



CITY OF MILWAUKIE

AGENDA

August 24, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time. To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-82>) and follow the Zoom webinar login instructions.

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

2.0 Planning Commission Minutes – Motion Needed

2.1 July 27, 2021

3.0 Information Items

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

5.0 Work Session Items

5.1 Summary: Comp Plan Implementation – Tree Code

Staff: Public Works Director Peter Passarelli

5.2 Summary: Comp Plan Implementation - Draft Code/Map Amendments – Batch #3

Staff: Senior Planner Vera Kolas

6.0 Planning Department Other Business/Updates

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

8.0 Forecast for Future Meetings

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

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

October 12, 2021 Hearing Item: Middle Housing Code – Hearing #1

October 26, 2021 Hearing Item: PD-2021-001, Hillside Final PD (tentative)

Milwaukie Planning Commission Statement

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

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

Public Hearing Procedure

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

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

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

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

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

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

Milwaukie Planning Commission:

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

Planning Department Staff:

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



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

July 27, 2021

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

Staff: Laura Weigel, Planning Manager
Brett Kelter, Associate Planner
Mary Heberling, Assistant Planner
Steve Adams, City Engineer
Justin Gericke, City Attorney

(00:16:50)

1.0 Call to Order – Procedural Matters*

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

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

(00:18:00)

2.0 Minutes

Chair Loosveldt had a correction to the May 11, 2021 minutes. On page 2, it should read "it was common for a structural engineer to design and re-designate a building as seismic category specific to location and occupancy." The May 11, 2021 minutes were approved with a 7 – 0 vote.

The May 25, 2021 minutes were approved with a 7 – 0 vote.

(00:20:30)

3.0 Informational Items

No information was presented for this portion of the meeting.

(00:20:39)

4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:21:31)

5.0 Public Hearing Items

(00:21:31)

5.1 ZA-2021-003, Sign Code Zoning Text Amendment

Mary Heberling, Assistant Planner shared the staff report. The applicant applied for an electronic display sign at Milwaukie High School (MHS) through the MMC 14.32 Sign Adjustment process in February 2021. The underlying zone for MHS (R-2) did not allow electronic display signs. Therefore, the applicant's only option in the Title 14 Sign Code was to apply for a sign adjustment to allow for an electronic display sign at MHS. There were two meetings previously to discuss the application. At the April 13 Planning Commission hearing, the Planning staff recommended denial of the sign adjustment proposal because it did not meet the Circumstances for Granting adjustment listed in MMC 14.32.030. At the May 11 Planning Commission Hearing, the sign adjustment proposal was denied based on lack of majority. On June 7, the applicant submitted an appeal of the Planning Commission's denial to City Council with a 90-day extension to the 120-day review period clock to give the Planning staff time to propose revisions to the Title 14 Sign Code. The proposed code amendments provide a process for a public high school existing as an approved Community Service Use (CSU) to apply for an electronic display sign. The process would require an applicant to go through a Type III land use review with a decision made by the Planning Commission. Specific standards for electronic display signs must be met because most CSUs are located in residential zones. The standards included, but were not limited to, only one electronic display sign allowed per CSU and size limitations for the electronic display of the sign. Staff proposed these amendments to create a process for a public high school existing as an approved CSU to apply for an electronic display, and to evaluate the proposal through a Type III process where public notice and a public hearing will be required.

The Planning Commission asked staff about the amended code and approval criteria.

Vice Chair Edge shared, the approval criteria should be connected with the number of students attending a school instead of whether the school was public or not.

Commissioner Hemer asked, why the high school's Category 4 status was not a deciding factor. **Heberling** responded, the code had a definition for public high schools and not Category 4 Buildings. Also, the City of Milwaukie did not know if there were other Category 4 Buildings. **Chair Loosveldt** shared, the criteria should not be determined based on the number of students. The Planning Commission spent quite a few meetings discussing the high school's Category 4 Building status and access to a backup generator. In the amended code those conversations were not included.

Commissioner Sherman shared, the approval criteria needed to include the number of students. A charter school with a small number of students could become public and apply for an electronic display sign.

The Planning Commission asked staff about the size of the sign. **Commissioners Erdt** and **Sherman** asked about the dimensions of the sign and if it could have messages on the front and back. **Heberling** responded, the sign needed to be 20 sf (square feet) or less,

which meant the sign could share messages on both sides as long as it did not go over the 20 sf maximum.

