relative to front façade, etc.); applicability of design standards to remodels; removing eaves from the calculation of lot coverage, etc.
- Explore code options to encourage a greater variety of housing types. This could include approaches such as allowing duplexes on corner lots, zero lot line (fee simple) development, townhouse standards, considering standards for detached Accessory Dwelling Units, etc.

2. Procedures

Milwaukie’s ordinances have been implemented on a piecemeal basis over time and are not well organized or efficient. Staff has reviewed the *Model Code*, and the chapter on Review Procedures and Applications provides a good framework for consolidating and clarifying Zoning and Land Division Ordinance standards, approval criteria and review procedures.

- Most land use applications are subject to a multi-step review process. Some applications are currently categorized as “Minor Quasi-Judicial” and be more appropriate for an “Administrative” review. Public notice is expensive, and there is often little public interest in certain types of applications.
- Variance criteria are problematic and it is challenging to write findings to meet the criteria. Evaluate options for a more streamlined “adjustment” process for relatively minor deviations from numerical standards.

- Provide recommendations for improving the procedures table in the Land Division Ordinance (Table 17). May make sense to remove the replats from the table.
- Recognize that Milwaukie has had a long-standing problem with illegally created lots.

3. Downtown Zone Standards

Katie described the multiple projects going on in the downtown area, including station area planning for the proposed light rail station in downtown, more focused master planning for the South Downtown area (Christopher Alexander's firm), and consideration and analysis of urban renewal as a possible tool to facilitate downtown development (including public improvements).

- The downtown zone standards are very prescriptive and land values and rents are not high enough to support the intensive build out vision in the downtown plan.
- Review the downtown zone standards and explore options for a better transition between existing development and the future vision.
- For example, ground floor retail uses are required along segments of Main Street. The spaces have been designed to work for retail, but the market demand isn't there. Can the code standards include more flexibility in uses? Better to have some activity instead of empty spaces?
- Two story buildings are required in certain areas. Again, this has made it difficult to accommodate reuse/remodel of existing one story buildings.
- It would be helpful to have illustrations for the downtown standards in the Zoning Ordinance or in a separate brochure. This might be a good fit for SERA (on the APG team) if Phase 2 funds are available under code assistance.

4. Manufacturing (M) Zone

The older M zone is located north of downtown Milwaukie. There are several large, old buildings in this zone and the list of uses and standards in the zone are quite dated. The city completed a land use study for this manufacturing area several years ago and concluded that it was valuable as an urban employment district with good rail and highway accessibility.

- The policy basis for the M zone is clear – retain the active, valuable industrial land base.
- Explore options for more flexibility in types of modern industrial uses – staff has to act as the “gatekeeper” for the M zone based on the dated list of uses and standards.
- Touch base with Alex Campbell (Economic Development) for additional insights and code options to explore for the M zone.



Project Schedule

We are starting about one month later than initially expected because of delays in contracting. The initial schedule for the code assessment was aggressive (4 months) and it is not reasonable to compress the schedule further by one month.

The work order for the code assessment identified one work session with the Planning Commission and a second meeting with the City Council to present the final report. The Planning Commission and City Council each meet twice a month on alternating Tuesdays. The team discussed the purpose of the meetings with Planning Commission and City Council – would we be asking for input on options or presenting a report and recommendations? There was a general consensus that it would be most appropriate to outline the results of the consultant assessment and request input from the Planning Commission and City Council on priority options to pursue in Phase 2. This phase of the project involves more of a technical assessment, and broader public outreach will be associated with Phase 2. The following dates were mentioned as targets for the two meetings:

- Planning Commission – June 23rd
- City Council – July 21st or August 4th

Tasks 1-3 can be completed by June 30, with Task 4 finished by early August. Rachel indicated that the Phase I contract has an expiration date of August 30, 2009. Rachel will initiate conversations with the contracting office to extend the current contract schedule beyond June 30, 2009.

Rachel also stated that she has included a “placeholder” \$40,000 estimate for Phase II of the Milwaukie Code project in the budget proposal for the next biennium. We can start working on the scope for the next phase in an effort to have a seamless transition between Phases I & II.

The team also discussed how to accommodate stakeholder interviews in this first phase. After discussing one-on-one interviews (phone or in person), Rachel suggested that there was benefit to getting different parties at the same table to discuss issues. There was a consensus that we would invite 5-6 stakeholders to an evening meeting that would follow PMT Meeting #2 in late May. Katie and/or Susan may also make a presentation on the project and ask for input at one of the monthly meetings of the Neighborhood District Association.

Background Materials

City staff provided hard copies of the Zoning and Zoning Ordinances to Mary and also provided a CD copy of the documents in MS Word. The formatting of the Word documents does not match the version maintained by the publishing company that

is available on the City's web site. Other templates will be provided by the city for actual code amendments during Phase II.

City staff will also provide the following information to APG:

- Findings of research on Fair Housing Act relating to regulation of Adult Foster Care facilities
- Executive Summary or code related recommendations from the earlier TGM study of the North Milwaukie Industrial area.
- Susan will forward tables and "cheat sheets" that staff have developed to illustrate existing review procedures and thresholds for review.

Tour

Following the meeting, Katie and Susan narrated a driving tour of some representative projects in the community, including the following:

- Several examples of adult foster care homes
- Other examples of recent infill construction and older apartment projects
- Examples of new construction and remodel projects in the downtown area
- Examples of recent commercial development

The tour was very helpful in illustrating some of the priority issues and concerns that will be the focus of the Code Assessment. Katie also mentioned that APG shouldn't hesitate to ask for photos of specific sites as we get further into the initial research.

Memorandum

Date: June 2, 2009
 To: Rachel Ferdaszewski, DLCD Transportation & Growth Management Program
 From: Mary Dorman, AICP
 Angelo Planning Group
 cc: Katie Mangle and Susan Shanks, City of Milwaukie
 Re: City of Milwaukie Code Assessment
 Task 2.2 – Notes from PMT Meeting #2

This memorandum summarizes the PMT meeting held in the City of Milwaukie on May 28, 2009 to review the Preliminary Evaluation Memo. Participants in the meeting included Rachel Ferdaszewski with the TGM Program, Mary Dorman as lead consultant, and Katie Mangle and Susan Shanks representing the Milwaukie Planning Department.

