

# REGULAR SESSION

# AGENDA

## MILWAUKIE CITY COUNCIL OCTOBER 20, 2009

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2064<sup>th</sup> MEETING**

### REGULAR SESSION – 7:00 p.m.

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- 5. PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
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**Staff: Mike Swanson, City Manager**
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**Public Information**

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email [ocr@ci.milwaukie.or.us](mailto:ocr@ci.milwaukie.or.us) at least 48 hours prior to the meeting.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS,  
COMMENDATIONS,  
SPECIAL REPORTS,  
AND AWARDS





**To: Mayor and City Council**

**Through: Mike Swanson, City Manager  
Kenneth Asher, Community Development and Public Works Director**

**From: Katie Mangle, Planning Director**

**Subject: Priorities for Zoning Code Improvement Grant Application**

**Date: October 12, 2009 for October 20, 2009 Regular Session**

**Action Requested**

No formal action is requested. Staff is sharing the recently completed Smart Growth Code Assessment Final Report (see Attachment 1) and seeking feedback on project priorities prior to submitting a grant application for funding to implement some of the projects identified in the Final Report's Action Plan.

**History of Prior Actions and Discussions**

**August 8, 2009:** Staff briefed Council on the City's Smart Development Code Assessment Project, focusing on the Angelo Planning Group (APG) code evaluation memorandum that identified a number of code problems and some preliminary solutions.

**July 7, 2009:** During a joint session with the Planning Commission, Council reviewed the workplan for improving the City's zoning code.

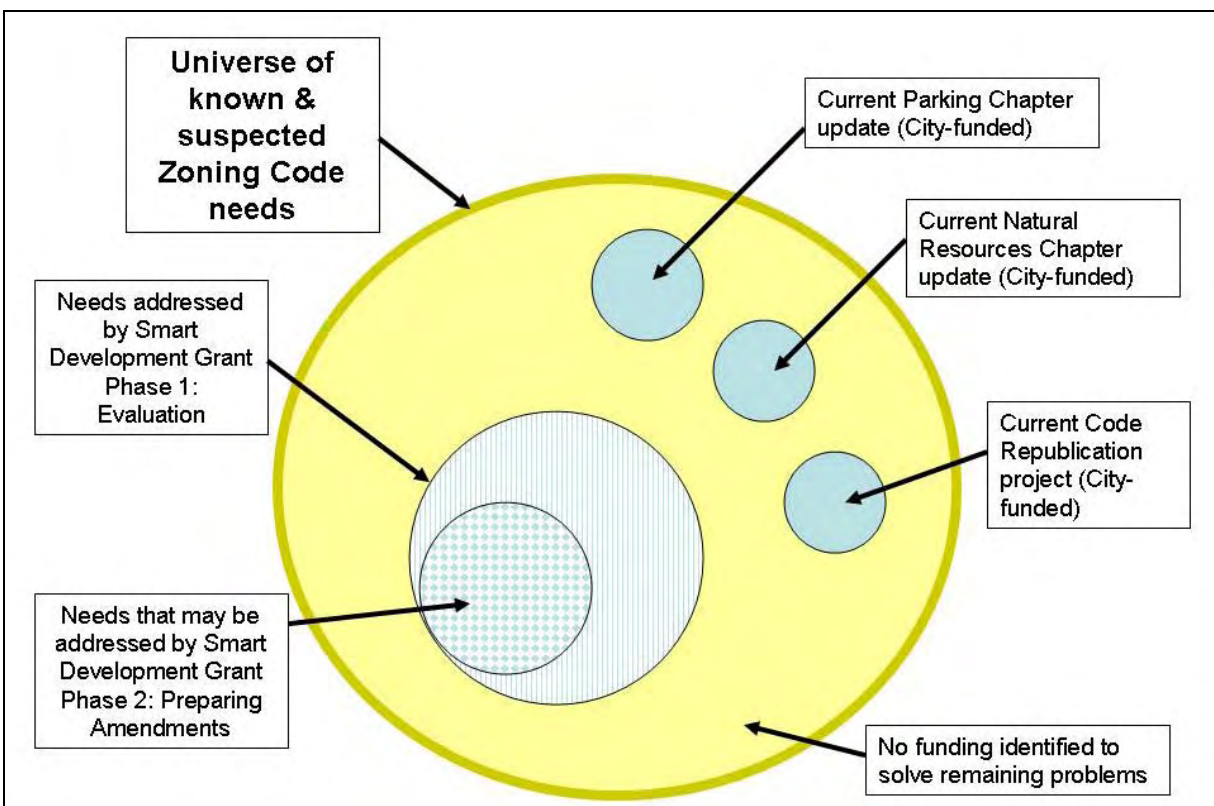
**May 5, 2009:** Staff informed Council that the City received a grant from the State of Oregon to conduct an assessment of several parts of the Milwaukie Municipal Code related to zoning and development.

**May 20, 2008:** During a work session review of the Downtown Plan, council directed staff to continue to implement the vision outlined in the Plan, but to "refresh the code" to allow a little more flexibility.

## **Background**

Over the past ten years, staff and the Planning Commission have identified a long list of problems with the Zoning code, and tackled them as resources allowed. Occasionally, notable projects such as the Columbia Care residential facility have raised awareness in the broader community of the impacts these code problems have on community livability and economic development. Staff’s assessment has long been that a re-write of the whole code is needed, but that such a venture would be cost-prohibitive.

The purpose of this project has been to take a subset of the universe of known Zoning Code problems (those eligible for examination through the Smart Growth Code Assistance grant), define them, identify the scale of potential solutions, and develop a preliminary scope of work for addressing those problems. It is important to note that this table only includes issues related to the topics covered during the Code Assessment project – as illustrated below, it does not reflect the full universe of Milwaukee’s code improvement needs.



The next step will be to request a second round of funding from the Smart Growth Code Assistance program for as many of those projects as possible. Staff anticipates that the program will not be able to fund all of the identified projects, so, before requesting the grant, the City must define which projects are priorities. The Action Plan included as part 3 of Attachment 1, defines problems, potential solutions, next steps, and priorities.

### **Action Plan**

The final deliverable from APG during this phase of the code assessment project was the Final Report, which contains an Action Plan (see Attachment 1, section 3). The Action Plan attempts to define and prioritize needed code amendments. It is important to note that this table only includes issues related to the topics covered during the Code Assessment project – it does not reflect the full universe of Milwaukie's code improvement needs.

The primary purpose of the Action Plan is to help the City set priorities for an application for a grant from the TGM Smart Development Code Assistance program to solve the identified problems. After working with the Planning Commission to refine the Action Plan, staff is seeking Council's concurrence on pursuing grant funding for the following list of priorities:

1. Residential Design Standards:
  - Single family architectural design: new or expanded standards for the design of new or significantly remodeled homes.
  - Residential infill compatibility: new standards to address compatibility of new development in residential zones
2. Administrative Provisions and Review Criteria
3. Commercial Use and Design Standards: New standards to address the design of commercial development outside of downtown
4. Downtown land uses and design standards: The Planning Commission listed this as a Medium priority. Staff recommends that these code issues be addressed in coordination with that project, should Council choose to pursue an urban renewal program,

### **Next Steps**

With Council's concurrence, staff will work with TGM program staff to prepare a scope of work for the second phase of this project. TGM staff anticipates awarding Milwaukie another TGM grant during the 2009-10 fiscal year to fund a project to address some of the issues identified in the Action Plan. The next project will build on the Final Report and include consultant assistance with research, analysis, public involvement, and preparation of revised ordinances.

### **Concurrence**

The Planning Commission has reviewed the Code Assessment memo and Action Plan, and concurs with the findings and priorities reflected in each. This project has sparked several interesting work session discussions, as shown in the draft minutes from the Commission's August discussion of the Action Plan (see Attachment 2). The Design and Landmarks Committee reviewed the sections relating to residential design

standards and downtown standards and members look forward to participating in upcoming projects.

### **Fiscal Impact**

Oregon TGM program staff has estimated that approximately \$40,000 may be awarded to fund some of the projects prioritized by the City. The City would not be required to provide a local match, other than staff time, to take advantage of this grant. Additional state funding sources may be available to fund projected related to streamlining land use approval processes. Staff estimates that the cost to complete all of the projects listed as High and Medium priorities would be \$80,000. If the projects identified in the Action Plan are a City priority, the Planning Department will include them in the next fiscal year's budget request.

### **Work Load Impacts**

This is a significant focus for Planning staff during 2009. Implementation of the projects listed in the Action Plan would, even with consultant assistance, require significant on-going work by Planning staff.

### **Alternatives**

None.

### **Attachments**

1. Smart Development Code Evaluation Final Report (Action Plan is included as section 3)
2. August 25, 2009 Planning Commission draft minutes (excerpt)

ATTACHMENT 1

**FINAL REPORT**  
**CITY OF MILWAUKIE CODE ASSESSMENT**



**AUGUST 2009**

**Funded by:**  
**Oregon Transportation & Growth Management**  
**Smart Development Code Assistance**

**Prepared by:**  
**Angelo**  
planning group

### **Acknowledgements**

*This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and the State of Oregon funds.*

*The contents of this document do not necessarily reflect views or policies of the State of Oregon.*



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- II. Evaluation Memorandum
- III. Action Plan Memorandum

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- 1. Part 1: Residential Design Standards & Downtown Zones
- 2. Part 2: Administrative, Commercial, & Manufacturing

## I. Executive Summary

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

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

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

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

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

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

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

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



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

## **APG Observations**

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

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

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

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

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

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

# Memorandum

**Date:** July 2, 2009

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

**From:** Mary Dorman, AICP  
Serah Overbeek, AICP

**cc:** Rachel Ferdaszewski, TGM Code Assistance Grant Manager

**Re:** Task 2 - Code Evaluation Memo

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

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

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

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

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



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## I. Residential Design Standards

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

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

### Overview of Existing Single Family Residential Design Standards

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

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

### Problems with Residential Design Standards

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

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



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## Discussion of Potential Solutions

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

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

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

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

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

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

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

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



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

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

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

#### Overview of Existing Residential Infill Standards

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

#### Problems with Residential Infill

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

#### Discussion of Potential Solutions

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



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

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

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

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

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

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



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

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

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

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

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

Notes:

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

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

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





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

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

#### Overview of Existing Multi-family Design Standards

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

#### Problems with Multi-family Development

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



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

#### Discussion of Potential Solutions

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

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

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

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

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

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



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## Overview of Existing Housing Type and Accessory Dwelling Unit Standards

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

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

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

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

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

## Problems with Housing Type and ADU Standards

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

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



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

#### Discussion of Potential Solutions

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

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

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

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



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

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

## **II. Procedures**

### Overview of Existing Procedures

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

### Problems with Existing Procedures

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

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



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

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

#### Discussion of Potential Solutions

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



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

The following is an outline of chapters contained within Article 4 of the Model Code. Due to its length, the full text of Article 4 is not included with this memo, but is available online from the TGM website<sup>1</sup>.

**Article 4 - Administration of Land Use and Development**

*4.1 - Types of Review Procedures*

*4.2 - Land Use Review and Site Design Review*

*4.3 - Land Divisions and Property Line Adjustments*

*4.4 - Conditional Use Permits*

*4.5 - Master Planned Developments*

*4.6 - Modifications to Approved Plans and Conditions of Approval*

*4.7 - Land Use District Map and Text Amendments*

*4.8 - Code Interpretations*

*4.9 - Miscellaneous Permits - Temporary Uses, Home Occupations*

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

### **III. Downtown Zones**

Overview of Existing Downtown Zones – Chapter 19.312

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

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

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



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

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

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

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

The development standards for the DS zone require:

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

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

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

The development standards for the DO zone require:

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

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

- A variety of housing types are *permitted*





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

The development standards for the DR zone require:

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

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

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

#### Problems with the Downtown Zones

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

Primary problems with the existing Downtown Zones are summarized below:

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



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

#### Discussion of Potential Solutions

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

#### **IV. Manufacturing Zone**

##### Overview of Existing Industrial Zones

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

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

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



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

#### Problems with Manufacturing (M) Zone

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



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

#### Discussion of Potential Solutions

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

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

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



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- Industrial Service
  - Railroad Yards
  - Waste Related

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

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

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

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

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

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

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

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



# Memorandum

**Date:** August 27, 2009

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

**From:** Mary Dorman, AICP  
Serah Overbeek, AICP

**cc:** Rachel Ferdaszewski, TGM Code Assistance Grant Manager

**Re:** Smart Development Code Evaluation - Action Plan

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

The Action Plan focuses on six key areas.

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



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

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

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

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



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

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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



## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

## Milwaukie Action Plan Table

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

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



# Memorandum

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

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

The purpose of the kick-off meeting was to:

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

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

## Objectives and Priorities for the Code Assessment

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

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

## 1. Residential Design Standards

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

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

## 2. Procedures

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

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

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

### 3. Downtown Zone Standards

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

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

### 4. Manufacturing (M) Zone

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

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



## Project Schedule

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

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

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

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

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

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

## Background Materials

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

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

City staff will also provide the following information to APG:

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

Tour

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

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

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

# Memorandum

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

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

The purpose of the second PMT meeting was to:

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

### Schedule

The PMT agreed to the following schedule for upcoming tasks:

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



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

**General Comments**

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

**Multi-family Design Standards**

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

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## Compatibility for Residential Infill and Redevelopment

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

## Single Family Residential Design Standards

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



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## Accessory Dwelling Units

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

## Procedures

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

## Downtown Zone Standards

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

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

### **Manufacturing Zone**

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

### **Contract Issues and Phase 2**

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

# Memorandum

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

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

Key objectives for the work session included:

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

## Introduction

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

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

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

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

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

### **Single Family Design Standards**

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

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

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

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

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

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

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

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

### **Housing Variety**

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

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

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

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

### **Multi-Family Design Standards**

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

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

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

### **Downtown Zones**

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

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

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

Several Planning Commissioners agreed that this is a challenging issue:

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

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

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

### **Wrap Up**

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

- Procedures
- Manufacturing Zone

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

# Memorandum

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

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

Key objectives for the work session included:

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

## Introduction

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

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



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

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

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

### **Single Family Design Standards**

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

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

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

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

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

- Expanding the number of required design elements

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

### **Housing Variety**

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

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

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

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

### **Multi-Family Design Standards**

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

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

### **Downtown Zones**

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

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

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

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

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

### **Wrap Up**

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

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

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

# Memorandum

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

---

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

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

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

## **Procedures & Approval Criteria**

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

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

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

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

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

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

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

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

### **Manufacturing Zone**

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



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

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

### **Commercial Zones**

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

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

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

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

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

---

## Priorities for Phase 2

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

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

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

**ATTACHMENT B:  
INTERVIEW SUMMARY**



# Memorandum

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

---

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

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

## Ray Bryan

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

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

### **Alicia Hamilton**

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

## Teresa Bresaw

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

## Andre Koshuba

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



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

**ATTACHMENT C:  
PRESENTATIONS TO PLANNING COMMISSION**



## Residential Design Standards and Downtown Uses & Standards

Summary of Key Points from July 2, 2009 APG Memorandum

Planning Commission

## Key Objectives for Work Session

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



Planning Commission

## Single Family Design Standards

R-7 Zone	Allowed	Existing	Proposed	Comments Staff Use Only
<b>All new one- and two-family dwellings:</b>				
Main entrance	Oriented to the street			
Area of windows that face the street	12% of building face minimum			
<b>All dwellings shall include at least 3 of the following:</b>				
• Covered porch	5 feet minimum depth			
• Recessed entry	2 feet minimum from exterior wall to door			
• Bay or bow window	1 foot minimum projection from exterior wall			
• Offset on the building face	18" minimum from one exterior wall surface to other			
• Dormer				
• Roof eaves	12" minimum projection from intersection of roof/vertical walls			
• Roof line offsets	10" minimum from top surface of one roof to other			
• Attached garage				
• Cupola				
• Tile or wood shingle roofs				
• Horizontal lap siding				
• Brick covering	40% minimum of building elevation visible from street			



Planning Commission

## Single Family Design Standards - Examples



Planning Commission

## No design standards...

- Major expansions



Planning Commission

## No design standards...

- Garages



Planning Commission

## Residential Infill & Compatibility

Existing zone standards relating to:

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



Planning Commission



## Discussion Items – Infill & Compatibility

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



Planning Commission



## Discussion Items – Infill & Compatibility

Some options:

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

Planning Commission



## Housing Variety

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



Planning Commission



## Multi-family Design Standards

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



Planning Commission



## Multi-family Design Standards

Some options:

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



### **Downtown Zones – Uses & Standards**

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



Planning Commission

### **Discussion Points – Downtown Zones**

Some options:

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



Planning Commission





## Smart Development Code Assessment Project

Part 2: Administrative,  
Commercial, Manufacturing

Planning Commission

## Work Session Objectives

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



Planning Commission

## Key Questions

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



Planning Commission

## Procedures/Approval Criteria

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



Planning Commission

## Problems with Milwaukie's code

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



Planning Commission

## Example: Variances

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

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



Planning Commission

## Example: Variances

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



Planning Commission

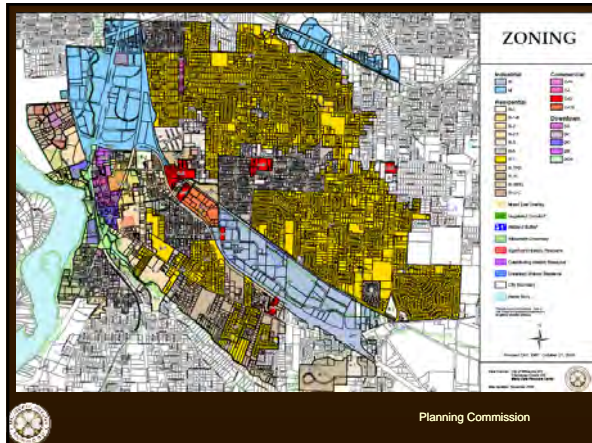
## Example: Variances

Possible new approach:

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



Planning Commission



Planning Commission

## Manufacturing Zone

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



Planning Commission

## Commercial Zones

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

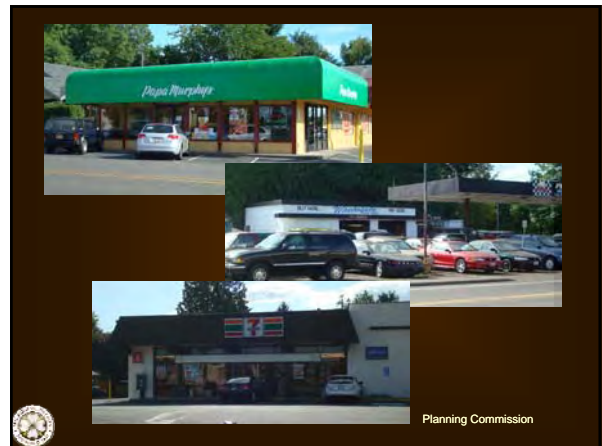


Planning Commission





Planning Commission



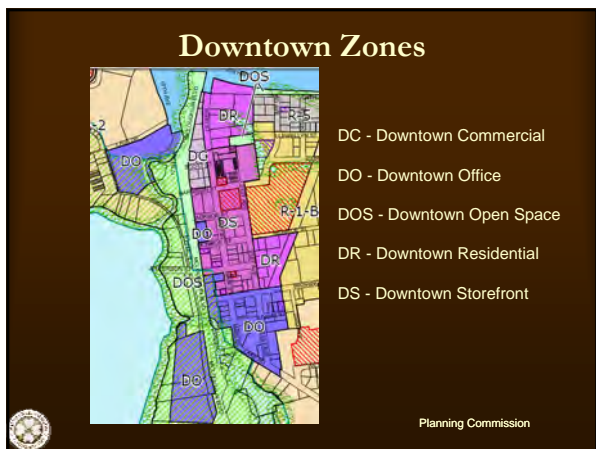
Planning Commission



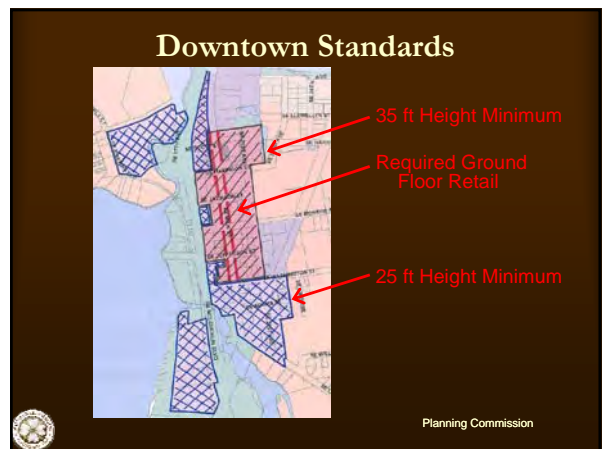
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Planning Commission



Planning Commission



Planning Commission

## Downtown Zones

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



Planning Commission

## Potential Solutions

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



Planning Commission

## Next Steps

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



Planning Commission

# ATTACHMENT 2

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, August 25, 2009  
6:30 PM**

**COMMISSIONERS PRESENT**

Jeff Klein, Chair  
Lisa Batey  
Teresa Bresaw  
Scott Churchill

**STAFF PRESENT**

Katie Mangle, Planning Director  
Susan Shanks, Senior Planner  
Li Alligood, Assistant Planner  
Brad Albert, Civil Engineer  
Bill Monahan, City Attorney

**COMMISSIONERS ABSENT**

Dick Newman, Vice Chair  
Paulette Qutub  
Chris Wilson

**6.0 Worksession Items**

6.1 Summary: Smart Development Code Assessment Action Plan draft

Staff Person: Katie Mangle/Susan Shanks

**Susan Shanks, Senior Planner**, stated that the Smart Development Code audit was underway with the consultant and was near the end of Phase 1, which was funded by the State's Transportation Growth Management (TGM) Program. The funding followed the State's fiscal year, so staff hoped to receive funding for Phase 2 soon.