The Planning Commissioner deliberated about the amended code approval criteria. **Commissioner Hemer** shared, the code should not be amended for approval for one particular group. The Category 4 Building status with a workable generator needed to be part of the criteria. **Commissioner Edge** asked, what was the public policy objective and its intersection with the regulation. Category 4 Buildings criteria should have been included based on previous conversations. Although the Category 4 designation was not included in the code amendment, they were willing to approve it. Also, they wanted to understand what the goal was. The City had an opportunity to include the Category 4 Building status as a criteria for an electronic sign and serve a boarder community during a crisis. They encouraged City Council to revisit the goal of the code and how this regulation implemented that goal. Planning Commission also suggested that City Council consider the number of students enrolled when drafting the final code amendments. The intent of the code was not to allow any public school an opportunity for an electronic reader board, but to consider the number of students enrolled in the school.

ZA-2021-003, Sign Code Zoning Text Amendment was recommended for approval to City Council with additional recommendations with a 7 – 0 vote.

(01:00:40)

5.2 DR-2021-003, Kellogg Bowl Redevelopment

Brett Kelter, Associate Planner, shared the staff report. The proposal was to construct a six-story residential building at 10306 SE Main St. The proposal was for 178 multifamily units, including two live/work units on the ground floor. Structured parking will be on the ground floor, with additional exterior off-street parking in front of and behind the building. The building height will be four stories plus two stories with bonuses for residential use and green building. The project involved disturbance to a designated natural resource area on the site where an existing paved parking area was adjacent to an off-site pond. The subject property's flag-lot shape necessitated variances to several development standards (frontage occupancy, maximum building setback, provision of open space in the setback area, and off-street parking between the street and the building). An amendment to the zoning map was required to change the small R-5-zoned portion of the property (an existing off-street parking area in the northeast corner) to Downtown Mixed Use (DMU). The zone change was to be consistent with the rest of the property's DMU zone designation.

The Planning Commission asked staff about the nearby streets. **Vice Chair Edge** asked whether there was any consideration to dedicate the flagpole accessway as a public street. **Kelter** responded that City staff had a conversation with the applicant about that possibility. The applicant concluded that they would like to provide parking to their residents in the flag portion, and if the accessway was public right-of-way the parking would be public. **Commissioner Sherman** asked about the gate towards the back of the property. They wanted to know who would have access to the gate. **Kelter** responded that the applicant referred to the gate as an emergency-use-only access.

Commissioner Sherman shared that 23rd Ave appeared to be a single-lane street and was not built to the full right-of-way width. They wanted to understand better how that would work. **Steve Adams, City Engineer**, responded that the access gates would be available for use by the Clackamas Fire District and Public Works. 23rd Ave was a narrow and calm street and would stay that way. The City needed to place a few no-parking signs to ensure a fire truck would have access to the east-west portion of 23rd Ave. The City would not require any street frontage improvements on 23rd Ave.

The applicants shared that the requested variances were due to the lot being a flag lot and therefore the property has very limited frontage on Main St. The maximum building setback was 10 ft, which was impossible for this lot; the minimum possible setback was 260 ft due to the “panhandle” shape of the lot. The frontage occupancy variance was due to the requirement that 50% of site frontage along Main St must be occupied by a building. On this lot, the entire Main St frontage was encumbered by an access easement and it was impossible to develop directly on Main St. The variance for off-street parking was due to the code not allowing off-street parking between the front property line and the building, which was necessarily set back far from the street. The open space standard stated that, when a building was set back from the property line, 50% of the setback area must be open space. The applicant was seeking a variance because 68% of the setback area was constrained by an access easement.

The project would not create a significant transportation impact to the City's transportation system. To ensure that 23rd Ave remained calm, the residents would not have access to the street from the site. Residents will only be allowed to enter and exit the site from Main St. The applicant noted that they had presented their architectural renderings to the Design and Landmarks Committee. The applicant's goal was to minimize on-street parking and offer as much structured parking as possible. There will be close to a one-to-one parking ratio of units to parking spaces. The landscaping along the property will include hedges, aspen trees along the property line, green vase zelkova, red maple trees, shrubs, and native trees. One of the challenges with developing on the site was the natural resources overlay. The applicant had a wetlands biologist who conducted a field delineation, which determined the development on the site will not impact the natural resources overlay.