The purpose of the second PMT meeting was to:

- Review and discuss the Preliminary Code Evaluation Memo from APG dated May 20, 2009
- Discuss necessary adjustments and edits and deadline for additional staff comments
- Establish a schedule for the Revised Evaluation Memo
- Set dates for the Planning Commission and City Council meetings to review the Revised Evaluation Memo and Action Plan

Schedule

The PMT agreed to the following schedule for upcoming tasks:

June 1	Mary to forward Preliminary Evaluation Memo in Word format for Katie & Susan to make edits in track changes.
June 10	Final edits and comments from PMT due to Mary to incorporate into Revised Evaluation Memo



June 24	APG to forward Revised Evaluation Memo in electronic format to PMT
July 7	Milwaukie staff will prepare brief staff report and forward Revised Evaluation Memo with Attachments in Planning Commission packets
July 14	Planning Commission meeting to discuss Revised Evaluation Memo and obtain input on priority changes for Action Plan
August 4	Target date for presentation to City Council

General Comments

- Katie asked that we expand the introduction to the memo to highlight the benefits of a “good” code such as predictability, streamlined process, simpler to understand and use, etc.
- Katie noted that she would provide edits to indicate who was initiating consideration of different code options (e.g., staff, the Planning Commission, City Council, neighborhood associations, etc.)
- Katie and Susan asked that we include a list of questions at the end of each topic area (such as Residential Design Standards, Procedures, Downtown Zones, Manufacturing Zone) to frame the key questions for discussion by the community.

Multi-family Design Standards

- The Milwaukie Code includes design standards for multi-family development in the Downtown Zones. However, these standards are tailored to the downtown and probably are not appropriate for multi-family zones outside of downtown.
- Katie and Susan suggested that we review the Transition Area Review (TAR) section of the Code and provide comments on its utility to address compatibility issues. Do we have any suggestions regarding whether TAR should be retained, revised and/or deleted and replaced with other compatibility standards for multi-family development?

Compatibility for Residential Infill and Redevelopment

- Katie noted that Milwaukie's code does provide for flexibility in front yard setbacks when existing homes on adjacent lots are located closer to the street. Susan added that this is allowed as an exception, but similar setbacks are not mandated for compatibility.
- There was general agreement that the architectural style of most neighborhoods in Milwaukie was quite mixed (with the possible exception of the Historic Milwaukie Neighborhood). It is very subjective to require a particular style and the bulk & mass of buildings is probably more important to compatibility than the particular architectural style.
- We should mention the option of a 2 track system (clear and objective standards vs. discretionary guidelines) but also emphasize the pros & cons of this approach and what it requires in terms of staff resources, etc.
- Katie said that the definition of building height in Milwaukie's code is very specific, and the result is often not what people expect. She asked that we compare Milwaukie's definition of building height with examples from a few other codes.
- Katie and Susan confirmed that staff spends lots of time calculating lot coverage. It is typically more expensive to build up and applicants are trying to maximize the lot coverage. Katie thought it would be worthwhile to discuss variable lot coverage standards based on lot size. Several lots in Milwaukie are quite large, but may have inadequate area or frontage to divide into 2 or more lots. Under the flat lot coverage standard – very large homes could be built on these lots that could be out of scale with the neighborhood.
- Katie confirmed that the scale of adult foster care homes has prompted the conversation about bulk/compatibility issues.
- In response to a question, Rachel confirmed that the Model Code doesn't use FAR to regulate bulk in residential zones.
- Susan suggested that it might be appropriate to consider a slightly higher FAR or lot coverage for lots that had frontage on a higher volume collector street.

Single Family Residential Design Standards

- Mary noted that many jurisdictions in the region adopted design standards to regulate garages over the last decade. While Milwaukie's code doesn't include such standards, the City has probably benefited from changes in plan books to address more recent standards relating to garages.

Accessory Dwelling Units

- There was general agreement that existing standards for ADUs were confusing. Only attached ADUs are allowed under existing standards.
- The Type II ADU requires compliance with conditional use permit criteria. The process is more burdensome than required by other jurisdictions in the region.
- The code allows guest houses as an accessory use – check the code distinctions between a guest house and an ADU

Procedures

- Katie stated that the City does have a comprehensive table that lists all applications and their corresponding review type, but the table is not included in the code. Staff will forward the current table to APG.
- Staff would like the revised memo to include additional discussion on whether applications are assigned to the appropriate level of review. For example, extensions of approvals go to a minor quasi-judicial review and typically trigger very little interest or concern. They might be delegated to a staff decision.
- We should also take a look at the section on Home Improvement Exceptions (they receive several of these applications).
- Katie mentioned that the code does include a section on PUD's. However, there is not a chapter dealing with master plans that might be more appropriate for a "campus" development such as Providence Hospital, etc.

Downtown Zone Standards

- Katie will provide edits to describe the focus on the South Downtown planning work.
- Katie also asked Mary to review the section of the code pertaining to prohibited materials. The list of materials is very specific and it is easy for it to become out of date. Is this specific listing of prohibited materials common in other codes?
- There was a general discussion of form based codes and whether they were likely to be used in Oregon. Rachel described a few "form based code" projects underway through the code assistance program. However, she doubted that many communities would pursue an entirely form based code, partly because of issues relating to the Transportation Planning Rule and also because of community concerns over specific uses.
- Katie confirmed that major remodels go through the Design Review Process – the city doesn't have a clear and objective track and this may be a disincentive

for development in the downtown area, particularly when the city is largely dealing with incremental development.

Manufacturing Zone

- Katie appreciated the side-by-side comparison of the BI and M zones.
- The M zone provides inadequate guidance on the storage of goods vs. storage of personal property (e.g., RV storage).
- The issue of car sales (retail or wholesale) is also inadequately addressed.
- Is it important to preserve the zone for manufacturing vs. employment and new evolving uses (such as software design, etc.)?