- She displayed an abbreviated version of the Milwaukie Action Plan table from the epacket that condensed the information gathered about the identified problems.
  - The table delineated six categories: Residential Design Standards with 3 sub categories; Housing Variety including accessory dwelling units, townhouses, and duplexes; Review Processes and Procedures; Downtown Zones; Manufacturing Zones; and Commercial Zones. Commercial Zones was a topic area added as a result of input from the Planning Commission.
  - The Code sections were identified for each area in the table, as well as the desired outcome and problem statements discussed in the longer memo from Angelo Planning Group. The table identified where existing Code language merely needed to be refined and where it was necessary to develop new language or a new Code.
  - There were no Code guidelines regarding infill compatibility and multi-family residential design standards. Pursuing that as a project would entail development of

41 new Code language. The guidelines for townhouses were referenced in different use  
42 zone sections, but were very confusing and not explicit. Clear direction and Code  
43 language regarding townhouses was missing and so could be considered a new  
44 Code language project.

- 45 • Commercial Design Standards were missing from the current Code and the  
46 Manufacturing Zone should perhaps be rewritten rather than tweaked.
- 47 • Next Steps in the table included Urban Design support, Additional Analysis and  
48 Research, City Council and Planning Commission Worksessions, and Public  
49 Outreach Effort.
  - 50 • Outside help was needed with Urban Design Support to develop graphics or  
51 study Code language for architectural design input.
  - 52 • Additional Analysis and Research were areas that required more than using and  
53 tweaking the model Code. The different options required evaluation regarding  
54 what would fit in Milwaukie.
  - 55 • The Public Outreach column indicated areas where the City needed input from  
56 the public.
- 57 • The Priority Column was staff's view of where each different Code project would fall  
58 based on what was heard from the Planning Commission and City Council. Tonight's  
59 discussion was about prioritizing issues because it was possible that funding would  
60 be limited or that staff would not be able to handle the workload.

61

62 **Commissioner Bresaw** stated that her neighbor's high priority was the fact that he  
63 could not build his detached garage with office above because the Code was too strict.  
64 He wanted his garage's roof to match the slope of his house's roof, which meant a taller  
65 structure because the garage had a wide footprint.

- 66 • **Ms. Shanks** responded that in 2002 the Accessory Structure Standards and Design  
67 Standards were radically altered in response to the pole barn scenario, limiting the  
68 footprint for detached accessory structures. Due to other development standards, if  
69 an accessory structure was too close to the property line or if there was already too  
70 much lot coverage, an accessory structure could not be altered.
- 71 • If Accessory Dwelling Units (ADUs) were included in the Code project, some key  
72 questions were: should ADUs be allowed as detached structures and should they be  
73 allowed as detached structures within existing detached structures, like garages. The

74 design standards for detached accessory structures would need to be reviewed  
75 because 2 stories were not possible with a 15 ft maximum height.

76

77 **Ms. Mangle** noted that staff wanted to be sure they were characterizing projects  
78 correctly and hoped the Action Plan Table would be helpful for immediately guiding the  
79 grant application next month. For items that did not get immediate funding, the table  
80 would also be used as a template for expressing and defining other projects, like the  
81 Sign Code and Historic Resources, which were not captured by the grant. The Action  
82 Plan Table would help keep track of the different problems in the city. Feedback on that  
83 was also requested.

84

85 **Commissioner Churchill:**

- 86 • Assumed that prioritizing Downtown Design Standards as medium was because  
87 good controls were already in place.
- 88 • **Ms. Shanks** clarified that some key questions were about whether the prohibited  
89 materials list was too restrictive. The Design Standards project also focused on  
90 what uses were not wanted versus what was wanted. The Design Standards  
91 were very subjective in general, so something was missing in terms of graphics,  
92 stating what was desired, and perhaps looking at the prohibited materials list  
93 because it did not keep up with the evolving materials available in construction  
94 today.
- 95 • **Ms. Mangle** added that the City did have standards, but could do better because  
96 some areas had no standards. Feedback from the Commission indicated that  
97 they did not want to reduce the standards or use restrictions.
- 98 • Downtown was a very high priority for City Council.
- 99 • Agreed that downtown was important, although there seemed to be a lot of  
100 downtown-centric focus at times. Fair standards were in place, but a restrictive list  
101 would be helpful.
- 102 • Noted that townhouses and duplexes were a lower priority on the list, but there could  
103 be some horrendous looking townhouses. Perhaps that should be a higher priority.

104

105 The Commission and staff continued with the following discussion points:

- 106 • Duplexes might not require many code changes, but townhouses were basically not  
107 in the Code and should be somehow tied to the multifamily residential design.

- 108 • Townhouses did not currently exist in the Code except explicitly in the downtown  
109 area, so townhouse questions were in part about design, but more about whether  
110 and where they should be allowed, and with what limitations.
- 111 • **Ms. Shanks** explained that townhouses could be 2 attached homes on separate  
112 lots, so by definition did not become a multi-family residential development.
- 113 • Staff had updated the Action Plan Table since preparing the version supplied  
114 in the epacket and included questions such as:
- 115 • Should townhouses be outright or conditionally allowed in all residential  
116 zones or just some zones? What review process should be required?  
117 What lot sizes were appropriate? What were the best tools to ensure  
118 compatibility?
- 119 • The Code currently implied that a townhouse lot could be much narrower in  
120 R5 and R7 zones, but perhaps that was not appropriate.
- 121 • Townhouses added into a residential area just added density, and traffic had to  
122 be fed through the neighborhood to get to the transportation corridor.  
123 Townhouses could be located throughout the City, but should be in close  
124 proximity to major roads.
- 125 • Some owner-occupied townhouses looked very nice, especially when builders  
126 put more money into the front and detail so they had better curb appeal.
- 127 • Building townhouses required balancing expensive development costs and  
128 making the buildings look nice. Generally, the lots were smaller and the land was  
129 less expensive, so perhaps higher design standards could be required to provide  
130 a quality development but also affordability.
- 131 • Along 9th Ave in San Francisco and the 122nd Ave area in Portland were a  
132 series of townhouses that would not be appropriate in density and mass in  
133 Milwaukie. Controls would be necessary if townhouses were considered as a  
134 project. The appropriate development type was needed for an appropriate  
135 density.
- 136 • **Ms. Mangle** clarified staff had wanted feedback about housing variety, not out of  
137 necessity, but to consider that a range of housing types was not allowed in  
138 Milwaukie. The issue was more about allowing a variety to provide housing for aging  
139 Milwaukie citizens and for those unable to afford houses on large lots.



- 140 • It was not an urgent issue, but the available vacant lots were smaller and staff  
141 was receiving inquiries about allowable uses. There were not many inquiries from  
142 developers, but from citizens wanting to convert garages to ADUs.
- 143 • **Commissioner Batey** believed the issue was important because it was silly that  
144 Norm Scott could not build 3 attached houses, which made more sense for his  
145 property layout than requiring 2 duplexes. Others had also commented that  
146 putting several townhouses on a lot was more desirable than another  
147 manufactured home. A line had to be drawn between having the flexibility to build  
148 3 townhouses on a lot versus knocking down 3 houses and building 20 homes.
- 149 • The corner lot across from Corbett Fish House in John's Landing had a nice  
150 series of townhouses with parking underneath that transitioned nicely with the  
151 surrounding single-family residential area. Townhouses could be done sensibly,  
152 yet atrocities were also seen even with the same restrictions in place.
- 153 • Two recent requests had been received for ADUs, but the process was too onerous.
- 154 • Huge lot size requirements existed for duplexes, essentially requiring another full lot.
- 155 • Commercial design standards and commercial uses were part of the General  
156 Commercial (CG) Zone for the 42<sup>nd</sup> Ave and King Rd area. The areas around  
157 Safeway were not all zoned commercial, but a commercial core was surrounded by  
158 residential. The commercial core was a good example of an area of concern  
159 because commercial zoning was so general. The Planning Commission and DLC  
160 had discussed the design standards for the area for a long time, but the uses were  
161 also important because the Code promoted strip mall development in that area,  
162 which would not best serve the community as a neighborhood center.
- 163 • Periodic review to update the Comprehensive Plan was still a project that might  
164 take a year or two to proceed. The King Rd Neighborhood Center Master Plan  
165 was included in the Comprehensive Plan long ago. Periodic review and updating  
166 of that master plan was another way to tackle it because some issues might have  
167 more to do with brownfield redevelopment, site cleanup, and site acquisition,  
168 which were really not zoning code issues.
- 169 • Sellwood was broken into 3 distinct, different areas: Tacoma, 13<sup>th</sup> St, and 17<sup>th</sup>  
170 Ave, and the chain of everything flowing in the area was nice. Milwaukie has not  
171 looked at other areas of the city, but instead focused on making the downtown  
172 area feasible when two-thirds of the population accessed the 42<sup>nd</sup> Ave and King  
173 Rd shopping center.

- 174 • One question on the Action Plan Table was whether there should be 6 different  
175 commercial zones when Milwaukie was not geographically a large city and did not  
176 have a lot of commercially-zoned land.
- 177 • **Ms. Shanks** asked if standards should be considered and developed that  
178 addressed the Comprehensive Plan's broader use and scale of use issues that  
179 were not currently embodied in the Code, and also develop those standards for  
180 other key districts in the City, including the Ardenwald neighborhood.
- 181 • The Neighborhood District Associations (NDAs) had been built on a 2-  
182 dimensional geographic plan rather than the synergy of true neighborhoods, such  
183 as their events, grocery stores, and restaurants. Such elements pull a  
184 neighborhood together, even if on the edge of an NDA area.
- 185 • At present, neighborhood services like yoga studios and martial arts schools were  
186 not allowed in some Milwaukie zones, so the Code was very outdated in that way.
- 187 • Safeway was not nearly as busy as it used to be. And now, without the ability to walk  
188 there safely, people get in their cars and could drive to other places, Fred Meyer's,  
189 New Seasons, Trader Joe's, or Safeway, and Safeway is low on that list. When  
190 people have more than groceries to buy, they will not go to Safeway.
- 191 • **Commissioner Batey** explained that she would personally put commercial  
192 design standards as high and downtown uses as medium. She was uncertain  
193 about townhouses, but was inclined to put them as medium.
- 194 • **Chair Klein** responded that in the grand scheme of where they were prioritized  
195 on the Action Plan Table, all of those other things were more important right now  
196 than certainly townhouses, duplexes, and ADUs. If he were to rank them 1 to 10,  
197 those would be toward the bottom of the list. Even though they're very important.  
198 He did not mind them being low, but they were important.
- 199 • **Commissioner Bresaw** asked why the design standards for single-family  
200 architectural design and townhouses could not be addressed at the same time.  
201 She believed townhouses should be allowed.
- 202 • **Ms. Shanks** clarified that the issue was not so much about design, but  
203 whether townhouses were even allowed and where. Single-family  
204 architectural design was really about design and would need to be addressed  
205 first.
- 206 • Adult foster care homes were built as massive single-family housing. None of the  
207 defined Code projects on the Action Plan Table would address adult foster care

208 homes, but the massing and size could be addressed under design if it was a new  
209 construction. Converting an existing home was another matter.

210

211 **Commissioner Churchill** compared Milwaukie today with successful neighborhood  
212 forms such as Clinton St and Alberta St in Portland. Without a creative application of  
213 zoning and restrictions of use, Milwaukie would always be very segmented and remain a  
214 bedroom community to Portland. The richness and culture of the community had to be  
215 allowed to grow instead of using a very rigid layout from zone to zone.

216 • King Rd was too wide and not appropriate for any formation of the desired  
217 neighborhood form. In looking at the 6 key areas, he wondered how the culture and  
218 richness could be addressed.

219

220 **Chair Klein** stated it came back to how the City moved people through the area. The  
221 key was to draw people to the 42<sup>nd</sup> Ave and King Rd area through projects that added  
222 pedestrian access, safety, shade, and took people out of the mentality of driving  
223 wherever they wanted to go.

224

225 **Commissioner Bresaw** emphasized that landscaping was the key to softening the  
226 streetscape everywhere, including the asphalt corridor of King Rd.

227

228 **Commissioner Churchill** believed landscape was a portion of the solution, but also the  
229 scale and nature of the public, semi-private, and private spaces that made a streetscape  
230 work well. Parts of Hawthorne Blvd and Clinton St were good from a scale standpoint,  
231 but Hawthorne Blvd was a little dense at times, which was not appropriate for Milwaukie.

232

233 **Ms. Mangle** noted the question was how to promote a village feel that could work within  
234 the desired scale. The larger shopping centers could maybe be improved in the future  
235 through redevelopment, but would still be shopping centers along the highway. Pockets  
236 within town had the potential to better serve the neighborhoods, building the village feel  
237 that many Milwaukie citizens yearned for, particularly on the commercial side.

238

239 Key discussion points continued as follows:

240 • The Island Station business district was a key area that would be ripe for  
241 redevelopment with light tail because it was across from the station. Safe pedestrian

242 access and successful businesses would be necessary there because neighbors  
243 would walk to get on light rail.

- 244 • Village neighborhood nodes were a combination of the streetscapes, public areas,  
245 and private areas. Hopefully, the Transportation Code Amendments (TCA) would  
246 provide more flexibility regarding design.
  - 247 • One TCA idea involved having the neighborhoods help identify and develop a  
248 design for key streets, so that a plan was in place when development occurred.  
249 Currently, a more reactive process took place when developers applied for  
250 permits. A proactive process was best so the neighborhood could have a  
251 streetscape design plan in place.
- 252 • A key challenge for redeveloping the Island Station business area was that the sites  
253 were small and most likely did not have conforming parking under the current  
254 standards. If the area was developed as more of a walk-to commercial node, then  
255 hopefully the parking standards could take that into consideration.
- 256 • The Code provided a laundry list of uses allowed in general commercial, and also  
257 addressed the scale and design of a business. The Code did not speak to newer  
258 business types like yoga studios and doggie daycares, which were revitalizing some  
259 neighborhood commercial areas in other parts of the region. Issues of concern  
260 included streetscape, parking, and the correct scale and use of new construction for  
261 the neighborhood. Single-operator businesses like tax accountants or chiropractors  
262 often inquired about small, affordable business spaces in commercial areas.
  - 263 • Allowing neighborhood commercial uses would cause changes throughout the  
264 neighborhood because people would want to move there, businesses would  
265 become more successful, and then more people would want to locate there.
- 266 • **Chair Klein** commented that considering and applying the ‘big picture’ planning  
267 concepts being discussed was what he always envisioned as the Planning  
268 Commission’s job. It was time to apply different ideas to the community even though  
269 it would raise issues.
- 270 • Parking standards were a key tool in killing good village nodes. For development in  
271 nodes, parking standards needed to be completely relieved. At 42<sup>nd</sup> Ave and King  
272 Rd, onsite parking requirements destroyed the great sense of neighborhood at the  
273 four corners of the node until it looked like a modified strip mall. The pedestrian  
274 neighborhood connection was also lost because driving to the location was

275 encouraged. Developers were encouraged when they did not have to provide  
276 parking.

- 277 • On 42<sup>nd</sup> Ave north of King Rd, 50% of the lots were multi-family, but pedestrian  
278 access was not great. The Safeway parking lot was never full, indicating that the  
279 parking standard was set too high; too many parking spaces were required.
- 280 • It was difficult to find the perfect balance with multi-tenant sites where tenants  
281 moved in and out of buildings. A complicated calculation was utilized to arrive at  
282 what seemed an appropriate parking requirement for the Safeway site. However,  
283 if a property owner wanted to build another building at a later date, perhaps the  
284 parking requirements could be reevaluated with a parking study.
- 285 • Traffic codes looked at traffic generation as a part of a use, which was good  
286 information, but could perhaps be set aside when the density around a node was  
287 needed.
- 288 • As a discussion and learning tool, perhaps one or two nodes could be used as  
289 conceptual test sites for how the City might model nodes from a zoning standpoint.  
290 Transportation and development plans could be considered to lay out new policies  
291 and generate ideas for discussion regarding zoning flexibility. Key elements for  
292 successful nodes could be identified, such as no onsite parking, proximity to transit,  
293 etc.
- 294 • University of Oregon graduate students might be interested in a conceptual test  
295 project that could be taken to the neighborhood to aid in creating policies.
- 296 • Communities did not immediately accept change, so by conceptually applying a  
297 model to a node, the fallout could be observed from a zoning standpoint along  
298 with what it would take to achieve the plan at that node. The pros and cons could  
299 then be studied as a discussion tool.
- 300 • Dieringer's Properties developed the Safeway property and might have feedback  
301 regarding the results of abiding by Milwaukie's Code.
  - 302 • Property developers like Dieringer's Properties did not necessarily  
303 understand the idea of nodes because they developed classic one-story  
304 developments with parking lots in front. For the richness of a neighborhood,  
305 another architectural firm with a different sense was needed.
  - 306 • **Chair Klein** understood Dieringer's Properties did have other plans in mind  
307 for the site.