The group discussed the natural features of the project. **Commissioner Khosroabadi** noted that the apartments will be near the pond and asked how the applicant would ensure that the pond is protected and remained clean. **The applicant** responded that the site will be monitored by their leasing agent, with security measures around the site. **Vice Chair Edge** asked whether there will be there a stormwater basin that overflows to the pond. **The applicant** responded that none of the stormwater will outfall into the pond. **Vice Chair Edge** asked what the project would lose if the applicant was required to provide the buffer on the south property line to protect the water quality resource area. **The applicant** responded that, if the buffer was increased to 17 ft deep, the project would lose some of their outdoor amenities. For the site, the proposed outdoor area was the best opportunity to provide the tenants with views of the pond and enable them to enjoy the proposed outdoor furniture. It would be impossible to relocate this area to another space on the site. **Vice Chair Edge** asked about the vegetation on the southeast corner of the lot, noting that the objective of the code

was to provide more vegetation. They asked about the water infiltration and clean water, as stormwater will flow into the City's stormwater system. **The applicant** confirmed that no stormwater would go into the pond, that it would all be directed into an on-site stormwater management system. In response to a question from Vice Chair Edge about whether using pervious pavers in the buffer area would be a meaningful improvement, **Kelver** agreed with the applicant's suggestion that pervious pavers would not provide the vegetative benefit that the code intends for water quality resource areas.

The group discussed the green activities on site. **Commissioner Khosroabadi** asked about the electric vehicle charging stations and solar. **The applicant** responded that solar will be on the roof. The project will start with ten electrical vehicle charging stations and will have the infrastructure to include more if necessary.

The group discussed the flagpole accessway and public access to the site. **Vice Chair Edge** asked what the applicant's decision process had been for not dedicating the accessway as a public street. **The applicant** responded that the accessway area was important to the project to providing parking for visitors to the site as well as a location for on-site stormwater management.

Rod Smith, a resident, testified that the project appeared to be a gated community and prevented access to parts of the pond. Also, affordable housing was needed. They were concerned about the lack of access around the property and especially for cyclists. **The applicant** responded that the rear parking lot is the only thing that will be gated, in large part to ensure that the parking area is secure.

The group discussed the building design with **Brett Laurila, member of the Design and Landmarks Committee (DLC)**. **Vice Chair Edge** asked Laurila to explain why the DLC recommended the applicant to extend the canopy above the garage entryway. **Laurila** responded that there was not a clear entry to the building. The DLC's intent was to use the canopy to emphasize the building entry. **Vice Chair Edge** asked about the recommendation for a canopy over a residential entry on the southeast corner. **Laurila** responded that the purpose of the recommendation was to provide some symmetry in the canopies. **Kelver** added that the code generally required a canopy over each building entry for weather protection. **Commissioner Hemer** asked if the City of Milwaukie preferred a gate or bollard on 23rd Ave for safety purposes. **Adams** responded that Clackamas Fire and Public Works preferred a gate because gates were easier to manage than multiple bollards.

The applicant's rebuttal discussed the vegetated corridor. The code required them to provide a "functional lift" to the natural resource area. Currently, there was not a functional lift provided by the existing parking area. They will be removing the parking area and replacing it with a cemented pad for outdoor activities as well as planting vegetated near the pond. They were improving the area with a site plan that offers a functional lift.

The Planning Commission discussed the approval criteria. **Vice Chair Edge** shared that they concurred with the applicant's response about the natural resources on the

property and nearby. The 10-ft buffer between the property and pond seemed reasonable as it created an opportunity for the tenants to connect with the nearby natural resources. They voted to approve the application with a modified finding, something to the effect that the recreational benefits of the outdoor area was an appropriate trade-off for a wider buffer strip. **Commissioner Hemer** appreciated the developer using the one-to-one ratio for parking and for not seeing a parking modification. **Chair Loosveldt** appreciated the mixture of units and the detailed presentations about the approval criteria. **Kelver** said that they would revise the findings to indicate that the mitigation provided an adequate functional lift for the protected water feature and that no additional mitigation was needed beyond what was proposed.

DR-2021-003, Kellogg Bowl Redevelopment, was approved with a 6 – 1 vote.

(03:41:22)

6.0 Planning Department Other Business/Updates

On August 5th, there will be a special meeting and the recording will be available later on YouTube.

The Planning Commission will have the opportunity to have a hybrid meeting option, i.e. Planning Commissioners, as well as the public, can attend the meeting in person or via the internet. Staff will be at City Hall to host the meeting both in person and virtually.

(03:48:20)

7.0 Planning Commission Committee Updates and Discussion Items

No information was presented for this portion of the meeting.

(03:49:30)

8.0 Forecast for Future Meetings

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

Meeting adjourned at approximately 10:30 PM.

Respectfully submitted,

N. Janine Gates
Assistant Planner

Please note: Agenda items 5.1 and 5.2 share the same staff report.



CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Vera Kolas, Senior Planner and Peter Passarelli, Public Works Director

Date: August 17, 2021, for August 24, 2021, Worksession

Subject: Comp Plan Implementation Project Update – Draft map and code review #3

ACTION REQUESTED

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

ANALYSIS

Proposed Review Process

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

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

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

Project Background

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

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

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

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

Project Schedule

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

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

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

Key Changes – Batch #3

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

MMC 16.32: Tree Code

Trees provide the community many benefits, including community health, habitat, and livability. The preservation of trees on residential properties is important for the overall tree canopy in Milwaukie.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan (UFMP).