Contract Issues and Phase 2

- Rachel indicated that she will be initiating a contract amendment to extend the schedule for the PC and City Council meetings and also to adjust the budget for Task 2 deliverables (to allow APG to bill for the stakeholder interviews).
- Rachel also said that she was still optimistic about funding prospects for Phase 2 work. She will talk with Katie about priorities for Phase 2 after June 30th, and she'll also talk with Katie about other possible code amendment topics.

Memorandum

Date: July 15, 2009
To: Rachel Ferdaszewski, DLCD Transportation & Growth Management Program
From: Mary Dorman, AICP
Angelo Planning Group
cc: Katie Mangle and Susan Shanks, City of Milwaukie
Re: City of Milwaukie Code Assessment
Task 3.1 – Planning Commission Work Session Summary

This memorandum summarizes the Planning Commission work session held in the City of Milwaukie on July 14, 2009 to review the APG Code Evaluation Memo. Participants in the meeting included the Milwaukie Planning Commission, Mary Dorman as lead consultant, and Katie Mangle and Susan Shanks representing the Milwaukie Planning Department.

Key objectives for the work session included:

- Big picture discussion of the Residential Design Standards and Downtown Uses & Standards
- Does the memo accurately identify code problems?
- Are there options for solutions that Planning Commissioners like or dislike more than others?
- Are there other potential solutions Planning Commissioners would like staff to investigate?

Introduction

Katie Mangle provided an overview of the code assessment project. She noted that the City received a grant from the State of Oregon Transportation and Growth Management Program to complete the first phase code assessment. Katie introduced Mary Dorman as the lead consultant for the project. Katie stated that this first phase was focused on problem identification and potential solutions as detailed in the July 2, 2009 memorandum from Angelo Planning Group. The city hopes to

pursue a grant request for code assistance funds for the second phase to draft code amendments to address priority topics.

The Phase 1 code assessment focused on the following four topics:

1. Residential Design Standards
2. Land Use Review Criteria and Procedures
3. Downtown Zone Standards and Uses
4. Manufacturing Zone Standards and Uses

Given the amount of material included in the Code Evaluation Memo, Katie indicated that this first work session would focus on the Residential Design Standards and Downtown Zone Standards and Uses. Staff will schedule a second work session with the Planning Commission in August to review the problems and options for solutions related to Procedures and the Manufacturing zone.

Single Family Design Standards

Mary summarized Milwaukie's existing design standards for single family housing and duplexes. The two requirements include a main entrance oriented to the street and a minimum area of windows (12%) that face the street. In addition, builders must include at least 3 design features from a menu of 12 options. Slides were shown of recent dwellings that have been built in compliance with the standards.

Mary noted that Milwaukie's existing SF design standards are similar to many other codes, with one exception. Milwaukie's code includes no standards relating to garages. In response to a question regarding the applicability of design standards to expansions, Mary noted that Portland's standards only apply to new construction, but Canby applies the standards to expansions over a certain size.

There was general consensus regarding the variety of architectural styles in Milwaukie and strong interest in tools to manage building bulk and scale without dictating a particular architectural style.

Scott Churchill suggested that we look at code approaches to managing bulk and compatibility used in Bellevue and Kirkland in Washington and Mill Valley and Corte Madera in California. There was also some interest in evaluating floor area ratios (FAR) as a tool to manage building bulk, with a suggested ratio of .3:1. However, using FAR as a tool might be problematic with some of the large lots in Milwaukie. Bill Monahan noted that West Linn has used FAR as a tool to regulate the bulk of dwellings.

Several commissioners were also interested in consideration of surrounding properties/context instead of relying just on lot size, height and coverage standards.

Mary noted that some codes require a “step down” in building heights or larger side/rear yard setbacks for infill development in established neighborhoods. However, implementing this type of approach can be complex and this level of regulation often requires that a homeowner involve more consultants with specialized knowledge to obtain building permits. Also, many applicants use stock building plans and assume that they can build to a certain height or lot coverage “by right.”

The Planning Commission expressed interest in considering the following options in more detail in Phase 2:

- Expanding the required number of design elements
- Increasing the required window area to more than 12%
- Revisiting the design feature menu options (including option for attached garage) and possibly requiring more than 3
- Evaluating FAR and variable lot coverage approaches
- Applying design standards to manufactured/prefabricated homes

Housing Variety

Mary provided a brief overview of existing code standards and procedures for accessory dwelling units, duplexes and townhouses. Relative to other cities, Milwaukie’s standards for ADU’s are confusing and the review process more burdensome. A few photos were provided of attractive ADU’s over garages in Portland. This approach would not be allowed under existing Milwaukie regulations. Staff receives quite a few inquiries regarding ADU’s, but few move forward to applications.

Mary also noted that Milwaukie’s code does not provide incentives or flexibility to develop attached houses or duplexes on corner lots. With separate entries facing different streets, these structures can have the appearance of a single family house.

The existing zone includes a definition of “townhouse” – but the regulations don’t really accommodate that housing type.

The Planning Commission was generally open to considering more flexibility in housing types in at least some zones, as long as appropriate design standards are in place.

Multi-Family Design Standards

Mary indicated that Milwaukie has “clear & objective” design standards for multi-family housing in the downtown zones, along with a Design Review process. In the

multi-family zones outside of downtown, there are not design standards in place for multi-family housing. A few slides illustrated examples of multi-family housing with parking lots in front, little to no building articulation and monotonous roof lines. Other slides illustrated multi-family housing with varied roof lines, apartment buildings oriented to open areas instead of parking lots and additional detailing of buildings.

The Planning Commission was supportive of developing appropriate design standards for multi-family housing, with special mention of the desirability of varied roof lines.

Downtown Zones

Katie provided a brief overview of the history of the Downtown Plan and the downtown zones. Staff has been implementing the zoning regulations for about nine years and the very specific and prescriptive regulations have been a challenge.