- 308 • Public meetings to present hypothetical projects to improve existing sites would  
309 help citizens understand changes needed to improve the city and start ideas  
310 flowing. The WinCo parking lot on SE 82<sup>nd</sup> Ave was an example of a badly  
311 organized parking lot.
- 312 • Planning and architecture tools do not explain “richness.” Along SE 22<sup>nd</sup> Ave  
313 south of SE Division St was a very rich node with a co-op grocery mini-node.  
314 Parking was on the street, but the area was successful. It was unlikely an entire  
315 neighborhood would accept the change required in bringing about such a node.  
316 Unfortunately, neighborhood buy-in would result in more of what existed.
- 317 • If the richness of the node neighborhood was important to Milwaukie, it would  
318 have to be found in Portland and applied to Milwaukie. Property owners at the  
319 core of intersections would be affected, but those areas were typically  
320 commercially zoned already.
- 321 • The Wichita Town Center was a commercial node at the edge of the city with  
322 drive-up and walk-up traffic.
- 323 • Form and use were both important in using different neighborhood nodes to play  
324 out different scenarios in a combination of form-based and Euclidean zoning  
325 approaches with a particular zoning form in place and then put in appropriate  
326 uses.

327

328 **Ms. Mangle** explained that Commissioner Batey had suggested 2 proposed  
329 modifications to the Action Plan Table. She asked whether the entire Commission  
330 supported that change.

- 331 • Finalizing the plan would be discussed at the next meeting. A joint worksession with  
332 City Council would likely be held in late October.
- 333 • She clarified that lunch trucks were allowed in the City on private property as long as  
334 their wheels were kept on so they were considered vehicles, not structures. The  
335 vehicles could not take required spaces away from existing buildings. The City would  
336 not issue parking permits for City parking lots, but the lunch trucks’ presence was  
337 allowed given certain caveats of the Zoning Code.
- 338 • She was intrigued by comments made about the Parking Code and would include  
339 them when staff returned with the Parking Code Amendments draft.

340

341 **Ms. Shanks** believed holding a worksession with City Council would be helpful so  
342 Council could hear directly from the Planning Commission about the commercial zones  
343 and other neighborhood nodes outside of downtown and why downtown was not  
344 considered a priority.

345

346 **7.0 Planning Department Other Business/Updates**—There was none.

347

348 **8.0 Planning Commission Discussion Items**

349 **Chair Klein** noted that new Thai and Hawaiian restaurants were opening downtown.

350 • He noted Clinton St was a very successful business district as well as a bike corridor.

351

352 **Commissioner Batey** believed the 21<sup>st</sup> Ave and Clinton St, and 26<sup>th</sup> Ave and Clinton St  
353 areas provided better examples for Milwaukie than the New Seasons Seven Corners  
354 area because she did not envision supermarkets going into the nodes.

355

356 **9.0 Forecast for Future Meetings:**

357 September 8, 2009 1. Worksession: Parking Code Amendments project briefing

358 2. Worksession: Smart Code Assessment Action Plan draft

359 II –*tentative*

360

361 September 22, 2009 1. Joint Session with Riverfront Board: Kellogg plant  
362 restoration design UO project –*tentative*

363 2. Worksession: Parking Code Amendments project briefing

364 II –*tentative*

365 **Ms. Mangle** reviewed the upcoming meetings, and confirmed the Commission wanted to  
366 discuss neighborhood nodes with regard to Parking Code Amendments at the  
367 September 8 meeting to keep the draft moving forward.

368 • The joint session with the Riverfront Board planned on September 22 was not for  
369 Riverfront Park. A University of Oregon architecture class did a design studio on  
370 designing big sites to work with nature as part of Title 13 Nature in Neighborhoods.  
371 Their academic test site was the Kellogg Creek Treatment plant and how it could be  
372 redeveloped in a way that was good for habitat and fed healthy ecosystems around  
373 the river.

- 374 • She heard the project designs were very captivating, illustrating the issues and  
375 the potential for doing very exciting things on such challenging sites. Individuals  
376 were being collected for the Natural Resources Advisory Group for the Title 13  
377 project, and they would be invited to attend the joint session as well.
- 378 • The Parking Code Amendments could be discussed in a worksession after the public  
379 meeting.
- 380 • The Riverfront Park application was almost complete. A preparatory worksession  
381 with the Design and Landmarks Committee (DLC) was held 2 weeks ago to prepare  
382 for the Design Review hearing, hopefully at the end of September or (early?)  
383 October, so it could be heard by the Planning Commission in November.
- 384 • The City was still seeking funding for the project, but all local, State, and national  
385 permits were being obtained, so that the project was shovel-ready and grants  
386 were easier to obtain.
- 387 • The Downtown Milwaukie Station workshop for the Light Rail Project was scheduled  
388 for October 15, 2009.

389

390 **Chair Klein** believed the Commission should represent the Parking Code Amendments  
391 at City Council so that the Commission's ideas and comments did not get lost in the  
392 process.

393

394 Meeting adjourned at 8:32 p.m.

395

396

397

Respectfully submitted,

398

399

400

401

402

Paula Pinyerd, ABC Transcription Services, Inc. for  
Alicia Stoutenburg, Administrative Specialist II

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407 Jeff Klein, Chair



3.

# CONSENT AGENDA

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
AUGUST 18, 2009**

**CALL TO ORDER**

**Mayor Ferguson** called the 2060<sup>th</sup> meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Greg Chaimov, and Councilors Deborah Barnes and Joe Loomis

Staff present: City Attorney Bill Monahan, Community Services Director JoAnn Herrigel, Program Coordinator Beth Ragel, Code Compliance Officer Tim Salyers

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

None.

**CONSENT AGENDA**

It was moved by Councilor Chaimov and seconded by Councilor Barnes to adopt the consent agenda as presented:

- A. City Council Work Session Minutes of July 21, 2009;
- B. Resolution 51-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for the Paving of River Road;
- C. Resolution 52-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for Meeting Transcription Services for the Planning Department; and
- D. OLCC Application, Pizano's Pizza, 10843 SE Oak Street, Change of Ownership, new outlet.

Motion passed with the following vote: Councilors Loomis, Barnes, and Chaimov and Mayor Ferguson voting "aye." [4:0]

**AUDIENCE PARTICIPATION**

**Billy Blain**, Milwaukie, requested that Milwaukie consider prohibiting roosters because of noise issues and adopt a regulation similar to the City of Portland.

**Matthew Gerber**, Milwaukie, discussed the economic burden of the recently-adopted solid waste rates and suggested the haulers could get by on less for now.

**PUBLIC HEARING**

**A. Appeal of the Decision to Abate Nuisances at 5622 SE Willow Street**

**Mayor Ferguson** called the public hearing to order at 7:24 p.m.

The purpose of the hearing was to consider the protest of the abatement by Sherri Stockham. The applicable standards were found in Milwaukie Municipal Code Title 8.04, Nuisances. Mayor Ferguson reviewed the conduct of the hearing.

Staff reported no additional correspondence had been received other than what was distributed in the City Council packet.

**Mr. Salyers** provided the staff report and explained Ms. Stockham appealed the nuisance abatement at 5622 SE Willow Street within the time allotted in the Municipal Code. He requested that the City Council uphold the staff decision which would authorize the City or an authorized contractor to go on the property and remove the nuisances if compliance was not met by August 28, 2009. He reviewed the code compliance process which began in 2007 and included 5 citations. He briefly showed photos of the property from the right-of-way and adjacent properties taken in July and a similar set taken earlier today. It appeared that no work had been done. Mr. Salyers reviewed the applicable municipal code sections found in Chapter 8.04, Nuisances.

**Councilor Barnes** asked how much the City had spent so far on this nuisance process.

**Mr. Salyers** replied to this point costs incurred were staff time including municipal court appearances and postage. He did not know how much the abatement would cost since he could not enter the property but estimated it could be more than \$500. Similar abatements he recalled were approximately \$1,800.

**Ms. Stockham** stated the reasons for her protest. She did not deny the property was a mess, but both she and her friend Linda worked 16 – 24 hours a day, 7 days a week. They had a dumpster on their property for about 1-1/2 months that had to be removed because the neighbors complained. She acknowledged there was debris on the carport and overgrown blackberries. Now she and Linda were working fewer hours and had some time to clean up the property. She had hired a young man to help, and the motor home would be removed this coming weekend. They were trying their best.

**Linda** added it did not help that they no longer had a dumpster, and the rain just made the blackberries grow.

**Ms. Stockham** explained she and Linda did in-home nursing, and they only had Sundays off. She finally gave the motor home to a person in The Dalles to house homeless people. They will get another dumpster and hire a young man to help when he got back from church camp. Once cleaned up there would be no more mess. She had been fined but could not go to the hearings because of work. She was not making excuses. They were on vacation this week, and would get the work done.

There was no public testimony.

**Mr. Salyers** requested the City Council uphold the staff determination and declare the property a nuisance if not in compliance by August 28, 2009.

The appellant offered no rebuttal.

**Mayor Ferguson** closed the public testimony portion of the hearing on the nuisance abatement at 7:41 p.m.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to declare the property located at 5622 SE Willow Street, Milwaukie, a nuisance permitting abatement of the nuisance if not in compliance by the end of the day August 31, 2009. Motion passed with the following vote: Councilors Loomis, Barnes, and Chaimov and Mayor Ferguson voting “aye.” [4:0]**

**City Attorney Monahan** noted staff did not have the authority in the code to adjust the date without City Council's making the determination.

#### **B. Motion to Consider Continuation of Amendments to Milwaukie Municipal Code (MMC) Sections 19.321.7 and 19.312.3**

City Attorney Monahan briefly reviewed the history of the proposed amendments.

**CITY COUNCIL REGULAR SESSION – AUGUST 18, 2009**

**DRAFT MINUTES**

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It was moved by Councilor Chaimov and seconded by Councilor Loomis to continue the hearing on amendments to Milwaukie Municipal Code Section 19.321.7 and 19.321.3 to the regular City Council meeting on September 15, 2009. Motion passed with the following vote: Councilors Loomis, Barnes, and Chaimov and Mayor Ferguson voting “aye.” [4:0]

## **OTHER BUSINESS**

### **A. Event Permit Process**

**Ms. Ragel** provided the staff report. There were 2 key questions: should the City modify its current temporary event permit process to reflect special review or considerations for use of the boat ramp at Milwaukie Riverfront Park and/or should the City create a separate process and policies specific to the boat ramp? She discussed the background of the temporary event permit process. This issue was brought to the City’s attention because of concerns related to this summer’s Cruisin’ for Hope 2-day event in the downtown area that included boat races. Staff processed the application as it did all others including distribution to affected City departments, TriMet, and Clackamas Fire District #1. At that time staff determined the Coast Guard had jurisdiction over water, and the City had jurisdiction over the land. She discussed the Coast Guard criteria. It was determined the event would be permitted with conditions including notification of affected businesses and neighborhoods. Prior to the event residents expressed concerns about impacts to the boat ramp and wildlife, particularly the eagle and peregrine falcon nests and salmon. She referred to the packet material that included the USCG Categorical Exclusion Determination and correspondence from concerned residents, the Oregon Department of Fish and Wildlife, and the Portland Audubon Society. They felt the species would tolerate the event with some conditions. Noise readings were taken at the event and Ms. Ragel commented on the Milwaukie Daze fireworks display. She noted Milwaukie processed its events similar to other communities, and there was some discretion involved. She suggested the City send more formal referrals to the neighborhoods and businesses as the City of Portland did making that clear it was a responsibility of the sponsoring organization. Other agencies also asked to be informed earlier.

**Carolyn Tomei**, Milwaukie, Island Station Neighborhood founder who halted expansion of the Kellogg Treatment Plant, a member of the Friends of Spring Park and Elk Rock Island, and facilitator for the master planning process. When she first became involved with the City the only public access to the river was the boat ramp, and she became active in making sure Milwaukie bought as much riverfront property as possible. She was gratified when the Oregon Department of Transportation (ODOT) made improvements to McLoughlin Boulevard and opened up the views. She and others had invested a lot of energy into Milwaukie Bay and were very protective of the asset. She wanted to ensure that people understood she supported family-friendly activities. There were over 60 species of birds on Elk Rock Island including a family of eagles nesting just 2 blocks from her house. She wanted the City to be wary of setting precedents on not only the boat ramp but the entire riverfront. She commented on the issues of noise, air, and water pollution. To her this did not seem to be a family-friendly event, and it was difficult to follow. The sponsors did not notify residents until after the decision was made and even then it was not done directly. She felt it was important to take referrals through the neighborhood associations.

**Lisa Batey**, Milwaukie, generally agreed with the staff recommendations but wanted to separate notice to the neighborhood association and notice to impacted persons. The policy needed to be more specific in terms of timing, content, and scope. The process should not be limited to Riverfront Park, and she further questioned blanket exemptions for schools, churches, and nonprofits for big events. She commented on the noise

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**DRAFT MINUTES**

**Page 3 of 5**

ordinance which seemed to her to be pretty good in that it struck a balance. It clearly put the comfort and welfare of the community in the forefront. The noise ordinance established noise sensitive areas including neighborhoods. The noise level of the boat races, as Ms. Ragel reported, went from 73 to 103 decibels and exceeded the noise level in all parts of the City including industrial. Ms. Batey recommended including natural areas as being noise sensitive; including appropriate noise levels for active use parks; following the City of Portland's lead for shoreline decibel limits to accommodate boat races; and revising variance procedure in the noise ordinance to make more logical. She wanted to be on record to the City Council and staff that she requested a public hearing for any noise variance for Riverfront Park for the next 3 years.

**Bill Hoelz**, Milwaukie, thought it was a very good program with beautiful cars and boat races during the day. It was not that obnoxious. He attended the neighborhood meeting where Ms. Tomei's husband Gary Michael brought up boat races where the suggestion was made that he take her out of town for the weekend. It was discussed at the neighborhood meeting, and it was a very nice program.

**Nick Raptor**, Milwaukie, stated this was the second year for the Cruisin' for Hope, and he was director of the program. He was a cancer survivor, and the proceeds went to local families living under terrible conditions. This event was for the kids and to give them hope for survival. He noted the daily jet boat tour going by Milwaukie made a lot of noise. This was for the kids, and this was the first year for the boat races. The employees all donated their time, so there was no expense to the taxpayers.

**Cindy Kauffman**, Milwaukie, supported this community event and commented on how Milwaukie thrived on these special weekends. This event brought the community together and let people enjoy the riverfront. She stated the organization had followed the guidelines. She personally checked, and the eagles were still there. The event supported local families in need and brought positive attention to the City. Hopefully a few disgruntled people did not ruin things for others.

**Mark Weidkamp**, Milwaukie, founder of the Cruisin' decided to grow the event from last year to increase participation and use the Jefferson Street boat ramp to draw families to the riverfront. They had teamed up with the American Legion and brought in the Columbia Outboard Racing Association (CORA) which is a family-oriented club. The Milwaukie Police Department and Fish and Wildlife both concurred with the noise levels, and there was a considerable distance between the races and the eagle's nest. This event was enjoyed by many, and he hoped it would grow and be a catalyst for future boat ramp improvements.

**Councilor Chaimov** thought the Cruisin' was a wonderful event, and he hoped to see the rough spots smoothed. He supported all of the staff recommendations including the suggestions from Ms. Batey regarding timing, scope, and content of notices to affected residents and businesses.

**City Attorney Monahan** noted he was working with staff on the noise ordinance, and the concerns of special event noise levels and the process should be considered together.

**Councilor Loomis** believed it was a great event and appreciated Ms. Ragel's professionalism. People had worked to get the information out, and the proper authorities had been notified.

**Councilor Barnes** agreed Ms. Ragel had done a great job as staff liaison. This event was held for all the right reasons. She looked forward to working out a compromise with the Island Station representatives and hoped the riverfront could be enjoyed by all.

**Mayor Ferguson** thanked Ms. Ragel for her professionalism. He requested 2 months notice for the event and supported both Ms. Batey's and Ms. Ragel's recommendations. He also had concerns about the fireworks display and notification to Lake Oswego. He suggested an internal checklist accompany a citywide application. He did not want to limit activities and urged notifying the appropriate neighbors.

**Ms. Ragel** understood the City Council was supportive of the 4 staff recommendations, and she would prepare a more defined plan for a work session. City Attorney Monahan was working on the noise ordinance issues and was aware this was another aspect of that section of the code.

## **B. Council Reports**

**Councilor Chaimov** attended the monthly Milwaukie Light Rail meeting and encouraged interested residents to attend because they can make a difference in the process.

**Councilor Barnes** credited Councilor Chaimov for his unique sense of wit and humor at the Chamber Legislative wrap up.

**Mayor Ferguson** attended the Clackamas County Fair opening and encouraged people to visit Pond House Books, attend free neighborhood concerts, and shop at the Sunday Farmers' Market. The Milwaukie Ledding Library was still collecting school supplies for local children in need.

## **ADJOURNMENT**

**It was moved by Councilor Chaimov and seconded by Councilor Barnes to adjourn the meeting. Motion passed with the following vote: Councilors Loomis, Barnes and Chaimov and Mayor Ferguson voting "aye." [4:0]**

**Mayor Ferguson** adjourned the regular session at 8:37 p.m.

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Pat DuVal, Recorder

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION SEPTEMBER 15, 2009

**Mayor Ferguson** called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Mayor Jeremy Ferguson, Council President Greg Chaimov, and Councilors Deborah Barnes, and Joe Loomis

Staff Present: City Manager Mike Swanson, City Attorney Tim Ramis, Engineering Director Gary Parkin, City Recorder Pat DuVal

#### Wastewater Communication Task Force

**Mayor Ferguson** discussed a recent meeting he and Councilor Barnes had with the Citizens Utility Advisory Board (CUAB). They were hoping to create a group that would help spread information about what was going on and were seeking suggestions for potential members. A Council member would be the spearhead of the group.

**Councilor Chaimov** considered the list of potential participants and noted that it seemed like a large group to synthesize into coherent message.

**Mayor Ferguson** said that Mr. Swanson would appoint City staff to work with the group and staff would be in charge of the preparing the documentation to go out to the public.

**Councilor Barnes** heard from the CUAB that there was no clear information getting out to the public.

**Councilor Loomis** thought it was a good idea but shared Councilor Chaimov's concerns about the size of the group.

**Mayor Ferguson** commented the group of 9 might be smaller since it was being convened on such short notice.

Council agreed that Councilor Barnes would be the Council representative.

