



## COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street  
& Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

2354<sup>th</sup> Meeting

## MINUTES

MARCH 15, 2022

**Council Present:** Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

|   |  |
|---|--|
| <p><b>Staff Present:</b> Joseph Briglio, Community Development Director<br/>Justin Gericke, City Attorney<br/>Brett Kelter, Associate Planner<br/>Vera Kolias, Senior Planner<br/>Katie Newell, Library Director<br/>Ann Ober, City Manager<br/>Peter Passarelli, Public Works Director</p> | <p>Natalie Rogers, Climate &amp; Natural Resources Manager<br/>Tim Salyers, Code Compliance Coordinator<br/>Scott Stauffer, City Recorder<br/>Laura Weigel, Planning Manager</p> |
|---|--|

**Mayor Gamba** called the meeting to order at 6:00 p.m.

### 1. CALL TO ORDER

**A. Pledge of Allegiance.**

**B. Native Lands Acknowledgment.**

### 2. ANNOUNCEMENTS

**Mayor Gamba** announced upcoming activities, including the city's annual board and committee recruitment process, a land use training workshop, an Earth Day event, a community resource fair, and a prescription drug drop-off and document shred day.

**Councilor Batey** announced the Milwaukie Parks Foundation would be running a Bring Play to Milwaukie Bay fundraiser campaign.

### 3. PROCLAMATIONS AND AWARDS

**A. Milwaukie High School (MHS) Outstanding Student Achievement – Award**

**Carmen Gelman**, MHS Principal, introduced Esmerelda Reyes and Council congratulated them on their academic and extra-curricular activities.

**B. MHS Update – Report**

**Gelman** reported on the end of the North Clackamas School District's mask mandate, the return of regular student life activities, and end of school year events.

**C. Ed Zumwalt Memorial – Proclamation**

**Newell** and Zumwalt family member **Nancy Wittig** introduced the proclamation and the group remarked on Zumwalt's decades of volunteer work in Milwaukie. **Mayor Gamba** read the Zumwalt memorial proclamation.

**Ukrainian Support – Proclamation**

**Councilor Batey** remarked on the war in Ukraine and Council expressed support for the proclamation. **Mayor Gamba** proclaimed Milwaukie's support for the people of Ukraine against Russian aggression.

### 4. SPECIAL REPORTS

**A. None Scheduled.**

## **5. COMMUNITY COMMENTS**

**Mayor Gamba** reviewed the public comment procedures and **Ober** reported there was no follow-up report from the March 1 community comments. It was noted no audience member wished to speak to Council regarding non agenda item topics.

## **6. CONSENT AGENDA**

It was moved by Councilor Falconer and seconded by Councilor Batey to approve the Consent Agenda as presented.

### **A. City Council Meeting Minutes:**

1. February 8, 2022, study session,
2. February 15, 2022, work session, and
3. February 15, 2022, regular session.

**B. Resolution 21-2022:** A resolution of the City Council of the City of Milwaukie, Oregon, establishing a library fines amnesty week from April 3 through April 9, 2022, in recognition of National Library Week.

**C. Resolution 22-2022:** A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for on-call pavement evaluation and design services.

**D. Resolution 23-2022:** A resolution of the City Council of the City of Milwaukie, Oregon, adopting the Mayor/Council Communication Agreement.

Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

## **7. BUSINESS ITEMS**

### **A. Henley Place Zone Change – Ordinance**

**Kelver** reported the requested action would resolve a zoning issue related to the Henley Place development which had been approved by the Planning Commission in 2021. **Kelver** explained that a part of the project site needed to be rezoned from residential to downtown mixed use. The group remarked on the history of the residential part of the Henley Place site. They noted there was a buried creek next to the site and discussed the importance of looking for opportunities to daylight covered creeks.

It was moved by Councilor Batey and seconded by Council President Hyzy for the first and second readings by title only and adoption of the ordinance amending the Zoning Map to change the zoning for a portion of the property addresses as 10306 SE Main Street from Residential R-5 to Downtown Mixed Use. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

**Ober** read the ordinance two times by title only.

**Stauffer** polled the Council with Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

### **Ordinance 2215:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE ZONING MAP TO CHANGE THE ZONING FOR A PORTION OF THE PROPERTY ADDRESSES AS 10306 SE MAIN STREET FROM RESIDENTIAL R-5 TO DOWNTOWN MIXED USE.**

## **8. PUBLIC HEARING**

### **Public Hearing Process – Discussion**

**Kolias** reviewed staff's recommended timeline for Council to complete the Comprehensive Plan code implementation hearings. The group discussed how Council should approach both hearings, take further public comment, and conduct deliberations.