Mary provided a very quick overview of Milwaukie's downtown zone regulations relative to the codes of other "centers" in the region such as Hollywood, Gresham, Hillsboro and Lake Oswego. In general, Milwaukie's regulations are more stringent than other cities in terms of "requiring" ground floor retail and restaurants. The other cities have focused on the building forms that are suited to retail (no setbacks, generous windows, building dimensions), but they are more flexible on allowed uses. This provides the opportunity for filling buildings and activating streets in the interim while not precluding conversion to retail uses when the market will support that.

Mary also noted that few jurisdictions are as aggressive as Milwaukie in requiring a minimum of 2-3 story buildings for new construction along Main Street. She also stated that Lake Oswego has been successful in getting taller buildings in the Village redevelopment, but they've invested substantial urban renewal funds to leverage more stringent use and building design requirements.

Several Planning Commissioners agreed that this is a challenging issue:

- More flexibility on uses might be appropriate without giving up on the desirability of retail along Main Street
- Is there a way to sunset tenancy of other uses? In theory, this can be done, but it can be challenging with requirements for a reasonable amortization period, etc.
- With the availability of light rail, it is important to maintain the Downtown Residential zone to support retail uses

Katie shared a list of existing uses in the Downtown zones. About 20% of the existing **uses** are non-conforming with probably 75% of the existing **buildings** non-

conforming with development and design standards. There was not a clear consensus from the Planning Commission whether the non-conforming use process was workable and appropriate to address transition issues, or whether the city should explore other tools that didn't carry the stigma of the "non-conforming" status.

Wrap Up

Katie indicated that she and Susan would return to the Planning Commission in August for a more focused work session on the two other topics addressed in the Code Assessment:

- Procedures
- Manufacturing Zone

Additionally, a briefing will be held with the City Council on August 4th to summarize the highlights of the Phase I code assessment. Staff will work with APG and the TGM program to outline a scope of work and schedule for Phase II. The Planning Commission targeted work on the Residential Design Standards as their first priority for Phase II.

Memorandum

Date: August 5, 2009
To: Rachel Ferdaszewski, DLCD Transportation & Growth Management Program
From: Mary Dorman, AICP
Angelo Planning Group
cc: Katie Mangle and Susan Shanks, City of Milwaukie
Re: City of Milwaukie Code Assessment
Task 4.3 – City Council Work Session Summary

This memorandum summarizes the City Council work session held in the City of Milwaukie on August 4, 2009 to review the APG Code Evaluation Memo. Participants in the meeting included the Milwaukie City Council, Mary Dorman as lead consultant, and Katie Mangle and Susan Shanks representing the Milwaukie Planning Department.

Key objectives for the work session included:

- Overview of the key findings from Phase I Code Evaluation Memo
- Does the memo accurately identify code problems and potential options for solutions?
- Does the City Council have specific priorities for the Action Plan and Phase II grant application?

Introduction

Katie Mangle provided an overview of the code assessment project. She noted that the City received a grant from the State of Oregon Transportation and Growth Management Program to complete the first phase code assessment. Katie introduced Mary Dorman as the lead consultant for the project. Katie stated that this first phase was focused on problem identification and potential solutions as detailed in the July 2, 2009 memorandum from Angelo Planning Group. The city hopes to pursue a grant request for code assistance funds for the second phase to draft code amendments to address priority topics.

The Phase 1 code assessment focused on the following four topics:

1. Residential Design Standards
2. Land Use Review Criteria and Procedures
3. Downtown Zone Standards and Uses
4. Manufacturing Zone Standards and Uses

Given the amount of material included in the Code Evaluation Memo, Katie noted that staff and the consultant conducted a first work session with the Planning Commission on July 14th to obtain input on Topics 1 & 3 above. A follow up work session with the Planning Commission will be held on August 11th to complete the discussion of Topics 2 & 4.

The consultant work tasks for Phase I will be completed by the end of August, but staff will return to the Planning Commission and City Council in September to finalize the Action Plan and grant proposal for work on Phase II priorities.

Single Family Design Standards

Mary introduced the TGM code assessment program and outlined the opportunities it provided (consultant support, voluntary program, address local priorities within the framework of smart development principles).

Mary summarized Milwaukie's existing design standards for single family housing and duplexes. The two requirements include a main entrance oriented to the street and a minimum area of windows (12%) that face the street. In addition, builders must include at least 3 design features from a menu of 12 options. Slides were shown of recent dwellings that have been built in compliance with the standards.

Mary noted that Milwaukie's existing SF design standards are similar to many other codes, with one exception. Milwaukie's code includes no standards relating to garages.

Mary noted that existing code provisions to deal with infill compatibility were somewhat limited. Mary indicated that some cities use floor area ratios (FAR) or variable lot size standards and "step down" in building heights to provide a better fit for new development in established neighborhoods. In response to a question regarding Lake Oswego's use of variable lot size standards, Mary said the result is a higher lot coverage for smaller lots, with a smaller coverage for oversize lots (while still allowing a minimum building footprint).

Mary conveyed to the City Council the input from the Planning Commission that the City consider the following options in more detail in Phase 2:

- Expanding the number of required design elements

- Increasing the required window area to more than 12%
- Revisiting the design feature menu options (including option for attached garage) and possibly requiring more than 3
- Evaluating FAR and variable lot coverage approaches
- Applying design standards to manufactured/prefabricated homes

Housing Variety

Mary provided a brief overview of existing code standards and procedures for accessory dwelling units, duplexes and townhouses. Relative to other cities, Milwaukie's standards for ADU's are confusing and the review process more burdensome. A few photos were provided of attractive ADU's over garages in Portland. This approach would not be allowed under existing Milwaukie regulations. Staff receives quite a few inquiries regarding ADU's, but few move forward to applications.

Mary also noted that Milwaukie's code does not provide incentives or flexibility to develop attached houses or duplexes on corner lots. With separate entries facing different streets, these structures can have the appearance of a single family house.

The existing zone includes a definition of "townhouse" – but the regulations don't really accommodate that housing type.