#### League of Oregon Cities Voting Delegate and Alternate

It was determined that Mayor Ferguson would be the voting member for Milwaukie and Councilor Chaimov would be the alternate.

**Mayor Ferguson** asked the Council to bring calendars to set goals for next meeting.

**Mayor Ferguson** announced the City Council would go into executive session pursuant to ORS 192.660(2)(h) for consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

**Mayor Ferguson** adjourned the work session at 5:41 p.m.

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Pat DuVal, City Recorder



**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development/Public Works Director  
Gary Parkin, Engineering Director

**From:** Zachary Weigel, Civil Engineer

**Subject:** Milwaukie Riverfront Park Water Main Relocation

**Date:** October 7, 2009 for October 20th Regular Session

### **Action Requested**

Authorize the City Manager to sign a contract for the construction of Milwaukie Riverfront Park Water Main Relocation project (between Harrison Street and Jefferson Street), with D & T Excavation, Inc., in the amount of \$81,189.35.

### **History of Prior Actions and Discussions**

**June 2009:** City Council adopts 2009/2010 Budget, including funding for the Milwaukie Riverfront Park Water Main Relocation project.

**April 2008:** City Council approves Land Use Applications CPA-08-01, ZC-08-01, and HR-08-01, removing the Historic Overlay from Tax Lot 1S1E35AA03901 (Portland Traction) and rezoning Tax Lot 1S1E35AA04600 from Limited Commercial to Downtown Open Space.

**March 2008:** City Council authorizes staff to apply for a grant from the Oregon Parks and Recreation Department for Phase One of the Milwaukie Riverfront Park project to complete relocation of the water main and other project elements.



**September 2006:** City Council awards a contract to David Evans and Associates Inc. for landscape design and engineering services for Milwaukie Riverfront Park

**January 2006:** City Council approves the Riverfront Board's recommendation to integrate public survey data into the final Riverfront Park concept plans.

**June 2005:** City Council adopts amended Milwaukie Downtown and Riverfront Plan.

**September 2000:** City Council approves Land Use Applications ZA-00-01 and CPA-00-02 adopting the Milwaukie Downtown and Riverfront Plan.

### **Background**

In September 2000, City Council adopted the Milwaukie Downtown and Riverfront Plan laying out the framework for development of Riverfront Park. At the end of 2005, the City conducted a survey of residents regarding the types of amenities the Riverfront Park should include. Using this information, the Riverfront Board developed a Milwaukie Riverfront Park concept plan, which City Council endorsed, requesting staff to move forward with design of the park.

In October 2006, the City contracted with David Evans and Associates for Milwaukie Riverfront Park design and engineering services. During the design, David Evans determined that a portion of the City's water main running through the Park must be relocated to accommodate the necessary re-contouring of the park lands. The portion of pipe to be relocated is a 12" water main between Harrison St and Jefferson St (See Attachment #2). In order to best accommodate the location of the park facilities, the water main will be relocated in the east side of the future park, closer to McLoughlin Blvd.

Prior to the start of the Riverfront Park construction, the water line must be relocated. Currently, Riverfront Park is scheduled for a design review meeting before the Design and Landmarks Committee on October 28, 2009 and design review hearing before the Planning Commission in November 2009. Upon approval, the Milwaukie Riverfront Park can submit for building permits and begin construction. However, prior to the start of the Riverfront Park construction, the water line must be relocated.

The Milwaukie Downtown and Riverfront Plan project went through a competitive bidding process in accordance with Chapter 30 of the City's Public Contracting Rules. The City received 13 bids before the October 6, 2009 2:00 PM bid opening. The following table is a summary of all bid amounts as well as the engineer's estimate.

	<u>Contractor</u>	<u>Bid Amount</u>
1.	D & T Excavation	\$81,189.35
2.	Lauzon Excavation	\$81,865.84
3.	Ground Hawg Environmental	\$83,778.16
4.	Don Burke Excavation & Construction	\$90,065.00
5.	Stone Development	\$95,443.00
6.	K & G Construction	\$97,154.00
7.	Rain Country Excavating	\$103,145.96
8.	J W Underground	\$104,365.00
9.	Jim Smith Excavating	\$104,932.00
10.	Dunn Construction	\$116,367.00
11.	Duke Construction & Excavation	\$119,725.00
12.	Crestview Construction	\$122,025.00
13.	K & R Plumbing Construction Company	\$142,936.50
***	Engineers Estimate	\$118,700.00

Selection of the Contractor was based on the lowest bid submitted in conformance with the Contract Documents. The lowest responsible bid was submitted by D & T Excavation, a construction firm out of Wilsonville, Oregon. Although D & T Excavation does not have recent experience working with the City of Milwaukie, they are experienced in construction of utility projects such as the Milwaukie Riverfront Park Water Main Relocation project in surrounding municipalities.

Construction is expected to begin the first week of November. Time of completion for the project is 45 days, with an expected completion date mid-December. Construction staging will occur on the park property with little or no impact to traffic on McLoughlin Boulevard. Trees and irrigation along the new water main alignment will be removed. Existing irrigation and the lawn will be restored upon completion of the water main. Approximately 6 trees will be replaced as part of the future Milwaukie Riverfront Park development. During construction of the project, the Contractor will maintain pedestrian access to the Riverfront Park at all times. There will be minor disruptions in water service to Island Station residents for short periods of time during connection of the new water main.

### **Concurrence**

Engineering staff coordinated with Operations and Community Services on both concept and design phases of the project.

### **Fiscal Impact**

This project is a part of the 2009/10 Budget. The approved Community Services Capital Projects budget includes \$100,000.00 for construction. The recommended bid for total construction cost for this project is \$81,189.35. Funding for this project is from the General Fund.

### **Work Load Impacts**

Engineering staff will provide "in-house" inspections and project management on this project. This will reduce the cost of the project and slightly increase the workload of the Engineering Staff.

### **Alternatives**

- 1) Do not award project (defer indefinitely)
  - If council wishes not to award the project and remove it from the CIP list.
- 2) Re-bid project without amendments
  - If council approves of the project need and design but thinks the project should be re-bid for any reason.
- 3) Direct Staff to modify project and re-bid
  - If council does not approve of the project design and/or thinks that re-bidding could reduce cost.

### **Attachments**

1. Resolution
2. Project Vicinity Map

ATTACHMENT 1

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR THE CONSTRUCTION OF MILWAUKIE RIVERFRONT PARK WATER MAIN RELOCATION PROJECT.**

**WHEREAS**, the water main at Milwaukie Riverfront Park between Harrison Street and Jefferson Street must be relocated to accommodate redevelopment of the Park lands; and

**WHEREAS**, the project was approved for funding in the 2009/2010 budget; and

**WHEREAS**, D & T Excavation is the lowest responsive and responsible bidder;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Milwaukie authorizes the City Manager to sign a contract for construction of the Milwaukie Riverfront Park Water Main Relocation project with D & T Excavation, in the amount of \$81,189.35.

Introduced and adopted by the City Council on October 20, 2009.

This resolution is effective on October 20, 2009.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

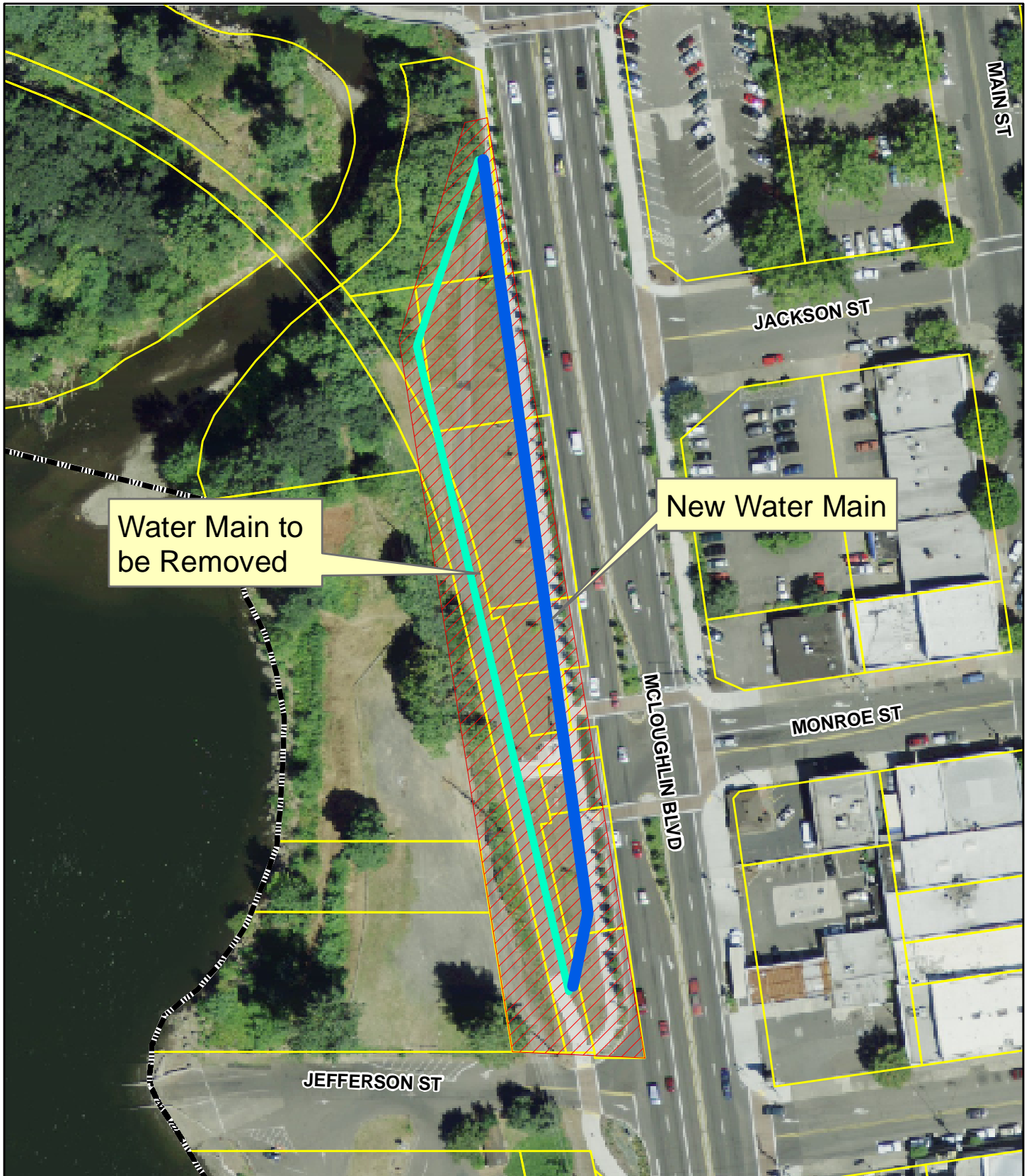
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Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

Document6 (Last revised 09/18/07)

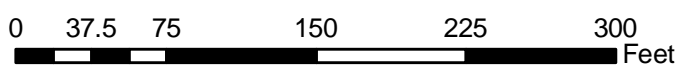
# Vicinity Map

ATTACHMENT 2



Water Main to be Removed

New Water Main





**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development/Public Works Director

**From:** Gary Parkin, Engineering Director

**Subject:** Settlement Regarding the Main Street Wastewater Line Extension Project

**Date:** October 6, 2009 for October 20th Regular Session

### **Action Requested**

Authorize the City Manager to settle a contract dispute with Canby Excavating Inc. for the construction of the Main Street Wastewater Line Extension (between Jefferson Street and Scott Street) in the amount of \$140,000. The Settlement Agreement is included with Attachment 1 (Exhibit 6).

### **History of Prior Actions and Discussions**

**May 2009:** Council awarded the Main Street Wastewater Line extension project to Canby Excavating (Resolution 27-2009).

**March 2009:** Staff briefed Council on this project before recommending a grant program to help with the cost of re-connecting laterals to the new project main. City Council directed that the additional cost (up to \$80,000) be included in the 2009/2010 budget (Wastewater SDC fund the "reimbursement portion").

**December 2008:** During a presentation to Council on Community Development Block Grants (CDBG), the Main Street wastewater work was mentioned as a possible applicant for funds. Council directed Staff to seek CDBG funds that could be directed to

the Main Street Project. Staff applied for such funds, but did not receive a CDBG award for this particular project.

**June 2008:** Staff presented the 2009-2013 Capital Improvement Plan along with the 08/09 City Budget for adoption. Both were adopted by resolution (58-2008). This project, under the title “Main Street Main”, was included in the 2009-2013 Capital Improvement Plan as a two-phase project.

### **Background**

The Main Street wastewater main replacement project provided an alternative main for the properties located immediately east of McLoughlin Boulevard, between Scott Street and Jefferson Street, which were served by a badly aging sewer main. This area contains fifteen buildings, several with multiple tenants. The replaced main is an 8-inch vitrified clay pipe, which was installed in the 1920’s. Because of its location, material and age, maintenance of the sewer was increasingly difficult and there was potential for serious failure.

The project began in May 2009 with the installation of a manhole over the existing sewer in Jefferson Street at Main Street. As the contractor began to excavate for the new main from the manhole, difficulties with the excavated trench were experienced. The soil substrate would not maintain vertical trench walls and the trench walls sloughed into the trench making it difficult to progress the pipe installation. The contractor claimed that the difficulties were due to a change in conditions from what was described in the plan specifications. Staff contended that the difficulty was caused by the construction techniques employed and pointed to the specification description of the trench condition as “*stable soil conditions with proper shoring and backfill techniques.*” The contractor disputed that a layer of unstable cobble near the bottom of the trench caused the soil above to slough to such an extent that standard shoring techniques could not be properly implemented. The sloughing occurred until the trench was shallow enough that the effect of the cobble layer was neutralized.

Attorneys became involved when the issue threatened to derail the project. The contractor continued the project, keeping a detailed record of costs incurred. Attachment 1 provides details of the dispute and negotiation.

The difficult trench conditions continued for about one more block, for a total of two of the six blocks of the project. The project was completed without further dispute with substantial completion as of August 21, 2009. At that point, staff began to work with the contractor on resolving the claim for the costs incurred on the first two blocks.

The proposed payment, \$140,000, is based on the extra personnel, material, and trucking costs used to construct the disputed trench condition area. Staff recommends approval of this amount as it represents a compromise and reasonable compensation. It also avoids a likely legal battle.

### **Concurrence**

Engineering staff coordinated with Operations on the resolution of the project dispute.

Project budgeting was discussed with the Finance Director. He supports the decision and the budget implications.

The City Manager and the City Attorney's office was consulted during the settlement process and concurs with the settlement.

### **Fiscal Impact**

The total project cost including the settlement is \$606,843.30. The project budget (over two years) is \$600,000. The additional \$6,843.30 needed for the project budget is available in the Wastewater SDC fund. The Wastewater SDC Fund (reimbursement portion of the fund) funded this project. The current fund is about \$1.2 million. The Finance Director is comfortable with moving forward without the need for a budget adjustment.

### **Work Load Impacts**

No significant impact if the proposed action is adopted. Alternatives will likely result in significant time commitments to pursue resolution or participate in legal proceedings.

### **Alternatives**

1. Do not approve the additional project cost, possibly go to court.
2. Request staff to renegotiate a cost settlement.

### **Attachments**

1. Record of Negotiation, including Settlement Agreement (Exhibit 6)
2. Resolution for settlement



# ATTACHMENT 1

## MEMORANDUM

FROM: Chuck Corrigan, Law Office of Charles E. Corrigan, PC  
TO: Gary Parkin, City of Milwaukie Engineering Director  
DATE: October 2, 2009

RE: City of Milwaukie ("City") /Canby Excavating Inc. ("Canby") negotiated settlement; Public Improvement Contract for Main Street Wastewater Line Extension Project ("Contract")

The City and Canby entered the above-referenced Contract for excavation services as of May 6, 2009. The agreed-upon price for Canby's work was \$455,365.25. Later that month, Canby notified the City that Canby had encountered unstable soils, a condition that Canby contended required the use of labor and materials outside the terms of the Contract. Canby presented the City with a memorandum setting out a "Total anticipated project cost" of \$794,574. Exhibit No. 1. It was and remains the City's position that the conditions noted by Canby had been properly addressed in the Contract, and that Canby was not entitled to additional payment.

The City and Canby had further communications during June, 2009, regarding their disagreement, the particulars of which are set out in a letter from Canby's president, Doug Sprague, to Jason Rice at the City, dated June 2; a letter from Mr. Sprague to Gary Parkin at the City dated June 5; a letter to Mr. Sprague from attorney Charles Corrigan, serving as the City's counsel, dated June 9 ; and, a letter from William Cloran, Canby's counsel, to Mr. Corrigan dated June 11. Exhibit Nos. 2-5. In brief, during the course of those communications, Canby left the job site to assume what it termed "standby" status, the City declared a breach of the Contract and threatened its termination, and Canby returned and eventually finished the job. There was no agreement as to if or how the parties' disagreement would ultimately be addressed. There was no contract amendment.

The parties have now reached a tentative settlement of their dispute. Exhibit No. 6. The negotiations resulting in the proposed settlement payment are summarized in Exhibit No. 7. This settlement does not reflect an amendment to the Contract. Rather, it is a payment made by the City, on the advice of counsel, to settle an outstanding dispute, and thereby avoid the expense and uncertainty of litigation.

**CANBY**   
**Excavating** Inc.  
Quality Teams, Quality Projects

**Date:** May 28, 2009

**To:** Gary Parkin, Engineering Director  
City of Milwaukie OR  
6101 S.E. Johnson Creek Blvd  
Milwaukie, OR 97206

**From:** Doug Sprague

**RE:** Estimated price for additional work

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Gary, here is a breakdown of the estimated cost of work completed to date and expected to be encountered moving forward to complete the project. Please note this is not a bid for the project, but an estimate which includes the cost of the unstable ground conditions encountered and anticipates that such conditions will continue for a large portion of the remainder of the project.

Original Base Bid:	\$167,059
<u>Add. Work estimated costs already submitted (incl. Markup):</u>	<u>\$106,884</u>
Total New Base Bid:	\$273,943
Original Bid Alternate:	\$291,631
Estimate of additional costs:	\$190,000
<u>Markup on additional costs:</u>	<u>\$ 39,000</u>
Total estimated bid alternate cost:	\$520,631
<b>Total anticipated project cost:</b>	<b>\$794,574</b>

Breakdown of additional costs for bid alternate costs as follows:

- \$100,000 for rock and CDF
- \$ 45,000 for trucking
- \$ 15,000 for equipment
- \$ 30,000 for labor

This estimate of additional costs is for the installation of the remaining 8" and 10" pipe only. Asphalt paving quantities per bid may not be sufficient and additional costs over above-mentioned prices could be encountered. These prices assume stove piping laterals up to stable soil.



June 2, 2009

Mr. Jason Rice  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

RE: City of Milwaukie – Main Street Wastewater Line Extension Project, Notice of Differing Subsurface Conditions for 10" Sanitary Sewer Mainline Installation

Jason,

The purpose of this notice is to formally notify the Owner that differing subsurface physical conditions have been encountered on the project. The conditions have been encountered while installing the 10" sanitary sewer mainline and associated manholes within SE Main Street, between SE Jefferson and SE Monroe. We initially notified the City of the conditions when first encountered on May 15, 2009.

