



March 26, 2014

Land Use File(s): ZA-13-02

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on March 25, 2014.

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| Applicant(s): | Jonathan Trutt, Northwest Housing Alternatives Jerald & Patricia McAlister |
| Appellant (if applicable) | N/A |
| Location(s): | Multiple properties at the NW corner of 23rd Ave and Lake Rd |
| Tax Lot(s): | TLID 11E36BC0 6000, 6100, 6200, 6300, 6400, 6500, 6600, 6700, 6800, & 6900 |
| Application Type(s): | Zoning Map Amendment |
| Decision: | Approved rezoning of the property from Residential Zone R-2 to Residential-Business Office Zone R-1-B |
| Review Criteria: | <u>Milwaukie Zoning Ordinance:</u> <ul style="list-style-type: none">• MMC Subsection 19.1006 Type III Review• MMC Section 19.902 Amendments to Maps and Ordinances |
| Neighborhood(s): | Historic Milwaukie |

Appeal period closes: 5:00 p.m., April 10, 2014

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1006 Type III Review. The complete case file for this application is available for review between 8:00 a.m. and 5:00 p.m. on regular business days at the Planning Department, Johnson Creek Facility, 6101 SE Johnson Creek Blvd. Please contact Li Alligood, Associate Planner, at 503-786-7627 or alligoodl@milwaukieoregon.gov, if you wish to view this case file.

This decision may be appealed by 5:00 p.m. on April 10, 2014, which is 15 days from the date of this notice. Only persons who submitted comments or made an appearance of record at the public hearing have standing to appeal the decision by filing a written appeal. An appeal of this decision would be heard by the Milwaukie City Council following the procedures of MMC Section 19.1010 Appeals. This decision will become final on the date above if no appeal is filed during the appeal period. Milwaukie Planning staff can provide information regarding forms, fees, and the appeal process at 503-786-7630 or planning@milwaukieoregon.gov.

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Findings in Support of Approval

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Mary Dorman, Angelo Planning Group, for Northwest Housing Alternatives (NHA) and Jerald and Patricia McAlister, has applied for approval to amend the Zoning Map for 10 properties from Residential Zone R-2 to Residential-Business Office Zone R-1-B. Nine of the properties are owned by NHA and located at 2302 SE Willard St, 2316 SE Willard St, 2328 SE Willard St, 2342 SE Willard St, 2400 SE Willard St, 2416 SE Willard St, 11465 SE 23rd Ave, 11481 SE 25th Ave, and an unaddressed lot (Tax Lot ID 11E36BC06200); one property is owned by the McAlisters and located at 2404 SE Willard St (TLIDs 11E36BC0 6000, 6100, 6200, 6300, 6400, 6500, 6600, 6700, 6800, and 6900). The land use application file number is ZA-13-02.
2. The applicant is seeking land use approvals for amendment of the zoning on the site from Residential Zone R-2 to Residential-Business Office Zone R-1-B in order to redevelop the NHA campus with multifamily, office, and temporary shelter uses. The zone change would permit the redevelopment of the existing NHA campus with multifamily residential and office uses.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Subsection 19.1006 Type III Review
 - MMC Section 19.902 Amendments to Maps and Ordinances
4. The future development of the proposed office use on the site will be subject to the following provisions of the MMC (these are not applicable to this land use decision):
 - MMC Section 19.1004 Type I Review
 - MMC Section 19.906 Development Review
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Subsection 19.504 Site Design Standards
5. The future development of the proposed multifamily residential use on the site will be subject to the following provisions of the MMC (these are not applicable to this land use decision):
 - MMC Section 19.1004 Type I Review or MMC 19.1005 Type II Review
 - MMC Section 19.906 Development Review
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Chapter 19.600 Off-Street Parking and Loading
 - MMC Subsection 19.505.3 Design Standards for Multifamily Housing
6. The future development of the proposed temporary shelter use will further be subject to the following provisions of the MMC (these are not applicable to this land use decision):
 - MMC Section 19.1006 Type III Review
 - MMC Section 19.904 Community Service Uses
 - MMC Chapter 19.700 Public Facility Improvements
 - MMC Chapter 19.600 Off-Street Parking and Loading

- MMC Subsection 19.505.3 Design Standards for Multifamily Housing
7. The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. Public hearings were held on March 11, and March 25, 2014, as required by law.
 8. MMC Section 19.902 Amendments to Maps and Ordinances
 - a. MMC 19.902.6.A establishes the review process for changes to the Zoning Map.