Mary conveyed to the City Council that the Planning Commission was generally open to considering more flexibility in housing types in at least some zones, as long as appropriate design standards are in place.

Multi-Family Design Standards

Mary indicated that Milwaukie has "clear & objective" design standards for multi-family housing in the downtown zones, along with a Design Review process. In the multi-family zones outside of downtown, there are no design standards in place for multi-family housing.

Based on familiarity with codes of other cities in the region, Mary indicated that it was striking that Milwaukie's code did not include basic design standards or a development review process for multi-family or commercial development.

Downtown Zones

Staff has been implementing the zoning regulations for about nine years and the very specific and prescriptive regulations have been a challenge.

Mary provided a very quick overview of Milwaukie's downtown zone regulations relative to the codes of other "centers" in the region such as Hollywood, Gresham,

Hillsboro and Lake Oswego. In general, Milwaukie's regulations are more stringent than other cities in terms of "requiring" ground floor retail and restaurants. The other cities have focused on the building forms that are suited to retail (no setbacks, generous windows, building dimensions), but they are more flexible on allowed uses. This provides the opportunity for filling buildings and activating streets in the interim while not precluding conversion to retail uses when the market will support that.

Mary also noted that few jurisdictions are as aggressive as Milwaukie in requiring a minimum of 2-3 story buildings for new construction along Main Street. She also stated that Lake Oswego has been successful in getting taller buildings in the Village redevelopment, but they've invested substantial urban renewal funds to leverage more stringent use and building design requirements.

Katie shared a list of existing uses in the Downtown zones. About 20% of the existing **uses** are non-conforming with probably 75% of the existing **buildings** non-conforming with development and design standards.

Wrap Up

Katie indicated that the Planning Commission targeted work on the Residential Design Standards as their first priority for Phase II. Several members of City Council wondered why this topic was a higher priority than updates to the Downtown Zone standards. Katie responded that the Planning Commissioners have struggled with several high-priority infill projects over the past year and they are very sensitive to the concerns of the neighborhoods.

The City Council was appreciative of the grant and the code evaluation, and they looked forward to the prospects of a second grant application and additional code updates.

Mary and Katie also noted that 4-5 stakeholder interviews were conducted in Phase I, but a Phase II project would involve much broader public outreach.

Memorandum

Date: August 26, 2009
To: Rachel Ferdaszewski, DLCDC Transportation & Growth Management Program
From: Mary Dorman, AICP
Angelo Planning Group
cc: Katie Mangle and Susan Shanks, City of Milwaukie
Re: City of Milwaukie Code Assessment
August 11th Planning Commission Work Session Summary

This memorandum summarizes the second Planning Commission work session held in the City of Milwaukie on August 11, 2009 to complete the review the APG Code Evaluation Memo. The following topics were the focus of the meeting: 1) Code Procedures, 2) Manufacturing Zone, and 3) Commercial Zones outside of Downtown.

Katie Mangle and Susan Shanks took the lead role in the presentation, with Mary Dorman and Rachel Ferdaszewski available to respond to questions if needed. Key objectives for the work session included:

- Big picture discussion of the Code Procedures and Manufacturing Zone topics
- Does the memo accurately identify code problems?
- Are there options for solutions that Planning Commissioners like or dislike more than others?
- Are there other potential solutions Planning Commissioners would like staff to investigate?
- Does the Planning Commission support adding consideration of updates to commercial zones to the Phase 2 work?

Procedures & Approval Criteria

Katie Mangle provided an overview of problems associated with the “administrative” sections of the code. The approval criteria set the context for how individual applications and development proposals are reviewed and staff often struggles with

unclear code provisions that were written in the 60's. The variance criteria and non-conforming use sections are particularly rigid and difficult to implement. Additionally, Milwaukie's code does not include an application or process for "site plan review" or "development review". Most jurisdictions in the region (including Clackamas County, Oregon City, West Linn, Lake Oswego, Beaverton, Tigard, Tualatin, Gresham, etc.) require such a review for new multi-family, commercial and institutional development. In some jurisdictions, the Planning Director makes the decision on development review applications (following public notice & a comment period). In other jurisdictions and with larger projects, a public hearing and decision by a Design Review Board or Planning Commission is more typical.

Milwaukie's code does include a process for "Transition Area Review" but this application is only triggered when a development site abuts a lower density zone.

Katie also indicated that the existing code is poorly organized and it can be difficult to find information. Many land use procedures are outlined in state statute and the TGM Model Code provides a good example that Milwaukie could use to "clean up" procedures. Katie stated that staff is hoping to do at least targeted work on approval criteria in Phase 2 to provide some flexibility and opportunities for better development solutions in a city that is largely developed.

The following points were raised in the discussion with the Planning Commission:

- Is it worth it to continue with piecemeal changes to the code?
- Would it make more sense to start over with a new code based on more progressive planning principles?

Katie responded that a comprehensive overhaul of the procedures chapter (based on the model code) wouldn't involve a lot of pain, but would result in substantial gains in efficiency. Additionally, focusing attention on the approval criteria could also provide some needed flexibility and an opportunity for more nuanced solutions for development of constrained sites.

In response to a question, Katie indicated that the TGM model code was available on line for review by the Planning Commission. In general, the Planning Commission was supportive of updating the procedures and open to considering some targeted changes to application approval criteria.

Manufacturing Zone

Katie provided an overview of Milwaukie's two industrial zones, the Manufacturing (M) zone and the Business Industrial (BI) zone. The M zone is an older, more traditional industrial zone. The BI zone allows more office and commercial uses and the BI zone also includes some design standards that result in more of an "office park" setting.

Katie indicated that the M zone is based on the manufacturing, transfer, etc. of “goods.” However, the code does not provide much guidance in defining the uses that fit the purpose of the M zone and it can be difficult to keep inappropriate uses out of the zone. With large buildings in the north Milwaukie M zone, a mix of uses and activities is not uncommon. There is a good amount of business activity in the zone, but staff often has to make interpretations about what uses are appropriate. For example, is wholesaling of cars allowed? What about RV storage? Additionally, the employee density target for the M zone is difficult if not impossible to monitor and enforce.