As you are aware, the ground encountered is extremely unstable, the walls of the trench do not stand and we have experienced significant cave ins of the trench walls. Contractor could not have reasonably anticipated these conditions from the bid documents provided, specifically Addendum No. 2, or upon a site inspection by Contractor. Canby Excavating (CEI) did not know the condition was present prior to it being encountered and we currently do not know the full extent of it.

The presence of this unforeseen condition has required an alteration in the means and methods of construction not included in the contract pricing including but not limited to additional equipment, changes in equipment and construction methods, additional or different materials, loss of efficiency, increased management, supervision and labor, delay and standby time. Direction has been received from the Engineer in control to proceed with the installation of the 10" Mainline, despite the change in conditions, as we work together to come to an agreement on a change in Contract Price. Canby Excavating is not fully aware of the impact of this unanticipated condition on the cost of the work or on the time needed to perform it, however, we will continue to diligently work to keep the costs and any time impact to only that necessary to deal with the situation encountered. Canby Excavating requests an equitable adjustment to the Contract Price and Time as provided for in Addendum No. 2 of the bid documents and City of Milwaukie Public Works Standards Section 108.06.

To the extent required please also consider this letter a Notice of Protest under Oregon Standard Specifications for Construction 2008 (OSSC) Section 00199.20. Per Addendum No. 2 of the Bid Documents, Contractor shall expect the stable soil conditions with a groundwater depth of 15' and Agreed Additional Work due to worse conditions will be covered by a change order. Canby Excavating protests Engineer's decision to reject Canby Excavating's proposal for Change in Contract Price, dated 5/27/09 (rejection via enclosed e-mail from dated 5/27/09). The offer extended by Engineer is not sufficient to cover the additional costs incurred due to the change in conditions. Furthermore, CEI protests the City's suggestion, via the e-mail from Jason Rice dated 5/27/09, that Canby Excavating has not used proper shoring methods for this scope of work. The City provided no information as to the soil conditions, other than that identified in Addendum No. 2. In the absence of detailed geotechnical information from the City for the project, CEI used industry standard practices to determine a proper shoring method, which is the most that could be expected of the Contractor based on bid documents provided.

If we can reach agreement on these matters informally, this protest will be withdrawn by CEI. We are confident that can be done without invoking the specification's claims process. The Owner and the Engineer are entitled to this notice under 2008 OSSC Section 199.20 and the Contractor may waive substantial rights if it is not given. Consequently Canby Excavating is performing its duties under the specifications to provide notice. This should not be taken to mean that there is a current dispute. We are confident that the matter will be properly handled to the satisfaction of all.

Respectfully Submitted,



Doug Sprague  
President

Canby Excavating, Inc.

**Enclosure**

E-mail Correspondence from Jason Rice dated 5/27/09 RE: Milwaukie Main Street Project



P.O. Box 848 · Canby, OR 97013  
Phone: (503) 266-2792 · Fax: (503) 266-2791  
CCB #77471

June 5, 2009

Mr. Gary Parkin  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

RE: City of Milwaukie – Main Street Wastewater Line Extension Project, Notice of Standby

Gary,

The purpose of this notice is to notify the Owner that beginning Thursday June 4, Canby Excavating is on standby. We will remain on standby until a determination is made by the City on how they would like Canby Excavating to proceed on the remainder of the work.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Doug Sprague", with a long horizontal line extending to the right.

Doug Sprague  
President

Canby Excavating, Inc.

CC: Jason Rice, City of Milwaukie  
Ben Burgi, Canby Excavating

1000 SW Broadway, Suite 2130  
Portland, Oregon 97205  
tel 503.241.0677  
fax 503.241.0678  
Chuck@Corrigan-Law.com  
www.corrigan-law.com

June 9, 2009

**BY FIRST CLASS MAIL AND  
CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED:**

Doug Sprague  
Canby Excavating, Inc.  
P.O. Box 848  
Canby OR 97013

**BY HAND DELIVERY:**

Douglas R. Sprague  
Canby Excavating, Inc.  
President and Registered Agent  
25361 S. Hwy 99 E  
Aurora, OR 97002

**Re: NOTICE OF DEFAULT- PUBLIC IMPROVEMENT CONTRACT WITH  
THE CITY OF MILWAUKIE FOR MAIN STREET WASTEWATER LINE  
EXTENSION PROJECT, CONTRACT # 20090933**

Dear Mr. Sprague:

My office represents the City of Milwaukie with regard to the City's above- referenced contract with Canby Excavating, Inc. (hereinafter "the contract"). As required by the contract, I am sending this letter to you. If Canby Excavating has legal counsel in this matter, please give this letter to him or her immediately.

Canby Excavating has stopped its performance under the contract, and is therefore in breach of the contract. This letter is the City's notice that Canby Excavating is in default of the contract. Unless Canby Excavating satisfactorily resumes performance under the contract by 5PM on June 16, 2009, the City will terminate the contract on that date at that time. The City regrets that the project has taken this unfortunate turn.

In your letter of June 2, 2009, to Jason Rice at the City you contend that "differing subsurface physical conditions have been encountered on the project," and that Canby Excavating "could not have reasonably anticipated these conditions from the bid documents provided, specifically Addendum No. 2, or upon a site inspection by [Canby Excavating]." You also "protest" the City's offer to increase the contract price as set out in Mr. Rice's May 27 email, and request "an equitable adjustment to the Contract Price

Canby Excavating, Inc.  
June 9, 2009  
Page 2

and Time as provided for in Addendum No. 2 of the bid documents and City of Milwaukie Public Works Standards Section 108.06.”

In your letter to Gary Parkin at the City dated May 28, 2009, but emailed to Mr. Parkin by Kati Gault of Canby Excavating on June 4, 2009, you “estimate” that the price for “additional work” resulting from “unstable ground conditions” will increase Canby Excavating’s “Original Base Bid” from \$167,059 to \$273,943, and its “Original Bid Alternate” from \$291,631 to \$520,631, for a “Total anticipated project cost” of “\$794,574.” That total is almost \$340,000 more than the project compensation agreed to by Canby Excavating in its contract. Canby Excavating is welcome back on the job, but given the gulf between the City’s offer of compromise and your firm’s revised calculations, that doesn’t seem likely.

Last, by your letter to Mr. Parkin dated June 5, 2009, Canby Excavating notified the City that “beginning June 4, Canby Excavating is on standby” and “will remain on standby until a determination is made by the City on how they would like Canby Excavating to proceed on the remainder of the work.”

Not mentioned in the most recent correspondence is your company’s prior agreement to clear all equipment off the street and have the area clear by 5 PM this Friday, June 12, for a car rally that is being held in downtown Milwaukie. The City appreciates your continuing cooperation in that regard.

Given that the City has not directed Canby Excavating to suspend its performance “on the remainder of the work” under the contract, and given that, nonetheless, Canby Excavating had no forces on the job site on June 5, it is clear that by going to so-called “standby” Canby Excavating has unilaterally, without authorization or justification, quit working on this project. This is a fundamental breach of the contract, and a violation of the City’s Public Works Construction Standards, which provide that “There shall be no voluntary suspension or slowing of operations without the prior written approval of the City Engineer....” No such approval has been given.

The City’s Information for Bidders requires, among other things, that “Each Bidder must become familiar [with] the conditions relating to the execution of the Work....It is each Bidder’s obligation to verify all information concerning site conditions to their complete satisfaction.” Addendum No. 2 in the bid documents notified bidders that stable soil

Canby Excavating, Inc.  
June 9, 2009  
Page 3

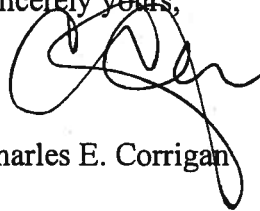
conditions could be assumed “with proper shoring and backfill techniques.” And, as has been demonstrated on this job, when Canby Excavating used proper techniques, it was able to accomplish the work that it contracted to perform.

It is also worth noting that Addendum No. 2 told bidders to “assume groundwater at a depth of 15’.” Had Canby Excavating been required to deal with groundwater at that depth, which it was not, it would have encountered difficulties, and expense, greater than what was required for the proper shoring techniques it has employed.

The City has met its contractual obligations. Because Canby Excavating has not, the City will be required to retain other services to complete this project. The City is entitled to seek reimbursement from Canby Excavating for the cost of substitute forces, to the extent those costs exceed the contract sum agreed to by Canby Excavating. If attorney fees are expended in such an effort, pursuant to the contract they will be added to that claim.

Pursuant to section 108 of the City’s Public Works Construction Standards a copy of this letter is being sent to Safeco Insurance Company of America, which issued the performance bond for Canby Excavating on this project, Performance Bond No. 6639477.

Sincerely yours,



Charles E. Corrigan

cc: Client  
Safeco Insurance Company of America



# YAZBECK, CLORAN & HANSON, PC

Joseph A. Yazbeck, Jr. ♦ ♦  
William F. Cloran  
Jeffrey K. Hanson ♦  
David H. Bowser

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Jakob Lutkavage-Dvorscak  
Associate Attorney

June 11, 2009

Mr. Charles E. Corrigan  
Charles E. Corrigan, P.C.  
1000 SW Broadway, Suite 2130  
Portland, OR 97205

Office of City Recorder  
Milwaukie City Hall  
10722 SE Main Street  
Milwaukie, OR 97222

City of Milwaukie  
Attn: Accounts Payable  
10722 SE Main St.  
Milwaukie, OR 97222

Re: **NOTICE OF DEFAULT – City of Milwaukie Contract No. 20090933  
– Response of Canby Excavating, Inc.  
Our file #6400.03**

Dear Mr. Corrigan:

I am responding to your letter of June 9, 2009 to my client Canby Excavating, Inc. Canby is the prime contractor for the City of Milwaukie Main Street Wastewater Line Extension Project, City of Milwaukie Contract No. 20090933. Your letter asserts that Canby ceased work on the project on June 5, 2009 which is correct.

The assertion that the cession of work was unilateral is not correct. City of Milwaukie Engineering Director, Mr. Gary Parkin, verbally asked Canby's Douglas Sprague to cease work while Mr. Parkin considered what to do about the unstable soils encountered, and the costs associated with them. Those costs are substantial.

1. Background.

Up until the point of Mr. Parkin's direction to cease work, Canby had been proceeding in compliance with a May 15, 2009 direction from Mr. Jason Rice to work in the area of unstable soils on "force account" reserving its right to claim an equitable adjustment under City of Milwaukie Standard 104.05. On May 18, 2009, Mr. Rice made an alternate price proposal which was not acceptable to Canby. At this point, both parties recognized that there was a "Type II"

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JUN 12 2009

**LAW OFFICE OF  
CHARLES E. CORRIGAN, P.C.**

differing site condition and were negotiating a price for dealing with it. The City suggested that Canby use 30' steel plates in its shoring - in lieu of the 20' plates being used. Mr. Rice wanted Canby to drive the plates ten feet below the trench bottom. Canby attempted to obtain the recommended plates only to find that no such plates were available. In addition, driving the plates below the trench bottom, as suggested by the City, was problematic due to the presence of cobbles.<sup>1</sup>

2. Order to Suspend Work.

The suspension of work was issued orally by the City Engineering Director on or about June 1, 2009. City of Milwaukie Standard 108.05 provides for suspension at the direction of the Engineer. Canby attempted to secure written confirmation of the Engineer's order. That was not immediately forthcoming.<sup>2</sup> On June 5, 2009, Canby sent a notice documenting that it had stopped work on June 4, 2009. The Contract requires Canby to comply with a stop work order within three days, and requires the Engineer to provide five days notice to restart the work. Canby had not demobilized and is able to recommence work without the five day period allowed. It has done so at Mr. Parkin's request to Mr. Sprague.

3. Recognition of Differing Site Condition by the City.

Both parties were aware of the unanticipated unstable soil conditions as early as the May 15, 2009 e-mail directing Canby to proceed on "force account". Canby provided formal written notice of the condition pursuant to City of Milwaukie Standard 108.06 on May 15, 2009, and again on June 2, 2009. Cost estimates were also provided. Under Contract Addendum 2 and City of Milwaukie Standard 104.04 the City was to issue a written change order directing the Contractor to proceed with the changed work. It neglected this duty and has not issued the change order required by the contract. City of Milwaukie Standard 105.11 does not permit the Contractor to proceed with changed work without a written change to the Contract. *See WeGroup PC v. State of Oregon, 131 Or App 346 (1994)*. Canby continued to work on the basis of the force account order until told by Mr. Parkin to stop. Mr. Parkin is the City of Milwaukie representative authorized to provide notices and to order work under the Contract.<sup>3</sup>

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<sup>1</sup> A cobble is a solid rounded stone between 2.5" and 10" in diameter and 10" to 14" in length. Natural cobbles occur en masse in riverine deposits or in cemented or un-cemented gravels. E.g. Troutdale formation. Synthetic cobbles for paving and ornamentation are produced by "tumbling" quarry stone of suitable sizes. Driving plate steel through cobbles is well nigh impossible.

<sup>2</sup> ITEM NO.2 - TRENCH CONDITION ASSUMPTIONS

Bidders shall assume stable soil conditions with proper shoring and backfill techniques.

Bidders shall assume groundwater at a depth of 15',

Agreed upon additional work needed due to worse conditions will be covered by a change order,

<sup>3</sup> 4. City's Representative

For purposes hereof, the City's authorized representative will be the City Engineer,

4. Breach of Contract by the City of Milwaukie.

The force account direction was explicit recognition by the City of Milwaukie that the conditions encountered by Canby were not those anticipated in the Contract Documents. The Contract Documents themselves contain no representations of the condition of the area to be excavated. Faced with the likelihood that bidders would include substantial contingencies in their prices to deal with unknown soil conditions, the City issued Addendum 2 in which it directed the bidders to assume "stable" soils that could be dealt with using normal shoring. The City promised to issue change orders to compensate the Contractor for dealing with unstable soils. It has failed to do so. That failure is a material breach of the Contract for which the City is liable.

5. City of Milwaukie's Bad Faith Attempt to Avoid Contract Responsibilities.

Such was the state of things when rather than to confirm its suspension of work order or to issue a change order the City instead issued its June 9, 2009 **NOTICE OF DEFAULT**. A copy of the notice was sent to the surety. Putting aside for the moment the technical problems with the notice, the City and its representatives are well aware of the severe consequences of default termination on a small family business that depends for its existence on performing a substantial amount of public sector work. Not only does the default termination forfeit the contract in question, but it places the contractor in the position to be unable to compete for other contracts. In these circumstances, the conduct of the City of Milwaukie is unconscionable. It violates the Contract and the implied covenant of good faith and fair dealing.

Since the reason that Canby ceased work was because City Engineer, both through his oral direction and conduct (refusal to negotiate in good faith or to issue a change order) ordered it to stop work, Canby will return to work. Canby does so under protest due to the failure of the City of Milwaukie to issue a change order. *See Addendum 2 and Clause 18 of the Contract.*<sup>4</sup>

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6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206 Telephone 503-7867600.

<sup>4</sup> 18. **Changes**

City may at any time, and without notice, issue a written Change Order requiring additional work within the general scope of this Contract, or any amendment thereto, or directing the omission of or variation in work. If such Change Order results in a material change in the amount or character of the work, an equitable adjustment in the Contract price and other provisions of this Contract as may be affected may be made. Any claim by Contractor for and adjustment under this section shall be asserted in writing within thirty (30) days from the date of receipt by Contractor of the notification of change or the claim will not be allowed. Whether made pursuant to this section or by mutual agreement, **no change shall be binding upon City until a Change Order is executed by the Authorized Representative of City**, which expressly states that it constitutes a Change Order to this Contract. The issuance of information, advice, approvals, or instructions by

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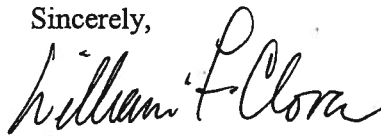
Letter to Charles E. Corrigan  
June 11, 2009  
Page 4

5. Unauthorized Issue of Notice of Default.

As a final matter it is noted that the notice was not issued by the City of Milwaukie's contracting officer, nor approved by either its public contract review board or its governing body. In the absence of delegated authority to act as the contracting officer, the action of issuing the notice is ultra vires and the notice itself is a nullity.<sup>5</sup>

Canby requests that the notice be formally withdrawn.

Sincerely,



William F. Cloran

WFC/gg

cc: Client

Safeco Insurance Company of America (Performance Bond No. 6639477)  
Phoenix Surety Agency, Inc.  
City of Milwaukie, City Engineer

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City's Representative or other City personnel shall not constitute an authorized change pursuant to this section. Nothing contained in this section shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the Contract, as changed.

<sup>5</sup> Authority to contract is a power inherent in the governing body of the City and includes the power to make contracts, to alter or amend contracts and to terminate contracts. Charter Chapter II, Section 4. Powers not specifically delegated are retained by the City Council. Charter Chapter III, Section 6. Unless otherwise provided by ordinance or by law the Mayor is to sign all documents and writings on behalf of the governing body. Code 2.04.060. Authority to contract for up to \$25,000 has been delegated to the City Manager. Code 3.05.060. No authority has been delegated to the City Attorney. The last person appointed to the office appears to have been Mr. Gregory Eades. Mr. Timothy Ramis and Mr. Phil Grillo begin signing documents as City Attorney in 1988 however there is no resolution in the numbered series of the City appointing either of them to the office nor is there a resolution allowing the appointment of deputies or assistants. There is no resolution or contract appointing the signer of the Notice of Default as City Attorney or authorizing him to represent the City nor is there any delegation of contracting authority to him.

YAZBECK, CLORAN & HANSON, PC

## **SETTLEMENT AGREEMENT AND RELEASE**

This settlement agreement and release ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, between The City of Milwaukie, Oregon ("the City"), and Canby Excavating, Inc., ("Canby").

### **RECITALS**

A. The City and Canby entered a public improvement contract on May 6, 2009, City Contract # 2009033 ("the Contract") for the Main Street Wastewater Line Extension Project ("the Project").

B. Pursuant to the Contract, the City was to pay Canby \$455,365.25. During the course of the Project the City approved additional payment to Canby on account of change orders in the amount of \$11,478.05, the total of those two amounts hereinafter "the Contract Sum".

C. During the course of the Project there arose a disagreement between the City and Canby regarding Canby's entitlement to payment above the Contract Sum.

D. The Project has been completed.

E. The City and Canby desire to resolve their disagreement concerning the payment due from the City to Canby by executing this Agreement.

These recitals are contractual terms.

### **AGREEMENT**

The parties agree as follows:

1. The City will pay Canby \$140,000 above the Contract Sum.

That payments will be made no later than \_\_\_\_ days after the execution of this Agreement.

2. In consideration of the payment described in Paragraph No. 1, Canby releases, acquits and forever discharges the City from any and all claims for payment of any nature above the Contract Sum.

3. The City makes this Agreement solely to settle and resolve an outstanding dispute and in so doing makes no admission of wrongdoing.