The subject site consists of 10 properties totaling 1.83 acres. The properties are owned by two parties who jointly submitted an application for the zoning map amendment. The City Attorney has determined that the application is quasi-judicial in nature and subject to Type III review per MMC 19.1006.
 - b. MMC 19.902.6.B establishes criteria for approval of changes to the Zoning Map.

The applicant has requested an amendment to the Zoning Map. The request does not include amendments to the text of Titles 14, 17, or 19, or other land use regulations within the Milwaukie Municipal Code. The application is subject to the approval criteria of this section.

 - (1) The proposed amendment is compatible with the surrounding area based on the following factors:
 - (a) Site location and character of the area.

The site is located in the southeast corner of the Historic Milwaukie neighborhood, adjacent to Lake Rd and within 300 ft of the Lake Road neighborhood. The site is less than 1/2 mile from the center of downtown Milwaukie, across the street from Milwaukie High School, and 1/4 mile from Milwaukie Elementary School. The children living on-site will have convenient access to the local schools. The site has excellent access to existing bus service on Lake Rd and downtown, and is less than 1/4 mile from the future Milwaukie light rail station on Main St and 21st Ave.

The character of the area is transitioning from a largely single-family to a mixed use area. Downtown Milwaukie is located to the west of the site and is developed with mixed-use commercial uses; properties to the southwest of the site are developed with a combination of office, single-family residential, and institutional uses; properties to the southeast of the site are developed with single-family, multifamily, office, and institutional uses; and properties to the east are developed with multifamily, institutional, and single-family uses.

The proposed amendment would permit the development of the site with multifamily residential and office uses similar to those found in the vicinity.
 - (b) Predominant land use pattern and density of the area.

The Historic Milwaukie neighborhood consists of a range of land use patterns, from small-lot multifamily to large residential estates and institutional uses. The predominant use in the Historic Milwaukie neighborhood by area is commercial (49 percent), followed by single-family residential (24 percent), multifamily residential (13 percent), institutional (8 percent), and vacant properties (6 percent).

Within the immediate area (1/4 mile of the site), the predominate land use by area is single-family residential (32 percent), followed closely by institutional (30 percent), vacant properties (12 percent), commercial properties (11 percent), and multifamily residential and industrial uses (7 percent each). The predominate residential type in the area is multifamily; there are approximately 407 dwelling units in the immediate area; 238 of the dwelling units in the area are multifamily units and 167 are single-family or duplex dwellings.

The actual residential density of the immediate area ranges from 0.75 to 43.6 dwelling units per acre; the average density multifamily residential density within 1/4 mile of the site is 24.5 dwelling units per acre. The proposed amendment permits densities of 25 to 32 dwelling units per gross acre.

- (c) Expected changes in the development pattern for the area.

The Comprehensive Plan Land Use Map designates this area for high density residential and mixed-use development, and the area is largely zoned for multifamily development. Though this zoning has existed since 1968, many of the properties in the area have not been developed to the densities permitted by the zoning. The location of the site adjacent to downtown and the arrival of the Milwaukie light rail station less than 1/4 mile from the site will likely encourage development and redevelopment of the surrounding area to the higher densities set forth by the Comprehensive Plan and permitted by the zoning ordinance.

- (2) The need is demonstrated for uses allowed by the proposed amendment.

NHA is requesting the zone change in order to redevelop its site in order to better serve its employees and clients. In the past 10 years, the number of employees at NHA has doubled due to an expanding affordable housing portfolio and an increase in the number of clients being served through their homelessness and resident services programs.