Jeff Klein asked if it might make sense to change the M zone north of downtown to the BI zone. With the excellent accessibility (including light rail), a transition from manufacturing to higher-density employment and office uses similar to the Kruse Way area might be appropriate. Katie responded that Jeff’s suggestion raised policy issues that should be part of a larger Comprehensive Plan discussion and were outside the scope of targeted code revisions for the M zone.

Commercial Zones

Susan Shanks provided an overview of the four commercial zones outside of downtown: 1) CG – General Commercial, 2) CCS – Community Shopping Center, 3) CL – Limited Commercial, and 4) CN – Neighborhood Commercial. Susan also showed slides of existing commercial development in the different zones.

The commercial zones are based on a list of specific uses, and staff would like to consider a broader or more flexible approach to uses, while keeping a distinction in terms of the scale of buildings in the different commercial zones. Susan also noted that everything is a conditional use in the CN zone.

In response to a question from the Planning Commission, Susan stated that the zoning map for commercial uses generally matches existing development, with the exception of an area along Harrison Street that is developed with commercial uses but is zoned residential. Susan indicated that code requirements for parking landscaping have been strengthened over the years and the landscaping around newer commercial buildings generally looks better.

Additionally, as noted earlier, there are no design standards for commercial development outside of downtown. The transition area review process has been used as leverage to get some design concessions, but it is an awkward tool.

The Planning Commission agreed that the commercial zones outside of downtown warranted attention in Phase 2. There are lots of businesses that are an important part of neighborhoods, but there is no design review. Milwaukie should consider opportunities to improve design standards to assure that the look of commercial development (even franchises) fits Milwaukie.

Priorities for Phase 2

- Strong Planning Commission support for updates to Procedures chapter based on the model code. State law sets the context for land use procedures & there will not be a need for heavy public outreach for these revisions.
- Changes to the Manufacturing zone may not be ready for prime time. Outreach to property owners and tenants would be critical. Also, policy discussions regarding the future of the north Milwaukie M zone should be addressed through periodic review and updates of the Comprehensive Plan.
- Strong Planning Commission support for review and update of the commercial zones to provide a more flexible approach to uses in addition to appropriate commercial design standards.
- Katie conveyed the strong City Council support for addressing “tweaks” to the downtown zones in Phase 2. Katie indicated that the council was looking for a little bit more flexibility but was not backing away from the overall plan for downtown and the riverfront.

Katie wrapped up the discussion and stated that staff would be coming back to the Planning Commission to review the action plan for Phase 2 work on August 25th, followed by a City Council briefing in September. The consultant work on Phase 1 needs to be wrapped up by the end of August.

Katie asked if the Planning Commission would be open to having the Design & Landmarks Commission (DLC) take the lead role on the Phase 2 work. The Planning Commission has a full docket of projects and the DLC has time, interest and expertise to tackle design standards in particular. The Planning Commission was supportive of DLC taking the lead, as long as regular briefings are provided to keep the Planning Commission in the loop. Katie assured the Planning Commission that briefings would be provided. Also, the Planning Commission would have the lead role in coordinating public hearings and formulating recommendations to the City Council on any recommended code amendments that result from the Phase 2 work.

**ATTACHMENT B:
INTERVIEW SUMMARY**

Memorandum

Date: May 14, 2009
To: Rachel Ferdaszewski, DLCD Transportation & Growth Management Program
From: Mary Dorman, AICP
Angelo Planning Group
cc: Katie Mangle and Susan Shanks, City of Milwaukie
Re: Summary of Telephone Interviews regarding Residential Infill

This memorandum summarizes the four telephone interviews that I conducted today. We had initially expected to conduct the interviews as part of the next PMT meeting scheduled for May 28th. However, the Community Development Director recommended that I conduct phone interviews instead. Staff identified the four individuals and made the initial contacts to confirm that each person was willing to participate. I followed up to schedule the interview times.

Because phone interviews and interview notes were not included in the final scope of work (and cannot be billed as a separate deliverable), these meeting notes are quite brief. However, I think the interviews highlighted some of the key issues and differences of opinion regarding approaches to consider for infill residential development.

Ray Bryan

- Ray has lived in the Historic Milwaukie neighborhood for about 10 years
- He is active with the neighborhood association and is also involved with the Public Safety Advisory Committee and LRT planning committees
- Lives near 27th with older homes and many oversized lots – Milwaukie Elementary on one side of the street
- Enjoys small town atmosphere, easy to get involved in the community
- Positive comments about planning staff
- His neighborhood is a prime area for flag lot development with deep lots; can't blame owners who want to sell and move to Arizona
- R2 zoning is odd; flag lot land division had to go through Type 3 transition area review (a positive requirement, in his opinion) with a public hearing before the PC. This at least provided some opportunity for neighborhood input on the flag lot land division
- Code only allowed a focus on the land division (lot size, access, tree mitigation, etc.); the process doesn't address the placement of the new dwellings and that only goes through building permit review
- Duplex built behind his home – windows looking in on bedroom/bathroom – privacy issues
- Construction was delayed because of financing – sidewalk/driveway was torn up for months

- Similar issue with a remodel going on in the neighborhood (no windows, bare wood) – complaint driven process
- Need some standards for how long projects can sit with no progress (building or zoning code issue?)
- How can you regulate “more sensitive” placement of new dwellings – even if they meet code standards?
- One development was required to plant trees as a condition; a later owner cut down the trees – conditions aren’t tied with a deed restriction
- Some of the dry wells aren’t maintained; water backs up
- New home near Lake Road/Vernie (?) – zoned R7 – majority of the existing homes in the neighborhood are ranch style
- Large new home (adult foster care) doesn’t fit the neighborhood at all; totally out of character (reduce height limits to match existing development patterns?); Ray recognizes that the housing type can’t be restricted under Fair Housing laws
- 35th & Wister (Lake Road Area) – 3 to 4 new homes fit in well with existing development; similar lot size; compatible style – this is a good example of positive infill
- Flag lots – homes don’t feel like they are part of the neighborhood because of the distance from the street (alternatives?); lots of trash cans on the street
- Issues with retaining walls – shouldn’t be grouped with fence standards (can excavate as deep as you want, right up to the property line/setback); can have a hole for months with no provisions for fencing/safety. Ray thinks standards for retaining walls should be addressed separately in the code (also links with Building Code)
- Look at the long term as neighborhood change; some get better, some decline
- Retaining some of the larger lots might be more valuable long term in terms of property values (space for gardens, chickens, etc.)