It was noted that Council would proceed to agenda item 8. B. and then 8.A.

### **B. Comprehensive Plan Implementation, Housing and Parking Code Amendments – Ordinance**

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed housing and parking code amendments, file #ZA-2021-002, to order at 7:14 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to take public comment on the proposed code amendments and continue Council deliberation.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** provided staff responses to questions raised by Council at the March 1 hearing. The group discussed staff responses to topics including: incentives for income-restricted housing; minimum setbacks for middle housing; what amenities would trigger commercial standards instead of residential; required parking spaces per housing unit in general and for developments on arterial and collector streets; why the parking study results could not be applied citywide; how an existing front yard garage could be converted into an accessory dwelling unit (ADU); differences between side and front yards; and the complexities and trade-offs of setting a minimum development standard lot size for middle housing.

**Kolias** and **Rogers** discussed the city's experiences approving ADU applications in recent years and how ADUs typically impact a property's tree canopy. They presented an example of how an ADU addition would work under the proposed tree code and the group commented on how soil volume is calculated for new ADUs and the meaning of a community garden in terms of adding a new ADU.

**Kolias** reviewed next steps in the hearing process.

**Councilor Nicodemus** and **Rogers** remarked on the types of plantings that may be proposed or required when an ADU is added to a single-family home.

**Councilor Batey** and **Kolias** reviewed the proposed lot and vegetation coverage standards and noted there was no coverage requirement for affordable housing units.

The group noted that the proposed code language did not reflect changes agreed to by Council in previous hearings, but the changes would be in the final ordinance document.

Correspondence: **Stauffer** noted that Andy Holthouse, Councilor Falconer, and Niles Hagen had submitted comments on the housing and parking code changes.

Conduct of Hearing: **Mayor Gamba** reviewed the hearing procedures.

#### Audience Testimony:

**Jon Brown**, Milwaukie resident, commented on why it was a problem for Council to split the hearings on the tree and housing and parking code changes, noting how the topics are related. **Mayor Gamba**, **Brown**, and **Councilor Batey** remarked on the calculations for how much and where new pavement is placed around existing trees.

**Robert Massey**, Planning Commissioner, reviewed the Comprehensive Plan Implementation Committee's (CPIC's) work on the code changes and noted that the CPIC had not proposed no off-street parking for middle housing units. **Massey** commented on predictions about future parking needs and encouraged Council to maintain an off-street parking requirement for middle housing units.

**Stauffer** noted that Milwaukie resident Paul Anderson submitted comments during the hearing that would be shared with Council.

**Mayor Gamba** recessed the meeting at 8:19 p.m. and reconvened at 8:27 p.m.

**Anderson** commented on the need for the tree and parking and housing code changes to be considered together and suggested the city's 40 percent tree canopy goal was unrealistic given the proposed housing setback requirements.

Staff Response to Testimony: **Rogers** responded to Anderson's comment about setbacks, reporting that the proposed code would not require a setback for trees.

Questions from Council to Staff: Council had no further questions for staff.

Close Public Comment: **It was moved by Councilor Falconer and seconded by Council President Hyzy to close the public comment part of the hearing on the proposed housing and parking code amendments for today. Motion passed with the following vote: Councilors Batey, Nicodemus, Falconer, and Hyzy and Mayor Gamba voting "aye." [5:0]**

**Mayor Gamba** closed the public comment part of the hearing at 8:38 p.m.

Council Discussion: Council discussed how to proceed with the deliberation topics and agreed to start with the housing code changes.

**Councilor Batey** suggested that the allowed housing height of 35-feet be reduced to 30-feet with a 10-foot bonus for affordable housing to better match the surrounding neighborhoods. Council discussed how tall housing had played out in Portland, what types of affordable housing would qualify for a height bonus, the differences between a 30-foot and 35-foot house, and the impact yard setbacks make on tall houses. **Mayor Gamba** summarized that Council did not support reducing the allowed building height from 35-feet, but Council did support a height bonus for affordable housing.

**Councilor Falconer** suggested there was no downside to allowing a cottage cluster to have common area setbacks to preserve trees, which the proposed code would not allow. Council discussed cottage cluster layouts and what setback areas should be considered common areas. It was Council consensus that the code should state that setbacks between housing units would not count as common areas.