The Annie Ross House shelter is located in a building that has been converted from a single-family dwelling to five separate suites with shared bathroom and kitchen facilities. NHA plans to build a larger shelter with independent living units as part of the campus redevelopment and expansion that would be allowed by the proposed amendment.

NHA owns and manages 510 rental apartment units in Clackamas County and they are in very high demand, as evidenced by the 2 percent annual vacancy rate. NHA plans to maximize the development potential of the site in order to provide additional office space for employees, an expanded temporary shelter, and an increased number of on-site dwelling units.

- (3) The availability is shown of suitable alternative areas with the same or similar zoning designation.

There are few other areas of the city with the R-1-B zone. The largest area is east of downtown Milwaukie and it is developed with a mix of institutional, office, and residential uses. The second area is south of Lake Rd, adjacent to the subject site. These properties are developed with a mix of office and single-

family residential uses. There are no undeveloped sites of a size similar to the subject site in these areas.

- (4) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The subject property and adjacent properties are currently developed. The Engineering Department has not identified any public facility or utility deficiencies, and the site is well-served by existing transportation facilities. No additional facilities, utilities, or services are required.

- (5) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The site is located at the intersection of Lake Rd, an arterial, and 23rd Ave/Willard St, local streets. Arterial streets are designed to accommodate high volumes at moderate speeds. The City's Transportation System Plan (TSP) evaluated the transportation system through the year 2030. This evaluation assumes increased traffic volumes based on the Comprehensive Plan designation and development capacity of the city.

Under the Transportation Planning Rule's chapter on plan amendments (OAR 660-012-0060), Section 9 states that a proposed rezoning that is consistent with the existing Comprehensive Plan map and consistent with the adopted Transportation System Plan (TSP) can be approved without considering the effect on the transportation system.

The City of Milwaukie's Comprehensive Plan map shows that the subject property is within an area designated as (Commercial/High Density) Mixed Use C/HD. This designation allows and encourages a range of different uses including residential, commercial and office. The proposed amendment will bring the zoning of the site into alignment with its Comprehensive Plan designation. As such, the Engineering Director has determined that a transportation impact study (TIS) is not required. Future development or redevelopment of the site may require a TIS subject to the provisions of Chapter 19.700.

- (6) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The Planning Commission finds that the relevant Comprehensive Plan policies are those of Chapter 4 – Land Use, Residential Land Use and Housing Element.

- (i) Objective #2 – Residential Land Use: Density and Location

1. Policy 1

Residential densities will be based on the following net¹ density ranges:

¹ "In calculating buildable lands, density standards will be applied to net parcel areas to determine the maximum number of dwelling units allowed. Gross site area will be reduced to net site area according to the following schedule:

- Areas one acre or larger will be reduced by twenty percent (20%) for the purposes of right-of-way dedication."

- *Medium Density (Zones R-3, R-2.5, R-2) - 8.8 to 21.1 units per net acre*
- *High Density (Zones R-1, R-1-B) - 21.2 to 24.0 units per net acre*
- *Town Center: Outside of Downtown (Zone R-O-C) - 25 to 50 units per net acre*

The current R-2 Zone designation is described as a medium density zone and the proposed R-1-B Zone is described as a high density or mixed use zone. The Mixed Use C/HD designation of the Comprehensive Plan Land Use Map is a high density mixed use designation. Both the R-1 and R-1-B zones would implement this designation.

The Comprehensive Plan net density range of 21.2 to 24.0 dwelling units per net acre and the Zoning Ordinance gross density range of 25 to 32 dwelling units per acre appear to conflict. However, when the methodology outlined in Table 2 of the Comprehensive Plan is followed, the gross densities of the Zoning Ordinance and the net densities of the Comprehensive Plan are in general agreement.