Alicia Hamilton

- Remodeled a house recently and found the regulations difficult to work with (primarily transportation/sidewalk improvements related to Chapter 1400 Transportation regulations)
- Hopefully, many of her issues have been resolved with recent code amendments relating to transportation chapter and “triggers” for improvements
- Cottage home on her property – stayed within the footprint but built up, replaced skin of house and ended up with quite a contemporary design (with a flat roof)
- Worked with architect – probably some people don’t like the style; it is very light with lots of windows
- Really pushed sustainability and probably hit height limit of 35 feet
- Tough to write “design standards” for SF – try to address core issues of scale relating to building bulk, etc.
- Look at ratio of the building to the lot size (possibly scale rather than apply a flat percentage)
- She’d hate to see the code regulate the details of eaves, roof pitch, etc.
- Should a traditional style of architecture be mandated?
- Not as many flag lots in her neighborhood – she has seen some problems with this development pattern in Oak Grove (other people have had to deal with drainage problems)
- Milwaukie is an affordable community – be sensitive to the cost of extra layers of design standards

Teresa Bresaw

- Teresa serves on the Milwaukie Planning Commission
- The size of the lots is important
- Small lots are a problem with minimal place to park off the street; people park all over the street
- Too much of the front yard taken up with paving/parked vehicles
- Design standards are set at the minimum – 12% windows vs. 15% standard in Portland
- Instead of 3 out of 12 elements as required currently; push to 5
- House details are very important to add interest
- Teresa isn't a fan of flat roofs – she doesn't think they fit the style of Milwaukie & they often have drainage problems
- She'd include a requirement for a minimum pitch standard
- Not opposed to flag lots – thinks they also end up with too much impervious surfaces
- Seems to push for planter strips, more efforts for greenery
- Prefers sidewalks with planter strips
- Some of the adult foster care homes dwarf the dwellings around them – 35 feet doesn't seem so high with pitched roof; more imposing with shallower/flatter roofs
- Builders keep pushing larger homes
- Garages out front – example in her neighborhood that works OK because there is a dormer over the garage
- Vehicle storage can dominate the house – can't require people to park in their garages
- Some people have been building front yard fences in the public ROW
- Drainage problems appear to be frequent in Milwaukie – not getting a good handle on grading impacts on other properties
- Teresa suggests talking with Scott Churchill (on the PC) – he's a planner and would have lots of good ideas on infill
- Older PUD (off Stanley); small lots with no sidewalks; cars are parked everywhere – not very attractive for pedestrians
- Mentioned a condo project that is well landscaped; nice transition to SF neighborhood
- Maintenance of landscaping always an issue

Andre Koshuba

- Andre builds single family homes (primarily spec) throughout the metro area – including homes in Milwaukie, West Linn, Lake Oswego, Happy Valley
- He's not a big fan of trying to regulate “quality” design through code standards
- He agrees that some builders will develop to the minimum standards, others will try to do a better job
- It is land values more than anything that affect the quality of the building design
- Discretionary design review is not workable for SF because 30 people will have 30 different opinions on the quality of the design
- He was extremely critical of Portland's very specific and prescriptive standards. He pretty much avoids developing in Portland – their process has become so difficult and it seems to contradict the city's statements that they want to encourage infill
- Andre mentioned the standards relating to percentage of frontage for garage, maximum width for garage, etc. as difficult to work with.



- Focus on standard that doesn't let garage extend in front of the façade.
- Most buyers want 2-car garage; can't fit stock plans on narrow lots
- He's wanted to do a design with French/English style homes with very steep roofs; however, the city restricts the building height to 1.5 the lot width and the plan will not meet the standards
- The neighborhood likes the look of the steep roofs
- At a minimum, provide a menu of choices and some options for flexibility

**ATTACHMENT C:
PRESENTATIONS TO PLANNING COMMISSION**



Residential Design Standards and Downtown Uses & Standards

Summary of Key Points from July 2, 2009 APG Memorandum

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Key Objectives for Work Session

- Big picture discussion – not focused on the code details
- Does the memo accurately identify problems?
- Are there options for solutions that you like or dislike more than others?
- Are there other potential solutions you'd like staff to investigate?



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Single Family Design Standards

TABLE 2. DESIGN STANDARDS FOR SINGLE-FAMILY HOUSING*				
R-7 Zone	Allowed	Existing	Proposed	Comments Staff Use Only
All new one- and two-family dwellings:				
Main entrance	Oriented to the street			
Area of windows that face the street	12% of building face minimum			
All dwellings shall include at least 3 of the following:				
• Covered porch	5 feet minimum depth			
• Recessed entry	2 feet minimum from exterior wall to door			
• Bay or bow window	1 foot minimum projection from exterior wall			
• Offset on the building face	15" minimum from one exterior wall surface to other			
• Dormer				
• Roof eaves	12" minimum projection from intersection of roof/interior walls			
• Roof line offsets	10" minimum from top surface of one roof to other			
• Attached garage				
• Cupola				
• Tile or wood shingle roofs				
• Horizontal lap siding				
• Brick covering	40% minimum of building elevation visible from street			



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Single Family Design Standards - Examples



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No design standards...

- Major expansions



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No design standards...