4. Canby expressly agrees and understands that this Agreement shall have no effect on any obligation or liability that Canby otherwise has to the City under the Contract or otherwise, such as but not limited to all contractual warranties, express or implied.

5. This Agreement constitutes the entire agreement of the parties and all prior representations, covenants, negotiations, proposals and understandings, whether oral or written, are superseded.

It is so agreed:

CITY OF MILWAUKIE, OREGON CANBY EXCAVATING, INC.

\_\_\_\_\_

\_\_\_\_\_

BY:

BY:

ITS:

ITS:

Cost to complete Main Street sewer main relocation project

Projects costs for five weeks (May and June) when disputed trench conditions were an issue.

Labor : \$39,983.60

Equipment: \$42,871.96

Trucking: \$29,720.00

Materials: \$87,888.21

Total cost: \$203,334.81 (cost, without profit markup, to perform work in disputed trench area)

\$246,035 Canby expectation with 21% mark-up  
\$ 76,183 Cost of this segment of work per contract  
**\$169,852 Net (contract increase)**

\$184,532 City offer, removing equipment, including a 15% markup  
\$ 76,183 Cost of this segment of work per contract  
**\$108,349 Net (contract increase)**

Average of Canby and City proposals is \$139,100.

ATTACHMENT 2

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A CONTRACT SETTLEMENT FOR THE MAIN STREET SEWER MAIN PROJECT.**

**WHEREAS**, the City of Milwaukie has identified the need to relocate the waste water main from its location parallel to Main Street and locate in Main Street from Jefferson to Scott Street through its 2008/09 and 2009/2010 Capital Improvement Plans; and

**WHEREAS**, construction of the project has been completed; and

**WHEREAS**, a formal competitive bidding process following Chapter 30 of the City's Public Contracting Rules was conducted; and

**WHEREAS**, the City of Milwaukie authorized the City Manager to enter into a contract with Canby Excavating Inc for \$455,365.25; and

**WHEREAS**, the City of Milwaukie and Canby Excavating Inc reached agreement on the issue of additional payment for trenching work done as part of the contract;

**NOW, THEREFORE, BE IT RESOLVED** that the City Manager is authorized to sign the settlement agreement and release prepared for Main Street Sewer main project.

Introduced and adopted by the City Council on October 20, 2009.

This resolution is effective on October 20, 2009

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney





**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager, and  
Kenneth Asher, Community Development & Public Works Director

**From:** Alex Campbell, Community Development

**Subject:** NE Sewer Extension Project Development Agency IGA

**Date:** October 5 for the October 20, 2009 Regular Session

### **Action Requested**

Authorize the Mayor to sign an Inter-Governmental Agreement (IGA) with Clackamas County Development Agency regarding North Clackamas Revitalization Area subsidy payments to help defray private costs of connection to the planned NE Sewer Extension Project.

### **History of Prior Actions and Discussions**

**September 2009:** Council approved an updated Clean Water State Revolving Fund Loan Agreement for the NE Sewer Extension (NESE) project (Resolution No. 57-2009) and initiated annexation of the right-of-way in the NE Sewer Extension Project Area by resolution (Resolution No. 58-2009).

**August 2009:** Staff briefed Council on the status of the NE Sewer Extension (NESE) Project and the need to annex the right-of-way in this area.

**June 2009:** Council awarded a contract to Right-of-Way Associates Inc. for easement and appraisal services within the NESE Project area.

**February 2009:** Staff briefed Council on the status of the NESE Project

**February 2009:** Council approved a resolution authorizing the City Manager to enter into a contract with Century West Engineering for the engineering services needed to extend the City's sewer system into Dual Interest Area "A".

**December 2008:** Council approved a loan agreement from the Clean Water State Revolving Fund (CWSRF) to fund the extension of the City's sewer system into Dual Interest Area "A" (Resolution No. 94-2008).

**October 2008:** Council approved moving forward with the extension of the City's sewer system into Dual Interest Area "A" including: entering into an intergovernmental agreement with Clackamas County for use of Century West Engineering services through a contract between Century West Engineering and Clackamas County; making application for a DEQ loan needed to accomplish the sewer extension; and moving forward with the public information needed for the project (Resolution No. 81-2008).

**September 2008:** Staff briefed Council at a work session on the proposed sewer extension project. Council requested additional information prior to acting.

**May 2008:** Staff briefed Council at a work session on the proposed sewer extension project, specifically with regard to City, County, State and intergovernmental requirements and policies. Staff presented information on relevant City and County policies, State law regarding annexation, and raised questions regarding service delivery and governance.

**March 2008:** Staff briefed Council at a work session on the need for sewer service in Dual Interest Area "A". Staff informed Council that the City was coordinating with Clackamas County and reaching out to owners and residents in this area to determine the level of interest in connecting to the City's sewer system.

**September 2006:** Staff briefed Council on State statute and City Comprehensive Plan policy regarding island annexations.

**November 2002:** Council directed the City Manager to sign a CDBG grant application to subsidize connection costs for low-income residents in Dual Interest Area "A". This proposal assumed a City project to extend sewer service into this unincorporated area.

**July 1990:** Clackamas County Order No 90-726 established an Urban Growth Management Agreement (UGMA) in which the City and County agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County. With respect to Dual Interest Area "A", the agreement states: *"The City shall assume a lead role in providing urbanizing services."*

## **Background**

The North Clackamas Revitalization Urban Renewal Area (NCRA) encompasses the unincorporated area immediately east of the City of Milwaukie, roughly from Monroe Street to the Multnomah County line at the north, and east to 82<sup>nd</sup> Avenue. The urban renewal area was established in 2006 and has been collecting Tax Increment Finance (TIF) revenues. The goals for the area and the project priorities were developed in consultation with residents. The NCRA urban renewal plan is focused on primarily on improving the quality of life in the area and preserving the largely residential character. Most of the planned projects are focused on improving public infrastructure and construction of sanitary sewer in the area is one of the top priority projects for the NCRA.

The NCRA has committed to provide two separate contributions to support local residents as they connect to new sewers. First, the NCRA will provide \$2,200 per developed lot requiring a new connection to defray System Development Charges (SDCs). The amount was selected based on the SDC in place in the County at the time of an agreement between the development agency and WES to freeze SDCs in the NCRA. A second benefit, or subsidy, has also been established to reduce each lot's "assessment" (i.e., project cost share) by \$1,250.

The Development Agency does not yet hold adequate funds to cover these costs. Initial bond sales for the NCRA have been put on hold due to the unfavorable current economic climate. The attached agreement commits the Development Agency to make a substantial initial payment (\$250,000) to the City as soon as bonds are issued.

Customers north of Johnson Creek will be connected via City of Milwaukie collection pipes to the "Lents Trunk", a City of Portland pipe. Their wastewater will be treated by City of Portland, and per the Milwaukie-Portland agreement that covers such situations, their SDC payment obligation is to the City of Portland.

Because of uncertainty regarding timing of the Development Agency's initial payment to the City, and because some properties within the City of Milwaukie's project will be paying SDCs to Portland, staff has requested that all NCRA subsidies be applied to the reimbursement district assessment. In this way, the City can make the full subsidy available to customers by delaying the City's full cost recovery until the Development Agency makes payment to Milwaukie.

## **Concurrence**

The City Attorney reviewed the IGA and concurs.

### **Fiscal Impact**

The Agreement provides for an early lump sum payment to the City. These funds represent reimbursement costs that will not be collected from residents/future customers. Therefore, they represent a pre-payment of reimbursement costs and do not substantially alter reimbursement cost calculations.

### **Work Load Impacts**

Execution of the actions described here are within existing work plans.

### **Alternatives**

Council could direct staff to attempt to renegotiate the agreement with Development Agency personnel. However, staff believes the attached agreement does represent equitable treatment of both future City of Milwaukie customers and CCSD#1 customers by the Development Agency.

### **Attachments**

1. Resolution (IGA as an Exhibit)

# ATTACHMENT 1

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT FOR THE COLLECTION OF PAYMENTS FROM THE CLACKAMAS COUNTY DEVELOPMENT AGENCY TO DEFRAY THE PRIVATE SANITARY SEWER SYSTEM CONNECTION COSTS OF PROPERTIES IN THE NORTH CLACKAMAS URBAN RENEWAL DISTRICT TO BE SERVED BY CITY OF MILWAUKIE SANITARY SEWERS.**

**WHEREAS**, the City Council has previously committed the City to construct the North East Sewer Extension (NESE) Project to serve properties within the North Clackamas Urban Renewal District; and

**WHEREAS**, the City of Milwaukie anticipates recovering costs for the project through a reimbursement district; and

**WHEREAS**, the North Clackamas Urban Renewal District plan calls for renewal district revenues to help support the construction of sanitary sewer collection systems in the area; and

**WHEREAS**, the Clackamas County Development Agency administers the North Clackamas Urban Renewal District;

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Milwaukie authorizes the Intergovernmental Agreement with the Clackamas County Development Agency (attached as Exhibit A) and authorizes the Mayor to sign the agreement, governing the timing, form and amount of payments from the Development Agency to the City in order to allow discounts to be provided to future City of Milwaukie wastewater customers within the North Clackamas Urban Renewal Area.

Introduced and adopted by the City Council on October 20, 2009.

This resolution is effective on October 21, 2009.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

**AN INTERGOVERNMENTAL AGREEMENT FOR THE PARTIAL  
PAYMENT OF CHARGES RELATED TO THE CONNECTION  
OF PROPERTIES TO A SANITARY SEWER SYSTEM TO BE  
CONSTRUCTED IN THE NORTH CLACKAMAS URBAN  
RENEWAL DISTRICT**

**BETWEEN THE CLACKAMAS COUNTY DEVELOPMENT  
AGENCY AND THE CITY OF MILWAUKIE**

This Intergovernmental Agreement (the "Agreement") is made and entered into by and between the Clackamas County Development Agency, the urban renewal agency of Clackamas County, (the "Agency") and the City of Milwaukie, an Oregon municipality (the "City") as of October \_\_\_\_\_, 2009.

**RECITALS**

- A. The Agency has an urban renewal district, the North Clackamas Revitalization Area (the "NCRA").
- B. A project under the NCRA Urban Renewal Plan and Design Plan is to facilitate the process of providing sanitary sewers to those areas of the NCRA now served by septic systems. A map of the North Clackamas Revitalization Area is attached to this document as Exhibit "A".
- C. The City intends to provide sanitary sewers to a portion of the NCRA known as the Dual Interest Area ("DIA") as provided for in the City/County Urban Growth Management Agreement. A map depicting the portion of the DIA to be served by the City is attached to this document as Exhibit "B".
- D. The Agency and the City have the ability and obligation to work together to efficiently provide services to Clackamas County citizens and businesses.

NOW, THEREFORE, AS THE AGENCY DESIRES TO FACILITATE THE PROCESS OF PROVIDING SANITARY SEWERS TO THOSE AREAS OF THE NCRA NOW SERVED BY SEPTIC SYSTEMS, AND THE CITY WISHES TO PROVIDE SANITARY SEWERS TO THOSE AREAS OF THE NCRA WITHIN ITS URBAN GROWTH MANAGEMENT BOUNDARY AREA, THE AGENCY AND THE CITY AGREE AS FOLLOWS:

- 1. Purpose: The purpose of this Agreement is to provide a mechanism for the Agency to implement the NCRA Urban Renewal Plan and Design Plan and for the City to realize the efficiencies associated with the expeditious connection of properties now served by septic systems to the sewers the City plans to construct in the area. The Agency is

providing \$2,200.00 of financial assistance per eligible property for the sewer system development charges associated with the City's connections to developed lots in the DIA. The Agency is also partially underwriting the costs of assessments or reimbursement fees with a subsidy of \$1,250.00 for properties requiring sewer service.

2. Effective Date: This Agreement shall become effective as of the date first written above, and shall continue until terminated as set out below in Section 6 due to term or Section 7 because of default.

3. The obligations of the Agency: The Agency shall pay the City according to the terms set out in this Agreement. The City shall account for funds provided by the Agency and track credits to eligible properties as set out in Section 5.5 below. No other use shall be made of this money than that of providing sewer system connection benefits as specified in this document.

4. The obligations of the City: The City shall accept payment from the Agency according to the terms set out in this Agreement.

5. The Administration of the Program.

5.1. The terms of this Agreement only apply to those portions of the DIA expected to receive sewer service from the City as shown on attached Exhibit B. As later specified in this document, the payment by the Agency to the City will provide two separate benefits to eligible property owners in the DIA. The first benefit is payment of \$2,200.00 for a single sewer system development charge (the "SDC") for each developed lot requiring a new connection to the City's sanitary sewers. The second benefit is a payment of \$1,250.00 as a subsidy or discount of the reimbursement fee for properties subject to the cost associated with a reimbursement district for provision of sewer service. The City may elect to credit the benefit for a sewer system development charge against the reimbursement fee for eligible properties.

5.2. The Agency and the City shall identify and agree as to the number of potential connections to developed lots in the DIA, and as to the number of properties subject to a sewer assessment or reimbursement fee.

5.3. The Agency shall initially pay the City two hundred fifty thousand dollars (\$250,000.00) plus any additional payment as may be necessary to cover benefits due to eligible properties connecting to sewer during the period between sewer service becoming available and the Agency securing its initial bond to finance projects within the NCRA. This initial payment shall not exceed five hundred thousand dollars (\$500,000.00), and shall serve as a partial prepayment of the costs of connecting each developed lot to the City's sanitary sewers within the NCRA according to the terms set out in this Agreement. The payment will be in the form of a deposit of immediately bankable funds. The City shall account for funds provided by the Agency and track credit to eligible properties as set out in Section 5.5 below. No other use shall be made of this money than that of providing sewer system development connection benefits.

5.3.1 The Agency shall have no obligation to make this initial payment until both of the contingent events set out immediately below have occurred:

5.3.1.1. The Agency has secured its initial bond to finance its projects within the NCRA; and

5.3.1.2. The Agency is satisfied that the City has implemented its plan to provide sanitary sewers, and has provided a process for annexation as properties are connected to the system of sanitary sewers.

5.3.2 The Agency shall make additional payments, if necessary, to the City with each subsequent bond the Agency secures to finance projects within the NCRA, or every three years, whichever comes first. The amount of each additional payment shall cover any benefits due to eligible properties not covered by the prior payment and the anticipated demands for benefit payments for the next three-year period. A payment may be skipped if the amount of money already contributed by the Agency is reasonably expected to cover sewer connections for the next three-year period. Payments shall continue until benefits for all eligible properties have been paid or until the termination of this Agreement.

5.4. The City agrees that the total amount to be paid by the Agency during the term of this Agreement, calculated with the assistance of the City, will be based on the number of eligible properties within the DIA with the potential to connect to the sewer system. The SDC benefit is determined by multiplying the number of developed lots eligible to receive an SDC credit by \$2,200.00. The assessment or reimbursement fee discount is determined by multiplying the number of properties expected to be subject to a reimbursement fee for the sewer project by \$1,250.00. The sum of the two totals is the maximum total amount to be paid by the Agency during the term of this Agreement. Based on a preliminary estimate of the number of properties expected to receive access to sewer service, the SDC benefit is estimated to be \$635,000.00 and the portion of the payment attributable to the reimbursement fee subsidy is estimated at \$365,000.00, resulting in a total of \$1,000,000.00. The actual total payment will be based on the total number of eligible properties agreed upon by the Agency and the City as set out in Section 5.2.

5.4.1. The initial prepayment is expected to be sufficient to accommodate the connection of properties during the first three years after sewer service becomes available. Upon annexation and connection to the City sanitary sewer system, the City shall credit each eligible property \$2,200.00 for sewer system development charges and \$1,250.00 as a credit against the reimbursement fee computed for the property, for a total of \$3,450.00 per eligible property. At the City's discretion it may elect to credit the benefit for sewer system development charges against the reimbursement fee for eligible properties. In the event a property is eligible for one type of credit but not the other, the City shall credit the property the appropriate amount for which it is eligible.



5.4.2 The only sewer system development charges which may qualify for a system development charge credit are those attributable to a single connection to a developed lot. For the purposes of this Agreement, a “developed lot” is a property which is assessed, according to the assessment and tax roll of Clackamas County, as an improved property with buildings and structures and assigned a real market value equal to, or greater than, \$50,000.00.

5.4.2 Only one connection per developed lot may qualify for a single sewer system development credit of \$2,200.00. To the extent a property may be assessed more than one sewer system development charge (e.g. a business rated to produce more than one equivalent dwelling unit of wastewater at its point of connection), the remaining sewer system development charge shall be paid by the property owner at the then-current rate for such system development charge. If the City elects to credit the benefit for a sewer system development charge against the reimbursement fee then the property owner will be responsible for payment of the full sewer system development charge for a property.

5.4.2.1 At the time of connection, if the then-current rate for a sewer system development charge is less than \$2,200.00, the difference shall be applied to reduce the reimbursement fee attributable to the property. Should the then-current SDC rate be greater than \$2,200.00, the amount of the SDC above \$2,200.00 shall be paid by the property owner. If the City elects to credit the benefit for a sewer system development charge against the reimbursement fee then the property owner will be responsible for payment of the full sewer system development charge for a property.

5.4.3 This Agreement does not reach, and has no effect on, the manner and amount by which the City otherwise imposes its sewer system connection charges.

5.4.4 No part of this instrument shall entitle the Agency to any share, interest, or participation in the management of sanitary sewers in the DIA other than the right to use and enjoy the same under the existing ordinances of the City.

5.5. The City shall, in a manner consistent with its procedures and practices, account for any and all funds paid to the City by the Agency under this Agreement, as a credit against sewer system connection charges imposed as a condition for the connection of eligible properties to the City’s sanitary sewers in the DIA. The City shall also keep a record of properties having received the \$2,200.00 sewer system development charge credit and the \$1,250.00 sewer reimbursement fee credit. The City shall provide the Agency a semi-annual report of all eligible properties receiving sewer system development charge benefits and/or sewer reimbursement fee credits, along with the amount of funds remaining to be credited or any deficit to be met with the next required payment. If the City elects to apply the credit for a sewer system development charge against the reimbursement fee for a property, the City shall note this in the report of eligible properties receiving benefits. The City shall also, upon reasonable notice, make its records available for inspection by the Agency.

5.5.1. Upon the termination of this Agreement or termination of the reimbursement district by the City, the Agency shall have the ability to demand a repayment, and the City shall promptly repay, any monies remitted to the City for purposes of this Agreement that were not used as sewer system development connection benefits for eligible properties. The City may retain any interest earned by the unused funds up to the time repayment is demanded. Following the Agency's demand for repayment all interest earned on the unused funds shall be paid to the Agency.

5.5.2. The City shall not impose any fees on property owners within the DIA for participation in the program, including processing charges, overhead, and participation payments, without the express permission of the Agency; provided, however, that such limitation shall not prevent the City from charging its customary fees and rates for all similarly-situated potential or actual customers of the City.

6. Term: This Agreement shall be effective upon execution, and shall expire upon the Agency paying the City the full amount necessary to provide financial assistance for sewer service connection for all eligible properties in the DIA, and the City properly crediting all eligible properties upon connection, or upon mutual written agreement of the Agency and the City.