In February 2018, the Tree Board identified three priority areas to focus its efforts:

- (1) Create and adopt the UFMP (completed),
- (2) Conduct public outreach (continuous), and
- (3) Work on updating the tree code.

With the adoption of the street and public tree code in November 2020, the Tree Board has focused its efforts with the Comprehensive Plan Implementation Committee (CPIC) on developing proposed amendments to the tree code related to residential development and residential non-development sites. The desired outcome of the coordination between the two different sections of code amendments is to balance the city's goal for a 40% tree canopy and to implement the housing policies outlined in the Comprehensive plan and comply with the requirements of Oregon House Bill (HB) 2001. This is primarily accomplished with the addition of a new code section focused on tree preservation and planting in residential zones.

Residential Development Tree Permit Requirements

To work towards the achievement of the 40% canopy goal, the draft tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume, and protection standards.

Tree Preservation Standards

Tree preservation standards are established to protect existing trees on a site. To achieve a healthy, diverse, and climate-adapted urban forest, trees are prioritized for preservation based on their native and climate adaptive status in the draft residential development tree code. Priority tree species are required to be preserved except when their removal is required for development and no practicable alternatives are available. If removal is required, the private tree code establishes a maximum percentage of priority tree canopy that can be removed unless mitigation is performed (mitigation fees or discretionary alternatives).

Tree Canopy Standards

The city has a tree canopy goal of 40% canopy cover by 2040 to maximize shading and community benefits while lessening urban heat island impacts. Canopy standards are established for development sites to ensure that trees are preserved and planted intentionally to achieve canopy goals. In addition to the preservation of existing trees, a development site is required to achieve 40% tree canopy coverage through existing tree canopy or through future mature canopy coverage of new plantings unless mitigation is performed (mitigation fees or discretionary alternatives).

Mitigation Standards

Mitigation standards are established for when tree preservation or canopy standards are not practicable to meet. Mitigation fees associated with the diameter of trees removed and the total canopy percentage needed to meet the 40% standard would be paid by the permit applicant. Applicants may apply for a discretionary alternative in lieu of a mitigation fee if they pursue alternative construction designs and techniques that provide additional sustainability benefits to the site, including but not limited to, minimization of hydrological impacts, fossil fuel alternatives and energy efficiency beyond regulatory requirements, wildlife enhancements, and sustainable agriculture.

Tree Protection Standards

Construction practices without consideration to trees can lead to tree harm and even death due to damage to roots, soil compaction, and other unintended impacts to tree structures. Tree protection standards in the draft private tree code ensure preserved trees are protected from development impacts. Tree protection standards must be followed to obtain the preservation and canopy credits. Standards include development of a tree protection plan, establishment of root protection zones and management of encroachment into root protection zones, and protection fencing requirements. When the prescriptive path is not practicable, the applicant may propose alternative measures and instead follow a performance path under guidance of an International Society of Arboriculture (ISA) certified arborist.

Soil Volume Standards

Requiring appropriate soil volume for new plantings improves the tree's chance of long-term success. In the draft development tree code, developers are required to show 1,000 cubic feet of soil volume is available per tree planted. A soil volume plan created by an ISA arborist is required, and soil volume methods and specifications must be consistent with ISA best management practices. Like the tree protection standards, a prescriptive and alternate performance-based path for soil volume is offered. The project arborist must verify the soil volume plan was successfully implemented prior to tree planting.

Residential Non-Development Tree Permit Requirements

A permit will be required to remove a tree on non-development private property if:

- The tree is at least 6 inches in diameter at breast height (DBH).
- The tree is less than 6 inches and is a species specified on the City of Milwaukie rare or threatened tree list (to be developed).
- The tree was planted to meet any requirements in the private tree code.

As trees contribute to the green infrastructure of the city, permits for removal of healthy, well-functioning trees will only be issued if the applicant demonstrates that extraordinary circumstances exist. Typical tree maintenance and other minor inconveniences do not constitute as extraordinary circumstances. The urban forester will approve removal permits of healthy, functioning trees on a case-by-case basis, taking into consideration tree location, species, development, maintenance requirements, and other tree and site characteristics.

Tree removal permits may be approved if the proposed tree meets the approval criteria outlined in the draft code. Dead or dying trees without mitigation potential, significant infrastructure impacts, invasive species, safety risks to occupants of the property, fire risk as determined by the designated fire marshal for Clackamas County, and stand thinning are some examples of approval standards found in the draft proposed code. A discretionary path for removal permits is available and may be approved by a majority vote of the Tree Board if the above approval standards cannot be met.