- Garages



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Residential Infill & Compatibility

Existing zone standards relating to:

- Lot size
- Setbacks
- Building height
- Lot coverage
- Basic design standards



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Discussion Items – Infill & Compatibility

- Potential for infill in established neighborhoods
- Wide variety of architectural styles
- Concerns with bulk, scale & fit of some new construction



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Discussion Items – Infill & Compatibility

Some options:

- Expand “required” features beyond main entry and 12% windows
- Require more than 3 additional features
- Expand menu of design features
- Consider standards for garages
- Consider step-down in building height

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Housing Variety

- Confusing standards and excessive process for Accessory Dwelling Units (ADU)
- Minimal flexibility for duplexes/attached houses on corner lots
- Minimal standards for “townhouse” development



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Multi-family Design Standards

- Existing MF design standards only apply in downtown zones
- No specific design standards for building mass, articulation, site layout



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Multi-family Design Standards

Some options:

- Good example of clear & objective design standards in Model Code
- Option of 2-tracks (standards & design review)



Downtown Zones – Uses & Standards

- Very specific limitations on uses and standards in the downtown zones
- Rigid code with limited flexibility for incremental changes
- Standards are more restrictive than other Town Centers
- No illustrations of standards or guidelines



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Discussion Points – Downtown Zones

Some options:

- More flexible approach to uses
- Phase in ground-floor retail as the market develops
- Evaluate minimum building heights



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Smart Development Code Assessment Project

Part 2: Administrative,
Commercial, Manufacturing

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Work Session Objectives

- Discuss Sections #2 and #4 of memo:
 - Administrative Procedures
 - Manufacturing zone
- Additional discussion:
 - Commercial zones
 - Downtown zones



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Key Questions

- Have the problems been accurately identified? Is anything missing?
- Are there approaches that you like or dislike more than others?
- What are your priority code projects?



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Procedures/Approval Criteria

- Procedures:
 - 19.1000 Administrative Procedures
 - 19.900 Zoning Map and Code Changes
- Approval Criteria:
 - 19.800 Nonconforming Uses/Structures
 - 19.700 Variances



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Problems with Milwaukie's code

- Highly inefficient
- Confusing
- Rigid approach: Allows for little flexibility or common sense application
- Requires a high degree of interpretation to apply the rigid code to real-world situations



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Example: Variances

Approval criteria focus on strict adherence to standards, unless doing so would be a taking of private property:

- A. unusual conditions over which the applicant has no control
- B. no feasible alternatives
- C. no adverse effects



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Example: Variances

- Same criteria for every request
- No allowance for varying from the standards to make a project *better*:
 - To avoid a stand of trees
 - To reduce impacts on neighbors



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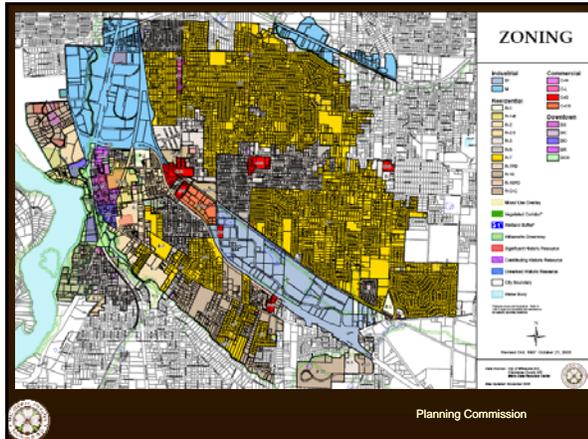
Example: Variances

Possible new approach:

- Acknowledge the code cannot provide standards to fit every potential development situation.
- Provide flexibility while ensuring that the purpose of each development standard is met.



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Manufacturing Zone

- Permitted & Accessory Uses:
 - Broad, ill-defined terms
 - Unclear review & appeal process
 - Problematic performance standards
- Development & Design Standards:
 - Minimal standards
 - Unclear review process



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Commercial Zones

- Four zones:
 - CG General Commercial
 - CN Neighborhood Commercial
 - CL Limited Commercial
 - CCS Community Shopping Commercial
- Permitted Uses
- Design Standards



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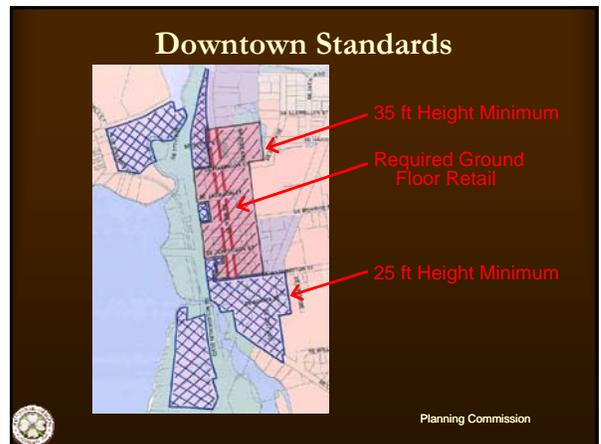
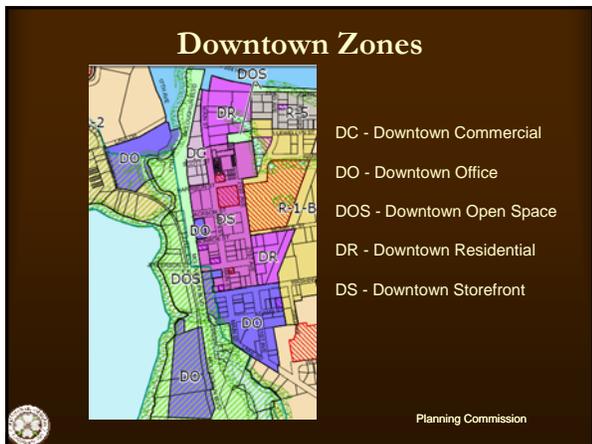
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Downtown Zones

- *Very* specific limitations on uses and standards in the downtown zones
- Rigid code with limited flexibility for incremental changes
- Standards are more restrictive than other Town Centers
- No illustrations of standards or guidelines



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Potential Solutions

- Add illustrations
- Aim for active building uses & good bones
- Simplify design review process
- Review building height, development standards, and use restrictions



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Next Steps

- Create Action Plan
- Set priorities
- Request funding for Phase II
- How to involve the DLC?



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