6.1 If all eligible properties have not connected to the sanitary sewer system by the date of termination of the NCRA levy, the Agency shall, if necessary, pay the City an additional amount required to provide financial assistance to any remaining eligible properties. The City shall provide written documentation that the remaining eligible properties will be credited for financial assistance upon connection.

6.2 If, upon the expiration of this Agreement and the crediting of all eligible properties, there is any excess balance remaining attributable to the Agency's initial payment or any additional payments supplementing that sum, that excess amount shall be remitted to the Agency in the manner set out in Section 5.5.1.

6.2.1 If the City terminates the reimbursement district prior to all eligible properties in the DIA having connected to the sanitary sewer system, the City shall remit any excess balance attributable to the Agency's initial payment or any additional payments supplementing that sum, to the Agency in the manner set out in Section 5.5.1.

## 7. Default and Termination.

7.1. Default: The failure or delay by either the City or the Agency to perform any term or provision of this Agreement constitutes a default under this Agreement.

7.1.1. The injured party shall give written notice of default to the party in default, specifying the default complaint of the injured party.

7.1.2. If the party in default commences to cure, correct, or remedy the default within thirty (30) days after receipt of a notice specifying the default, and thereafter diligently prosecutes the cure, correction, or remedy to completion, then such party shall not be in default.

7.1.3. Default shall be grounds for the termination of this Agreement.

7.2. Termination: This Agreement may be terminated prior to the expiration of its term by default or the mutual written agreement of the City and the Agency.

7.2.1. The termination of the Agreement becomes effective-

7.2.1.1. In instances of termination according to mutual written agreement, according to the specific terms of that document; or

7.2.1.2. In instances of default, seven (7) days after the injured party's notice to the defaulting party of the defaulting party's failure to cure, correct, or remedy the default.

7.2.2. Neither the Agency nor the City shall incur any new obligations after the effective date of the termination, and each shall cancel as many obligations as possible. Full credit shall be allowed for each party's expenses and all non-cancelable obligations properly incurred up to the effective date of termination.

7.2.3. If upon termination there is any balance remaining from the sums paid by the Agency the City shall, upon the Agency's demand, remit that sum to the Agency in the manner set out in Section 5.5.1.

## 8. Miscellaneous.

8.1. Dispute Resolution: The provisions of this Agreement shall be construed according to the applicable provisions of the laws of the State of Oregon. Any litigation to enforce any provision of this Agreement shall be conducted in the Circuit Court of the State of Oregon for Clackamas County.

8.2. Merger: This Agreement and the attached exhibits constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

8.3. Amendment: Modifications, amendments, or change of terms of this Agreement shall be made by mutual consent of the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing.

8.3.1. The City and the Agency acknowledge and agree that, in the event that it is necessary to amend this Agreement, the necessary approval is delegated to the City's Public Works Director and the Agency's Manager.

8.3.2. Any waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

8.4. Waiver: The failure of the City or the Agency to enforce any part of this Agreement shall not constitute a waiver of that or any other provision.

8.5. Notice: All notices required under this Agreement shall be deemed to be properly served if sent by U.S. Mail to the representative and address identified below. Until such time as the parties name other individuals, for purposes of providing notice under this Agreement the parties designate the individuals set out below:

For the Agency: Clackamas County Development Agency  
Development Agency Manager  
Development Services Building  
150 Beavercreek Rd.  
Oregon City, OR 97045

For the City: City of Milwaukie  
Director of Community Development & Public Works  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

8.6. Severability: In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be effected or impaired thereby.

8.7. Indemnification and Insurance: The City and the Agency agree, to the extent permitted under the Oregon Constitution and laws, to work to hold each other harmless and indemnify the other, and elected and appointed officials, agents, and employees, from and against all claims, demands, and causes of action of any kind or character arising on account of personal injuries, death, or damage to property caused by or resulting from their own actions or omissions or those of their officials, agents, and employees. Each party agrees to maintain insurance levels, or self insurance in accordance with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as set out ORS 30.270.

8.8. Overhead and Administration: The City and the Agency shall each be responsible for their own overhead and administrative costs relating to this Agreement, and not look for reimbursement from one to the other.

8.9. Compliance with the law and notice of action: The City and the Agency agree to comply with all applicable local, state, and federal ordinances, statutes, laws, and regulations. Each party shall give the other immediate written notice of any action or suit filed or any claim made against them that may result in litigation in any way related to this Agreement.

8.10. No third party beneficiaries: While the Agency and the City intend, as a natural consequence of their actions, to improve the NCRA for the benefit of its inhabitants, there are no third party beneficiaries to this Agreement. The only parties able to enforce its terms are the Agency and the City.

8.11 Remedy: The Agency and the City agree that each may avail itself of any remedy at law or in equity to enforce or preserve the rights conferred and obligations assumed by the respective parties herein, and to obtain compensation for any damages or loss incurred as a result of breach by the other party of any provision contained herein.

IN WITNESS HEREOF, the parties have executed this Agreement by the date set forth opposite their names below.

**CITY OF MILWAUKIE**

_____	_____
Jeremy Ferguson	Date
Mayor	
_____	
Recorder	

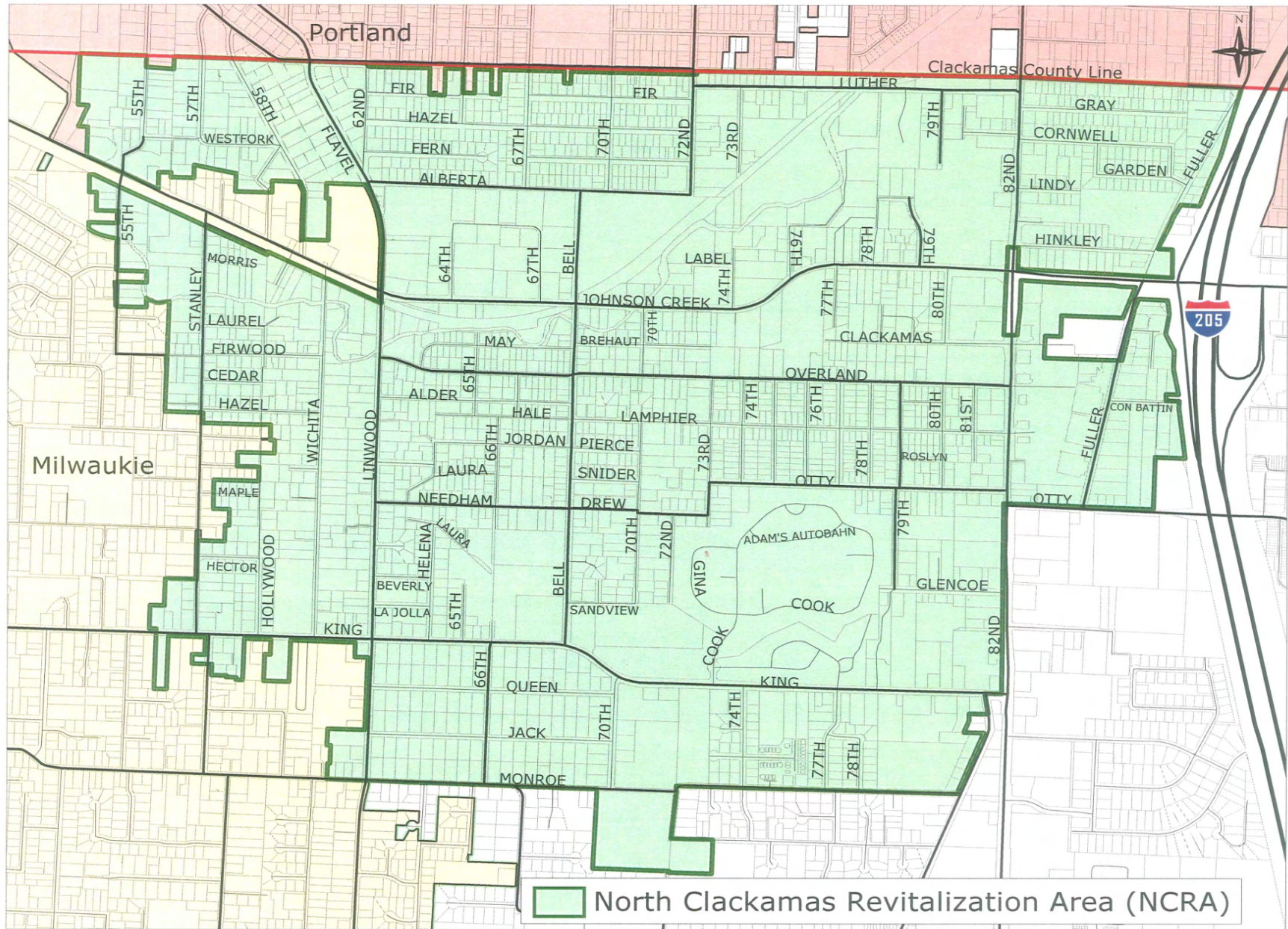
**CLACKAMAS COUNTY DEVELOPMENT AGENCY**

Board of County Commissioners Acting as the Governing Body of the Clackamas County Development Agency

_____	_____
Lynn Peterson	Date
Chair	
_____	
Mary Raethke	
Recording Secretary	



Exhibit "A"









**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development and Public Works Director  
Katie Mangle, Planning Director

**From:** Susan P. Shanks, Senior Planner

**Subject:** Standardize Zone Boundaries on City Zoning Map

**Date:** October 20, 2009

### **Action Requested**

Standardize the City's approach to showing zone boundaries on the City Zoning Map where the boundary between two or more zones occurs along a public right-of-way. The recommended approach is described in the attached resolution (Attachment 1) and shown on the attached maps (Attachments 2 and 3). Approval of this resolution would not result in the rezoning of any real property and would not change right-of-way ownership or jurisdiction.

### **History of Prior Actions and Discussions**

None.

### **Background**

The City's current Zoning Map does not show zone boundaries in a consistent manner where the boundary between two or more zones occurs along a public right-of-way. In some instances, the boundary between zones is shown to the centerline of the right-of-way. In other instances, the boundary is shown to the edge of the right-of-way.

Staff recommends that the City adopt the following consistent approach to showing zone boundaries. Generally, zone boundaries should be shown to the centerline of the right-of-way where the boundary between two or more zones occurs along a public right-of-way. Where right-of-way abuts property inside the City's urban growth management area (UGMA) but outside the current City boundary (i.e. in unincorporated



Clackamas or Multnomah County), the City should apply a zone designation to the right-of-way as if the County-zoned properties were in the City and had a City equivalent zone (per Table 19.1504.1.E in the Milwaukie Municipal Code). Where right-of-way abuts property outside the City's UGMA, the City should extend the City's zone boundary to the outer edge of the right-of-way.

Staff reviewed other municipalities' zoning maps and the City's historic zoning maps in developing this recommendation. Showing zone boundaries to the centerline of the right-of-way is the prevailing practice among other municipalities and appears to have been the City's practice in the past. It is unclear why the City's practices changed and likely occurred when the City converted its data and maps to a digital format in the late 1990's.

### **Concurrence**

Staff developed the proposed approach to mapping zone boundaries in consultation with the City Attorney and the City GIS Coordinator. The City Attorney advised staff that the proposed map adjustment did not constitute a true map amendment, which would require major quasi-judicial review, because it did not involve the rezoning of any real property. Kate Rosson, GIS Coordinator for the City, advised staff that a consistent and replicable approach to showing zone boundaries is both needed and desirable. She supports planning staff's proposal to modify how zones are displayed on the City's Zoning Map.

### **Fiscal Impact**

None.

### **Work Load Impacts**

There are no significant workload impacts associated with approval of this approach beyond the time it would take the City's GIS Coordinator to revise the City's Zoning Map and associated GIS data layers.

### **Alternatives**

None proposed

### **Attachments**

1. Resolution: Standardizing Zone Boundaries on City Zoning Map
2. Portion of Zoning Map: Existing Zone Boundaries
3. Portion of Zoning Map: Proposed Zone Boundaries

# ATTACHMENT 1

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,** standardizing how the City Zoning Map shows zone boundaries where the boundary between two or more zones occurs along a public right-of-way.

**WHEREAS,** the City Zoning Map does not consistently show zone boundaries where the boundary between two or more zones occurs along a public right-of-way; and

**WHEREAS,** showing zone boundaries to the centerline of the right-of-way is the prevailing practice among other municipalities and has been the City's practice in the past; and

**WHEREAS,** a consistent and replicable approach to displaying zone boundaries is both needed and desirable;

**NOW, THEREFORE, BE IT RESOLVED** that zone boundaries be shown on the City Zoning Map to the centerline of the right-of-way where the boundary between two or more zones occurs along a public right-of-way. Where right-of-way abuts property inside the City's urban growth management area (UGMA) but outside the current City boundary (i.e. in unincorporated Clackamas or Multnomah County), the City shall apply a zone designation to the right-of-way as if the County-zoned properties were in the City and had a City equivalent zone (per Table 19.1504.1.E in the Milwaukie Municipal Code). Where right-of-way abuts property outside the City's UGMA, the City shall extend the City's zone boundary to the outer edge of the right-of-way.

Introduced and adopted by the City Council on \_\_\_\_\_ .

This resolution is effective on \_\_\_\_\_ .

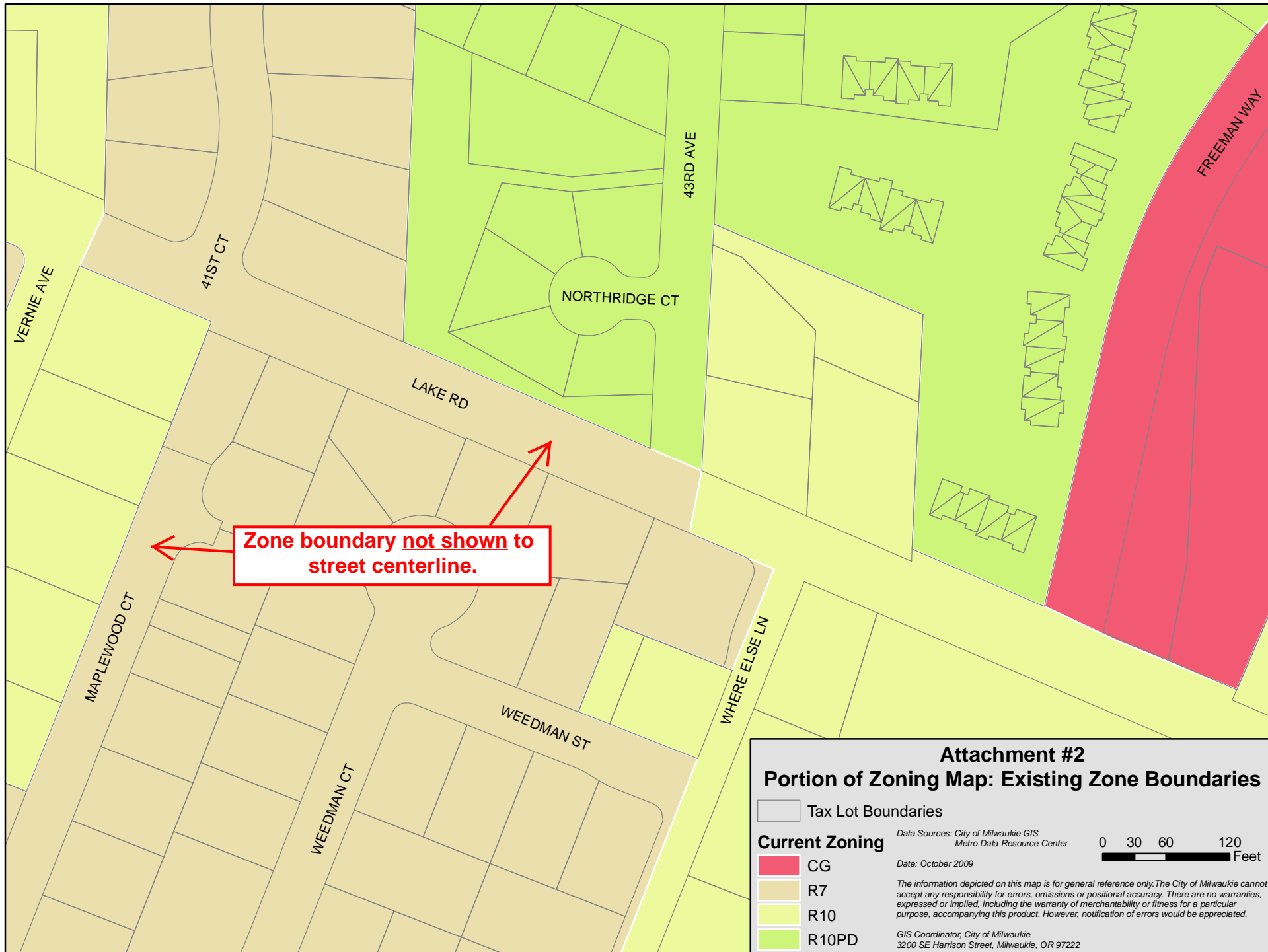
\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

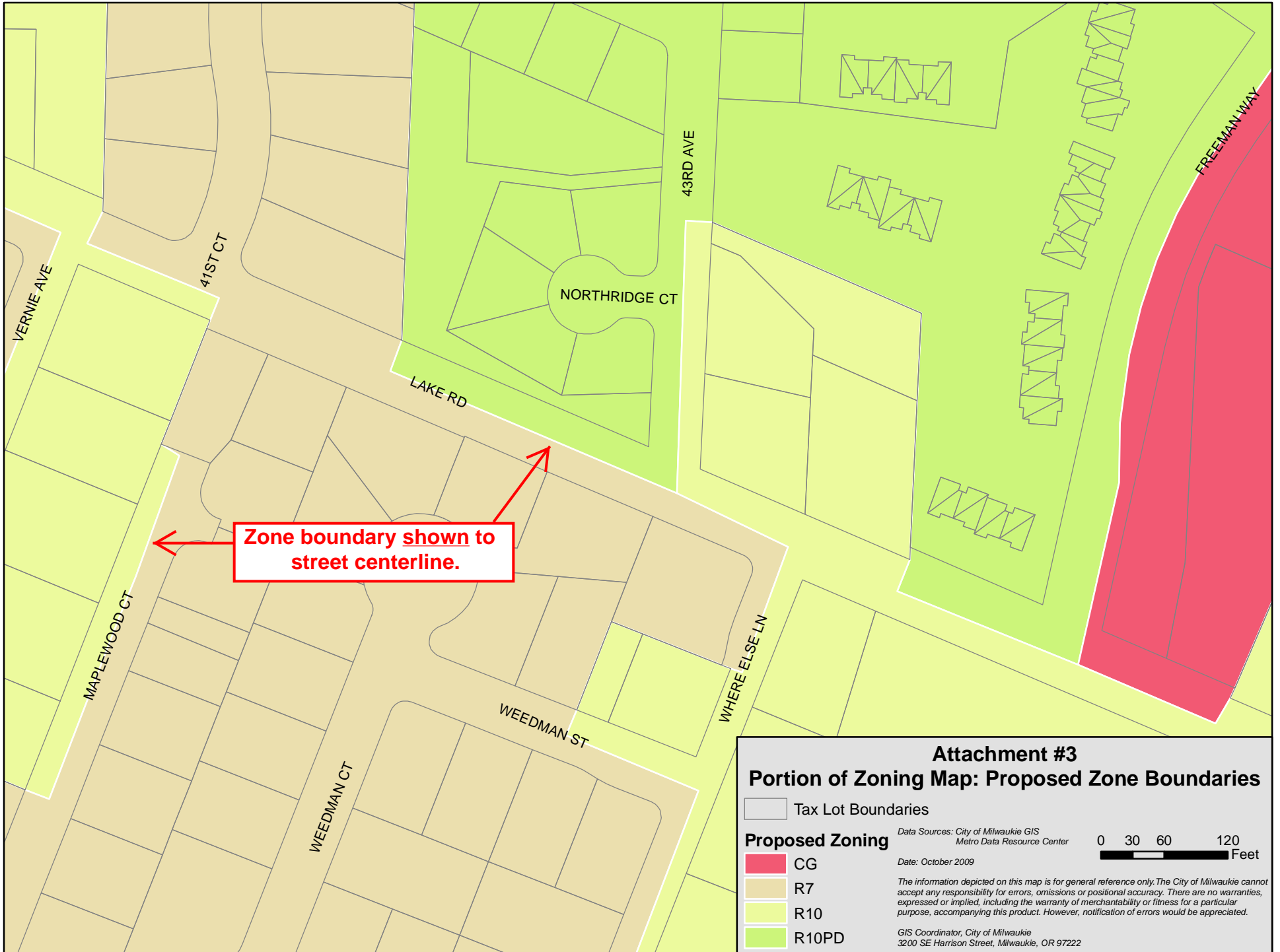
APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney



**Zone boundary not shown to street centerline.**





3.G.