Trees that require a permit to remove or replace must be maintained according to ISA best management practices to ensure proper care and growth, helping the city reach it's 2040 canopy goals.

Summary of Changes

The proposed code amendments, and the comprehensive plan policy they address, are included on the table below. The references are links to the specific code language

Proposed Amendment	Comprehensive Plan Policies	Proposed Municipal Code Section
Regulate preservation and protection of trees on private property in residential zones, including: <ul style="list-style-type: none"> Define standards for preserving and protecting priority trees Create a process for application and development review Define priority trees Establish minimum tree canopy of 40% per lot 	Implements Flora and Fauna Habitat, Healthy Urban Forest, Sustainable Design and Development (Natural Resources 3.3.1, 3.3.5, 3.4.1, 3.4.2, 3.4.3, 3.4.4, 3.4.5, 3.4.6, 3.5.2) Implements Built Environment, Adaption and Mitigation (Climate Change/Energy 6.1.2, 6.1.4, 6.1.8, 6.3.5) Implements Sustainability (Housing 7.3.1, 7.3.2) Implements Livability (Urban Design/Land Use 8.2.3)	16.32
Add more tree types to be consistent with Urban Forestry Management	Implements Flora and Fauna Habitat, Healthy Urban Forest (Natural Resources 3.3.1, 3.4.2, 3.4.5)	16.32

Plan (conifers, wide-canopied broadleaf, narrow-canopy broadleaf)		
Amend “Vegetation Buffer Requirements” in Willamette Greenway overlay zone to be consistent with updated tree code	Implements Willamette Greenway Boundary and Greenway Design Plan (Willamette Greenway 4.1.1, 4.2.3)	19.401
Update “Native Plant List” referenced in Natural Resource Overlay Zone to include other vegetation types and nuisance/prohibited plants	Implements Flora and Fauna Habitat, Healthy Urban Forest (Natural Resources 3.3.1, 3.3.6, 3.4.2, 3.4.5) Implements Adaption and Mitigation (Climate Change/Energy 6.3.5)	19.402
Update native vegetation and native plant definitions to be consistent with new tree code.	Implements Flora and Fauna Habitat, Healthy Urban Forest (Natural Resources 3.3.1, 3.3.6, 3.4.2, 3.4.5) Implements Built Environment (Climate Change/Energy 6.1.5, 6.1.6)	19.201

Next Steps

Outreach

Outreach materials for community education and awareness of code changes as well as other urban forest topics are being created ahead of the code adoption. Staff are working to complete a contract with the consulting firm EnviroIssues to assist with branding and key messaging development in partnership with the Tree Board to create a variety of materials to assist with outreach. In-person (as permitted due to Covid) events such as farmers markets and arbor day celebrations will be utilized to promote the city’s urban forest program, as well as online and print media.

Timeline

The draft private development tree code will be included at the Planning Commission public hearing in October with the housing and parking code. The private non-development tree code will go directly to Council in October for review to decrease the volume of code to be reviewed by Planning Commission and Council later. To keep consistency with the rest of the comprehensive plan phase I code package, both the private development and private non-development draft tree code will be brought to City Council together for final adoption later this year with the rest of the housing and parking code.

Development of Priority Tree Lists and Permit Process

The Tree Board and staff will work together to develop a priority tree list that reflect the needs of the urban forest for resiliency, ecosystem benefits and community values. In addition, natural

resource staff will work on the administrative processes and documents for private tree permits in coordination with engineering and finance departments.

Update Fee Schedule

The fee schedule will need to be updated to reflect the permit and mitigation fees created by the private tree code. Fees will need to reflect the priorities of the urban forest program for canopy preservation and tree protection.

Design and Development Standards

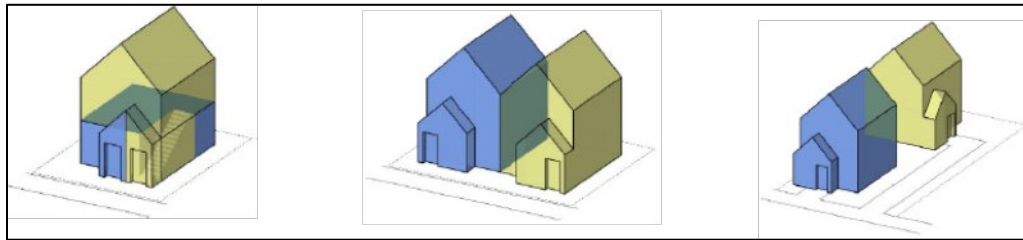
General Development Standards

Code amendments related to housing provide greater detail as to how housing permitted under the new base land use zones will be designed and built. They address the form of the housing allowed in the residential zones which provides the ability to apply standards based on the site conditions and lot size.