Because the Comprehensive Plan is a policy, rather than regulatory document, the zoning density is guided by the Comprehensive Plan and implemented by the Zoning Ordinance. The Comprehensive Plan designation of the R-1-B Zone as a high density or mixed use zone, and the Land Use Map designation of the site as Mixed Use, which includes High Density uses, supports the appropriateness of the R-1-B Zone at this location.

2. Policy 6

High Density in Mixed Use Areas will be based on the following policies:

- Within the Mixed Use Area designated on Map 7 [the Land Use Map], a range of different uses including residential, commercial and office are allowed and encouraged. It is expected that redevelopment will be required to implement these policies, and that single structures containing different uses will be the predominant building type.*
- Commercial uses will be allowed at the ground floor level, and will be located relative to the downtown area so that pedestrian access between areas is convenient and continuous.*
- Office uses will be allowed at the ground and first floor levels.*
- High Density residential uses will be allowed on all levels. At least fifty (50) percent of the floor area within a project must be used for residential purposes.*

As described in Finding 8.b(6)(i).2, the High Density HD land use designation is implemented by the R-1 and R-1-B zones. The Comprehensive Plan does not identify the appropriate zones to implement the Mixed Use C/HD designation but provides the

above description of the types of high density uses to be permitted in the Mixed Use Area.

The described uses most closely reflect those permitted by the Residential-Office-Commercial Zone R-O-C, which allows a wide range of residential, office, and commercial uses. However, the R-O-C Zone has only been applied to three sites designated Town Center TC (specifically, the Murphy and McFarland sites and a portion the Providence Hospital campus). Comprehensive Plan policies support the commercial development of areas with the Commercial C or Town Center TC designation, including downtown Milwaukie, and do not support the establishment of new commercial areas outside of those designations. The R-O-C Zone permits commercial development and is a commercial zone; the Planning Commission finds that the R-O-C Zone is not the appropriate zone for this site.

The closest comparable zone is the R-1-B Zone. There is substantial precedent for applying the R-1-B Zone to areas with the C/HD designation. The R-1-B Zone and R-O-C Zones share the same development standards and minimum and maximum residential density requirements, but the R-1-B Zone allows a much narrower range of non-residential uses and does not permit commercial uses.

The Planning Commission finds that the R-1-B Zone is more in keeping with the surrounding area and is more appropriate for this location than the R-O-C Zone.

(ii) Objective #4 – Neighborhood Conservation

1. Policy 1

Within High Density areas, clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as outlined in the Historic Resources Chapter. The predominant housing type will be multifamily.

Both the existing zone and the requested R-1-B zone would permit the clearance of the existing property and new construction of multifamily housing.

(iii) Objective #5 – Housing Choice

1. Policy 5

Although not all higher density and Town Center lands will immediately be zoned for maximum permissible densities, the rezoning of these lands will be approved when it can be demonstrated that adequate public facilities exist or can be provided in accordance with City plans and standards to support increased development.

As detailed in Finding 8.b.4, adequate public facilities exist to support increased development on the site.

(iv) Objective #6 Housing Assistance

To assist low and moderate income households in obtaining adequate housing which is consistent with other housing objectives and policies.

The proposed amendment would permit the expansion of housing opportunities for low and moderate income households in Milwaukie.

- (7) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments were sent to Metro for comment. Metro did not identify any areas where the proposed amendments were inconsistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

- (8) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules

The Planning Commission finds that the criteria of MMC 19.902 are met.

Conditions of Approval

None



Dennis Egner, AICP
Planning Director

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Planning Commission (*via e-mail*)
Steve Butler, Community Development Director (*via e-mail*)
Jason Rice, Engineering Director (*via e-mail*)
Philip Kolb, Engineering Technician II (*via e-mail*)
John Stelzenmueller, Building Official (*via e-mail*)
Bonnie Lanz, Permit Specialist (*via e-mail*)
Mike Boumann and Shawn Olson, CCFD#1
NDA(s): Historic Milwaukie, Lake Road (*via e-mail*)
Interested Persons
Land Use File(s): ZA-13-02