**Mayor Gamba** observed that the code required street frontage for flag lots to be twice as big if there were two houses on the lot. Council remarked on flag lot frontage widths and emergency vehicle accessibility concerns. It was Council consensus to not require flag lot street frontages be twice as wide for lots with two houses.

The group noted that changes to the proposed code that Council had agreed to make in previous hearings had not been added to the most recent code package.

**Mayor Gamba** asked if a variance on a setback was allowed in the code and if the Planning Commission would have discretion to give setback allowances for trees. **Kolias** responded that criteria to preserve trees would be added per Council direction.

The group discussed Council's previous decisions regarding height bonuses for certain lot sizes and incentives for middle housing that maximized lot coverage. **Councilor Batey** expressed support for giving middle housing projects a 10 percent height bonus if they didn't exceed two-stories. The group noted new code sections would refer to building height in terms of feet and not the number of stories. It was Council consensus to further revise the middle housing code for building heights at a future hearing.

**Councilor Falconer** referred to the review process for middle housing developments that didn't include cottage clusters. **Kolias** noted that the code and state law addressed cottage clusters separately in terms of setbacks.

**Councilor Batey** expressed concern that the code would only require a 10-foot front yard setback. The group noted that existing housing across the city have smaller front yards and discussed how wide a front yard setback should be, observing environmental and social justice concerns about a lack of open space, and whether the required yard setback criteria in the code would be flexible enough to consider tree canopy goals.

The group discussed holding a special session on March 29, 2022, to allow Council to focus on the proposed code changes. It was Council consensus to schedule a special session on March 29. It was noted that with a March 29 special session and another hearing on April 5, Council would be expected to adopt the code on April 19.

**Mayor Gamba** summarized it was Council consensus to add a Type II approval process to allow for ADU applications that adjust yard setbacks to protect trees.

The group noted the benefit of having code language in graphic and table formats.

The group reviewed the list of Type II variances for yard setbacks and **Mayor Gamba** suggested a rear yard could be 10 feet to protect trees. The group remarked on giving the code flexibility in terms of yard setbacks and discussed whether a 10-foot yard would be too small.

**Kolias** presented a staff recommendation that ADUs up to 800 feet would have certain setbacks and standards to better incentivize smaller units that would be different than requirements for ADUs bigger than 800 feet. **Mayor Gamba** agreed with the recommendation and suggested that the requirement that an ADU be a certain percentage size of the main house be removed. The group remarked on differences between an ADU's footprint and total square foot, noting that two story ADUs could have different setback and tree preservation requirements. It was Council consensus that through a Type II review process an ADU rear yard setback could get a five-foot variance for tree preservation. The group discussed the impact of a two-story ADU and how visible such structures are from adjacent properties. **Council President Hyzy** noted the importance of the code considering large tree canopies.

Council noted there were additional housing code topics to deliberate on at the March 29 special session. It was the non-unanimous Council consensus that the code should allow a five-yard setback variance for ADUs over two stories.

**Councilor Batey** suggested 3,000 square foot lots would encourage smaller single-family housing undermining the city's goal of encouraging middle housing and suggested a single-family residential house should be on at least a 5,000 square foot lot. The group remarked on how middle housing could be placed on 3,000 or 6,000 square foot lots.

Continue Hearing: It was moved by Councilor Falconer and seconded by Council President Hyzy to continue the hearing on the Comprehensive Plan housing and parking code amendments, file #ZA-2021-002, to a date certain of March 29, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba closed the public hearing at 10:12 p.m.

**A. Comprehensive Plan Implementation, Tree Code Amendments (continued) – Ordinance and Resolution**

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed amendments to the code, file #ZA-2021-002, to order at 10:13 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to continue the hearing to March 29.

Continue Hearing: It was moved by Councilor Batey and seconded by Councilor Nicodemus to continue the hearing on the Comprehensive Plan tree code amendments, file #ZA-2021-002, to a date certain of March 29, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba closed the public hearing at 10:14 p.m.

**9. COUNCIL REPORTS**

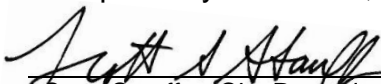
None.

**10. ADJOURNMENT**

It was moved by Councilor Nicodemus and seconded by Council President Hyzy to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba adjourned the meeting at 10:15 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Scott Stauffer, City Recorder