Under the existing zoning code, the standards limit the form and type of housing allowed within the existing zones. The proposed amendments update Milwaukie's Municipal Code, Title 19 zoning ordinance, to simplify existing residential zones, permit a broader range of middle housing types, and remove certain development standards and approval standards for middle housing types so they are subject to the same level of review currently used for single dwellings. These updates meet the policy goals of creating housing that is priced at a range of income levels citywide and clarify existing code language. All housing types must address certain development standards including: maximum lot coverage, minimum landscaping, minimum setbacks, maximum building heights and side yard height plane.

Lot Size	Permitted Housing Types currently	Permitted Housing Types proposed
1,500 sq. ft.	Rowhouse (townhouse)	Townhouse
3,000 sq. ft. to 4,999 sq. ft.	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex
5,000 sq. ft. to 6,999 sq. ft.	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex
7,000 sq. ft. and greater	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex

		Cottage Cluster
--	--	-----------------



Under the proposed design standards, a duplex could be two units stacked (left), attached (middle) or detached (right) allowing more flexibility for the size of lot that the duplex can be built on. All other design standards would still apply. This concept of having stacked, attached or detached units can apply to triplex and quadplex units as well.

Minimum lot size

The question has been raised about why the proposed code is requiring a minimum lot size for residential development. The idea is that the design and development standards would provide sufficient controls over the development and by eliminating a minimum lot size the code would provide maximum flexibility. The proposed code amendments significantly revise the current code relative to what types of housing can be built on lots of certain sizes. The proposed amendments also reduce the minimum lot size for a single unit dwelling to 3,000 sq ft, providing a small lot that can be reasonably developed with a small home and yard space.

Both the comprehensive plan and HB 2001 seek to change the historical zoning of residential areas because large minimum lot size requirements reduce affordability by making it more restrictive — and thus more expensive — to build new homes. Typically, smaller lots promote less expensive housing options because aside from requiring less land, smaller lots are likely to be developed with smaller homes. The comprehensive plan does not contain any language specific to minimum lot size, but there are several policies related to increasing housing opportunity throughout the city, which the proposed code amendments are intended to accomplish. Given the amount of change already proposed in the code, staff recommends moving forward with the proposed amendments that include minimum lot sizes.

Townhouses

The proposed amendments to the existing rowhouse standards bring the code into alignment with the requirements of HB 2001. In some cases, the proposed language is taken straight out of the Large City Model Code (LCMC). The city code related to rowhouses has, to date, not resulted in the construction of any rowhouses. This is likely due to standards that make rowhouses very difficult to build, including the minimum lot size standards.

See attachment 1 for more information of the proposed code amendments and for townhouses and direction for the discussion at the worksession.

One to Four Dwelling Units

The proposed amendments revise the current single-family and duplex design standards to be applicable to single unit dwellings, duplexes, triplexes, and quadplexes. This provides consistency and a baseline of clear and objective design standards for these housing types so that they can easily integrate into existing neighborhoods.

Please see Attachment 2 for more information about this topic and a proposed direction for the final amendments. The presentation at the worksession will include additional discussion items about this.

Cottage Cluster

The city has had code related to cottage clusters since 2012, but no cottage clusters have been built to date. This can be partially attributed to the standards and because cottage clusters are only permitted in the medium and high density zones.

The proposed amendments to the existing cottage cluster standards bring the code into alignment with the requirements of HB 2001. In some cases, the proposed language is taken straight out of the Large City Model Code (LCMC) as well as the 2019 Cottage Cluster Feasibility Study; most of the standards are optional. All that is required for HB 2001 compliance is that large cities comply with the OAR siting and density requirements. A city may select some or all of the of the LCMC design standards to include, but they are not required to adopt anything from the LCMC.

A question was raised about the requirements for the setback from the common courtyard and the requirement that 50% of the cottages be oriented to the common courtyard. Staff notes that this is a minimum standard, in that 50% of the cottages must be within a minimum of 10 feet of the common courtyard. Based on our consultant team's testing of cottage cluster designs, they recommend that the two standards, in some form, be included to ensure that some of the cottages in a cluster have some relationship to the common courtyard. Without the requirements there is no assurance that any of the cottages will be oriented to the common courtyard.

In addition to complying with HB 2001, the proposed code amendments are intended to:

- Promote market-rate provision of homes affordable to households of a variety of incomes and sizes.
- Encourage a design that balances a reduction in private outdoor space with shared outdoor common area.
- Promote community-building both within a housing cluster and with the surrounding neighborhood.

See attachment 1 for more information of the proposed code amendments and for cottage clusters, including Key Issues that will be discussed during the presentation:

- Additional standards for cottage clusters on lots over 20,000 sq ft
 - Maximum number of cottage clusters
 - The separation distance between cottages is increased
 - Cottage clusters shall be prohibited on flag lots or back lots over a certain area
 - Street-path connectivity requirements

ATTACHMENTS

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

	PC Packet	Public Copies	Packet
1. Memo re Cottage Clusters and Townhouses from Marcy McInelly dated Aug. 14, 2021	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Memo re Design Standards from Marcy McInelly dated Aug. 15, 2021	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

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

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

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-82>.

Date 14 August 2021
Subject Milwaukie Comprehensive Plan Implementation Project
To Vera Kolas, City of Milwaukie Project Management Team
From Marcy McInelly AIA, Urbsworks, Inc.

Cottage Clusters

Background

Cottage Clusters is one of the housing types that is required to be allowed by the HB 2001 Middle Housing rules. Cottage cluster-specific development and design standards have been included in the proposed code amendments, Middle Housing Code_Revised Draft, under review by the Planning Commission.

As has been discussed, there are many benefits to allowing the cottage cluster housing type generally. Housing affordability and attainability is inherent in small-footprint dwellings, compact siting, shared parking, and shared amenities (e.g., community buildings and common open space). Cottage clusters offer moderate housing density in a small-scale form that matches the scale of surrounding single dwelling residential neighborhoods. When designed carefully, cottage clusters provide a sense of community, and lend themselves to living arrangements such as co-housing. Small, detached dwellings can be sited to save trees and avoid natural resource areas.

There are some risks associated with cottage clusters however. If the lot lacks sufficient street frontage, dwellings may be difficult to serve with infrastructure or reach in an emergency, such as a fire. If the lot is located behind other lots (i.e., a back lot) these issues become more severe. For these reasons, the amendments for Milwaukie establish a minimum lot width requirement and minimum street frontage requirement for cottage cluster lots.

HB 2001 requires cities to allow cottage clusters on lots 7,000 square feet or greater. Site design testing and analysis of built examples verifies that cottage clusters are feasible on lots between 7,000 and 20,000 square feet. On lots under 20,000 square feet, many of these risks mentioned above are self-limiting due to lot size. On very large lots these issues become more concerning. The purpose of this memo is to discuss recent site design tests of large lot cottage clusters, issues of concern, and possible solutions.

Large lot cottage clusters—Issues

Two prototypical sites between 2 and 3 acres in size (90,000 and 120,000 square feet) were selected for testing. The proposed cottage cluster standards, applied at their minimum dimension, were used to test the potential “worst case” scenario. No limit was imposed on the number of cottages.

The hypothetical sites are proposed to be zoned Moderate Density Residential (RMD), and in this zone cottages are required to be detached. The test demonstrated that a significant number of cottages were possible on the sites, along with required parking, generally configured in three clusters of 12 cottages each. Twelve cottages is the proposed maximum number of cottages allowed to be oriented to one common courtyard.

By itself, each cluster of twelve cottages appeared to meet the positive objectives of the HB 2001 rules for cottage clusters. However, the spacing between clusters and the number of clusters on the site raised issues mentioned above, such as infrastructure service and emergency response.

Considerations

HB 2001 Division 46 and the Large City Model Code (LCMC) include prescriptive standards that cities are required to write into their zoning codes, and there are only a few areas in which a city may depart from the required standards. For example, cities are not allowed to apply maximum density or lot coverage to cottage clusters. Those few standards which can be “flexed” include:

- The number of feet between dwellings may be no less than 6 feet and no more than 10 feet
- A city may require a larger sized common courtyard

HB 2001 allows cities to establish standards regarding a few important items related to large lot cottage clusters, and based on our testing, we recommend discussion of these. These additional standards would be applicable to cottages on large lots only, i.e. lots over 20,000 square feet:

- Establish a maximum number of clusters on a site
- Increase the number of feet separating clusters from each other
- Prohibit cottages on flag lots or back lots over a certain size
- Subject cottage cluster proposals on lots over a certain size to additional standards and/or review procedures, e.g., street-path connectivity

Townhouses

Background

One of the HB 2001-required housing types is Townhouses (also called rowhouses), which are dwellings attached on their side walls, each on their own lots. These are required to be permitted wherever a land division can be created. A city must adhere to HB 2001 standards for minimum lot size (1,500 square feet, average), and minimum requirement for street frontage (20 feet).

When considering Milwaukie Comprehensive Plan goals, regulations allowing townhouses are desirable in that they can be used to create compact dwellings anywhere within the city. Being dwellings on their own small-sized lots, they bring the added benefit of providing homeownership opportunities.

Townhouses—Issues

Successful physical integration of middle housing relies on development standards which help match the new, different housing types, such as duplexes, with the surrounding detached single dwellings. New middle housing, including townhouses, must adhere to the same height limits and setbacks that are established for single dwellings.

There are some unique challenges to fitting townhouses into predominantly single dwelling detached zones, however. The first is avoiding the wall-like effect of three or more townhouses together, and the second is avoiding the effect of closely spaced driveways, and insufficient curb space or planting zone to accommodate on-street parking or street trees.

Proposed solutions

To address these challenges the development standards include the following:

- In the R-MD zone, to ensure that new townhomes match the development pattern of detached homes, the number of consecutive townhouses is limited to two. This limitation only applies in the R-MD zone. As long as pre-existing lot sizes lend themselves to land division, it will be possible to have multiple townhouses in the RM-D zone, as long as they do not exceed two together. For example, a 50-foot by 100-foot lot in the R-MD could be divided into two 25-foot wide lots, and accommodate two new dwellings attached on one side, each on their own lot. The total development would be subject to the same setbacks for front, side, and rear yards, and the same height limitation as neighboring single dwellings.

- To ensure that sufficient curb and plant strip area is maintained for on-street parking and street trees, the minimum distance between driveways is set at 24 feet, and applies even if each townhouse has its own driveway.

Date 15 August 2021
Subject Milwaukie Comprehensive Plan Implementation Project
To Vera Kolas, City of Milwaukie Project Management Team
From Marcy McInelly AIA, Urbsworks, Inc.

Design standards

Background

Currently, Milwaukie's Title 19 Zoning Code includes design standards for *Single-Family Dwellings and Duplexes* (19.505.1); *Garages and Carports* (19.505.2), and *Multifamily Housing* (19.505.3). To comply with HB 2001 rules for middle housing, the following amendments have been proposed:

- Extend standards contained in 19.505.1, *Single-Family Dwellings and Duplexes* to apply to attached and detached forms of single and middle housing up to four units, and rename the subsection "19.505.1 One to Four Unit Dwelling Design Standards."
- Retain standards within 19.505.3, *Multifamily Housing*, and rename Multunit Housing.
- Incorporate two new stand-alone subsections for Cottage Clusters and Townhouses (19.505.4 and 19.505.5, respectively).

Design standards—Issues

Cottage Cluster and Townhouse subsections are needed to include standards that are strictly applicable to these housing types and prove HB 2001 compliance.

Cottage Cluster standards include the following topics, and these draw from the HB 2001 Large City Model Code (LCMC) and the Milwaukie 2019 "Final Report on Cottage Cluster Feasibility Analysis":

- Façades
- Front porches
- Eave overhang
- Site design and other standards (Number of cottages allowed; common open space; off-street parking, and fences)

Townhouse standards are generally the same as standards for single dwelling, or the proposed one to four units section, however, they include a special provision for "transitional space."

One to Four Unit Dwelling design standards cover unit spacing, conversions, expansions, and remodels, and includes the following topics:

- Articulation
- Eyes on the street
- Main entrance
- Detailed design

Multunit Housing design standards apply to new multunit buildings (i.e., apartment buildings), or remodels that increase floor area greater than 1,000 SF. Building material standards applies to remodels that would replace more than 50% of the façade materials on a building within a 12-month period. This section covers

the following topics, and includes design guidelines for a discretionary approval process and design standards for an objective approval process:

- Private Open Space
- Public Open Space
- Pedestrian Circulation
- Vehicle and Bicycle Parking
- Building Orientation & Entrances
- Building Façade Design
- Building Materials
- Landscaping
- Screening
- Recycling Areas
- Sustainability
- Privacy Considerations
- Safety

Proposed integration of residential design standards solutions

As itemized above, some issues or topics covered are covered in multiple sections in slightly different ways, or apply to one housing type only, but may be desirable applied to multiple housing types. For example, some Cottage Cluster standards for common open space may be desirable applied to one to four units or some apartment buildings, such as courtyard style housing or garden apartments. In keeping with HB 2001 requirements, all design standards that apply to 1-4 units, townhouses, or cottage clusters must provide a clear and objective approval path.

A proposed solution is a universal set of design standards that apply to housing types as appropriate. Below is an example of how such a system might be structured:

Example – Residential Buildings Design Standards

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	X	X	X
Eyes on the street	X	X ¹	X
Main entrance	X	X ¹	X
Detailed design	X	X	X
Private open space	X	X	X
Public open space		X	
Transitional space			X

¹ Applies to cottages facing the street