**To:** Mayor Ferguson and Milwaukie City Council  
**Through:** Mike Swanson, City Manager  
**From:** Bob Jordan, Chief of Police  
**Date:** October 2, 2009  
**Subject:** O.L.C.C. Application – Wine:30 – 10835 SE Main Street

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**Action Requested:**

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Wine:30 – 10835 S.E. Main Street.

**Background:**

We have conducted a background investigation and find no reason to deny the request for liquor license.

6.

# OTHER BUSINESS



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: City Code Update – Parks and Recreation

Date: September 28, 2009

#### Action Requested

Approve an ordinance amending Chapters 2.12 and 2.20 of the Milwaukie City Code regarding establishment and membership of the Park and Recreation Board and the Center/Community Advisory Board, respectively.

#### History of Prior Actions and Discussions

June 2009: Council provided staff and Park Board members with guidance on the Park and Recreation Board functions.

#### Background

In anticipation of a City Code republication, planned for November of 2009, the Milwaukie Park and Recreation Board (PARB) and their staff liaison, JoAnn Herrigel, have been reviewing two chapters of the City code which apply to the Parks and Recreation in the City. The first is Chapter 2.12, Park and Recreation Board, that establishes the Board and describes its purpose and the qualifications for its members. The second is Chapter 2.20, Center/Community Advisory Board (CCAB), that establishes that Board and describes its purpose and membership.

#### **Chapter 2.12 Park and Recreation Board**

The Park Board reviewed the proposed language and discussed it with Council before finalizing the attached draft. The proposed changes to Code include:

- Acknowledgment of the creation of North Clackamas Parks and Recreation District and the City's membership in the District.

- Clarification of Council and City Park Board roles regarding advising the District Advisory Board and the County Commissioners
- General language cleanup regarding the Board's participation in development and review of the District's master plan, capital improvement plan and other processes.

## **Chapter 2.20 Center/Community Advisory Board**

The Park Board and staff worked with Joan Young, Director of the Milwaukie Center, and the CCAB to develop updated language for the recently amended Intergovernmental Agreement (IGA) between the City and the North Clackamas Park District. These same elements were used in updating the code language proposed here. The proposed changes to code include:

- Clarification of decision-making authorities for operation, maintenance and capital expenditures for the Milwaukie Center.
- Highlighting the recent downsizing of the Center's Advisory Board and stating the number of terms allowed for each member.
- Highlighting the new nomination and representation policy for board positions (mirrored in the updated IGA and Board By-Laws)

### Concurrence

The North Clackamas Parks and Recreation District, the Center/Community Advisory Board and the Milwaukie Park and Recreation Board support the proposed changes to Chapters 2.12 and 2.20 of Milwaukie City Code.

### Fiscal Impact

None.

### Work Load Impacts

None.

### Alternatives

Deny approval of proposed code changes and request additional information from staff and the affected committees.

### Attachments

- Ordinance
- Proposed Code Language changes for 2.12
- Proposed Code Language changes for 2.20



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTERS 2.12 AND 2.20 OF MILWAUKIE'S MUNICIPAL CODE REGARDING ESTABLISHMENT AND MEMBERSHIP OF THE PARK AND RECREATION BOARD AND THE CENTER/COMMUNITY ADVISORY BOARD, RESPECTIVELY.**

**WHEREAS**, Chapter 2.12 of Milwaukie City Code addresses the establishment, purpose and membership of the Milwaukie Park and Recreation Board; and

**WHEREAS**, Chapter 2.20 of Milwaukie City Code addresses the establishment, purpose and membership of the Center/Community Advisory Board; and

**WHEREAS**, the City wishes to update the language in both these chapters to reflect current circumstances and practices;

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 2.12 is amended to read as follows:

**Chapter 2.12**

**PARK AND RECREATION BOARD**

**Sections:**

**2.12.010 Established—Purpose.**

**2.12.020 Membership—Qualifications.**

\* Prior ordinance history: Ord. 1696.

**2.12.010 Established—Purpose.**

The City of Milwaukie is a part of the North Clackamas Parks and Recreation District (NCPRD), created in 1990 by a vote of the Service District Residents. NCPRD is responsible for operation and maintenance of the City's parks and recreation programs under an Intergovernmental Agreement signed in 1992 and amended in 2008.

The Park and Recreation Board is established for the purpose of advising and making recommendations to the city council regarding Milwaukie's recreation programs and facilities. The City Council, or its designee, shall advise the North Clackamas Parks and Recreation District (NCPRD) Advisory Board and the Board of County Commissioners on these programs and facilities in the City. The Park and Recreation Board shall be responsible for, but is not limited to, the following activities:

A. Surveying recreation and leisure time needs of City residents through the neighborhood associations and recommending the roles the city and the NCPRD should or ought to pursue in meeting such needs;

B. Serving in an advisory capacity to the city council and the NCPRD, through their regular master planning and capital improvement plan process, on the location, service areas, siting, standards, class, number and needs for existing and future parks within the community;

- C. Identifying desirable future park locations consistent with established plans and standards;
- D. Ensuring the development of a master plan for each park site;
- E. Exploring, along with NCPRD staff, the feasibility of meeting community park and recreation needs through consolidating grounds and programs with local public and private entities;
- F. Identifying park acquisition and development priorities and recommending current or potential locations and financing methods to City Council and NCPRD;
- G. Participating in planning and development processes for regional park and recreation programs or facilities which provide services benefiting Milwaukie citizens;
- H. Establishing, evaluating and monitoring maintenance standards of city parks and advising council and NCPRD of the status; and
- I. Such other activities as the council may assign. (Ord. 1801 § 3 (part), 1996)

**2.12.020 Membership—Qualifications.**

The board shall consist of seven members, representing the geographic diversity of the City, appointed by the council, all of whom must be city residents. Whenever possible, persons will be appointed who have demonstrated interest, experience, or expertise in some area of parks, recreation or related services. (Ord. 1801 § 3 (part), 1996)

Section 2. Chapter 2.20 is amended to read as follows:

**Chapter 2.20**

**Center/Community Advisory Board**

**Sections:**

- 2.20.010**      **Established – Purpose**
- 2.20.020**      **Membership - Qualifications**

**2.20.010 Established—Purpose.**

The Center/Community Advisory Board (C/CAB) is established for the purpose of advising the city council, NCPRD, the Board of County Commissioners (BCC) and Center staff regarding activities and operations of the Milwaukie Center. The board will address the programs and facilities of the Milwaukie Center concentrating on the problems, desires, and needs of senior citizens and others in the Milwaukie area. The board shall be responsible for, but not limited to, the following activities:

A. Making recommendations to staff and to the NCPRD Board regarding capital improvements, programs, maintenance and operations; and

B. Providing staff and the NCPRD board of directors with budget recommendations for operations, maintenance and capital improvements at the Milwaukie Center; (Ord. 1796 § 2 (part), 1996: Ord. 1582 § 1, 1985)

**2.20.020 Membership—Qualifications.**

A. The C/CAB shall consist of twelve members

B. Of the twelve members, there will be one member nominated by the Milwaukie City Council. This nominee shall be recommended by the C/CAB and the NCPRD Board to the BCC for approval. The BCC shall appoint the City's nominee unless there is good cause for rejection.

C. Members shall be appointed for three-year terms. Board members shall serve no more than two consecutive full terms. The BCC may waive this limitation if it is the public interest to do so.

D. Except for the nominees from the Cities of Milwaukie and Happy Valley, all remaining board positions are at-large and applications may be made directly to the C/CAB, recommended by the C/CAB and the NCPRD Board, and appointed by the BCC.

E. It is desirable that Milwaukie's nominee have an understanding of the needs of Milwaukie area citizens and the general community. (Ord. 1796 § 2 (part), 1996: Ord. 1582 § 2, 1985)

Read the first time on \_\_\_\_\_, and moved to second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on \_\_\_\_\_.

Signed by the Mayor on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

## Chapter 2.12

### PARK AND RECREATION BOARD\*

#### Sections:

**2.12.010 Established—Purpose.**

**2.12.020 Membership—Qualifications.**

\* Prior ordinance history: Ord. 1696.

#### **2.12.010 Established—Purpose.**

The City of Milwaukie is a part of the North Clackamas Parks and Recreation District (NCPRD), created in 1990 by a vote of the Service District Residents. NCPRD is responsible for operation and maintenance of the City's parks and recreation programs under an Intergovernmental Agreement signed in 1992 and amended in 2008.

The Park and Recreation Board is established for the purpose of advising and making recommendations to the city council regarding Milwaukie's recreation programs and facilities. The City Council, or its designee, shall advise the North Clackamas Parks and Recreation District (NCPRD) Advisory Board and the Board of County Commissioners on these programs and facilities in the City. The Park and Recreation Board shall be responsible for, but is not limited to, the following activities:

- A. Surveying recreation and leisure time needs of City residents through the neighborhood associations and recommending the roles the city and the NCPRD should or ought to pursue in meeting such needs;
- B. Serving in an advisory capacity to the city council and the NCPRD, through their regular master planning and capital improvement plan process, on the location, service areas, siting, standards, class, number and needs for existing and future parks within the community;
- C. Identifying desirable future park locations consonant with established plans and standards;
- D. Ensuring the development of a master plan for each park site;
- E. Exploring, along with NCPRD staff, the feasibility of meeting community park and recreation needs through consolidating grounds and programs with local schools public and private entities;
- F. Identifying park acquisition and development priorities and recommending current or potential locations and financing methods; methods of financing to City Council and NCPRD;
- G. Participating in planning and development processes for regional park and recreation programs or facilities which provide services benefiting Milwaukie citizens;
- H. Establishing, evaluating and monitoring maintenance standards of city parks and advising council and NCPRD of the status; and
- I. Such other activities as the council may assign. (Ord. 1801 § 3 (part), 1996)

**2.12.020 Membership—Qualifications.**

The board shall consist of seven members, representing the geographic diversity of the City, appointed by the council, all of whom must be city residents. Whenever possible, persons will be appointed who have demonstrated interest, experience, or expertise in some area of parks, recreation or related services.  
(Ord. 1801 § 3 (part), 1996)

## Chapter 2.20

### Center/Community Advisory Board

#### Sections:

- |          |                             |
|----------|-----------------------------|
| 2.20.010 | Established – Purpose       |
| 2.20.020 | Membership - Qualifications |

#### 2.20.010 Established—Purpose.

The Cecenter/Ceommunity Aadvisory Bboard (C/CAB) is established for the purpose of advising the city council, NCPRD, the Board of County Commissioners (BCC) and Ceenter staff regarding center-client/participant needs activities and operations of the Milwaukie Center. The board will address the programs and facilities of the Milwaukie Ceenter concentrating on the problems, desires, and needs of senior citizens and others in the Milwaukie area. The board shall be responsible for, but not limited to, the following activities:

A. Making recommendations to staff and to the NCPRD Board regarding capital improvements, programs, maintenance and operations; and

B. Providing staff and the NCPRD board of directors with budget recommendations for operations, maintenance and capital improvements at the Milwaukie Center; (Ord. 1796 § 2 (part), 1996: Ord. 1582 § 1, 1985)

~~A. Making decisions regarding capital improvements, programs, policies and maintenance and operations policies that will have to be approved by both the Milwaukie city council (deedholders to the property and facilities) and the NCPRD board; and~~

~~B. Providing the NCPRD board of directors with budget recommendations. (Ord. 1796 § 2 (part), 1996: Ord. 1582 § 1, 1985)~~

#### 2.20.020 Membership—Qualifications.

A. The C/CAB shall consist of twelve members

~~B) It is understood that half (nine) of the Milwaukie center/community advisory board's members will be appointed by the NCPRD board and half (nine) will be appointed by the Milwaukie city council. All nine members appointed by the Milwaukie city council must be residents of the city of Milwaukie. Of the twelve members, there will be one member nominated by the Milwaukie City Council. This nominee shall be recommended by the C/CAB and the NCPRD Board to the BCC for approval. The BCC shall appoint the City's nominee unless there is good cause for rejection.~~

~~CB. Members shall be appointed for three-year terms. Board members shall serve no more than two consecutive full terms. The BCC may waive this limitation if it is the public interest to do so.~~

D. Except for the nominees from the Cities of Milwaukie and Happy Valley, all remaining board positions are at-large and applications may be made directly to the C/CAB, recommended by the C/CAB and the NCPRD Board, and appointed by the BCC.

EC. It is desirable that Milwaukie's nominee ~~an applicant~~ have an understanding of the needs of Milwaukie area citizens and the general community. (Ord. 1796 § 2 (part), 1996: Ord. 1582 § 2, 1985)

-



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Kenneth Asher, Director of Community Development & Public Works**

**Subject: Update on South Downtown Planning**

**Date: October 9, 2009 for the October 20 Regular Session**

### **Action Requested**

None. This is an update to Council on planning efforts for Milwaukie's South Downtown area, recently completed under the guidance of Christopher Alexander and the Center for Environmental Structure.

### **History of Prior Actions and Discussions**

**August 2009** – Brief update and distribution of the draft *Pattern Language for South Downtown Milwaukie* to Council, along with the armature drawing image and reminder of planned closures of street segments in the South Downtown.

**August 2008** – Approval of South Downtown phases two and three under the direction of the Center for Environmental Structure (Resolution 78-2008)

**May 2008** – Selection of Lake Road as the future Milwaukie light rail station location (Resolution 51-2008).

**April 2008** – Approval of first phase of work with the Center for Environmental Structure for studying the south downtown area and Milwaukians' hopes and aspirations for the area (Resolution no. 28-2008).

**March 2008** – Work Session discussion to consider staff's intention to move the South Downtown planning effort to the next stage of development.

**November 2007** – Work Session discussion to review a preliminary concept Plan created by Gast-Hillmer urban design.

**April 2007** – Work Session discussion to solicit Council ideas for South Downtown.

**November 2006** – Work Session discussion regarding the Cash Spot, Robert Kronberg Park and the need for coordinated planning at the south end of downtown.



## **Background**

In the spring of 2008, the City of Milwaukie began working with the Center for Environmental Structure to better understand the redevelopment potential of the South Downtown area, roughly including the area between Washington Street and Kellogg Lake, 21<sup>st</sup> Avenue to the east and McLoughlin Boulevard to the west. This work preceded the decision to site Milwaukie's single light rail station in the South Downtown area, however that decision added a measure of urgency and practicality to the matter.

CES was selected from a large field of interested consultants because of the firms' long track record and experience with conducting innovative and context-sensitive planning and design processes. CES proposed a three-phased approach for answering the City's questions about the validity of the South Downtown Concept Plan. Council approved the first three phases of work in 2008. The first phase evaluated the South Downtown area and a preliminary concept plan that was prepared in 2007, and included interviews with 35 people in Milwaukie to discover what was most cherished by the community for the downtown environment.

With CES' report to Council at this meeting, the second and third phases will be complete. In these phases, the following work was undertaken:

1. Generating a pattern language based on the work already accomplished with Milwaukie community members
2. Diagnosing the South Downtown area with the community to call out (with great specificity), the spots that need to be protected and those that need to be enhanced or repaired.
3. Formulating a new concept for the area.
4. Drafting a memo on implementation.

To accomplish this work, CES made several visits to Milwaukie and created sketches, working models and memos to understand and experiment with the patterns in the Pattern Language, and to illustrate how the patterns might become built forms over time. Spatially, the revised South Downtown Concept Plan features a large plaza at the south end of Main Street, defined to the east by a long colonnade, open to river views to the west, and connected to the future light rail station by pathways. Adams Street and Main Street south of Adams are closed, as is planned in the Downtown and Riverfront Framework Plan. Buildings adjacent to the plaza (associated with the colonnade) are 2 stories tall, and behind these are imagined to be an assemblage of 1-3 story homes, shops, live/work spaces, workshops and associated gardens, yards and lanes.

This update is to familiarize the council with the work from the past year, and to generally introduce the emerging concept.

## **Creating the Pattern Language**

*A Pattern Language for the South Downtown* (Attachment 1) is perhaps the most significant accomplishment of the year's work. It describes targets in respect to ambiance, character, emotional quality and spatial detail of the study area – targets that turn out to be widely shared by people in Milwaukie. The document includes a Table of Contents, which lists the 13 Major Patterns, and a five page essay called "What Is a Pattern Language?" One way of understanding the Pattern Language document is to review the 13 Major Patterns, as these help encapsulate the non-traditional planning and design process envisioned for this section of Milwaukie. The essay is particularly helpful for understanding what the Pattern Language is, how it's supposed to work, and how it should be used.

The Pattern Language was created in three major stages. Initially, CES interviewed more than 30 people with strong Milwaukie ties, eliciting their feelings about downtown – the good, bad, etc. Next, CES translated this information and the firms' analysis of the physical space itself in the south downtown area (i.e. the actual, geometrical shape of the land and buildings) into a draft Pattern Language for the South Downtown. Then, over two weekends in the spring of 2009, a group of nine interviewees, along with CES and city officials, went through the patterns, one-by-one, asking:

1. What elements of the pattern need further explanation?
2. How does this pattern support your hopes for Milwaukie?
3. What cautions do you have about the application of this pattern in the South Downtown?

After the group finished this work, CES compiled the responses to these questions and reformulated the Pattern Language. Included in the latest draft is a section at the end listing questions that can only be answered later, as the area develops.

## **Creating the "Armature" Model and Diagram**

As the Pattern Language was being developed, CES created sketches and diagrams to experiment with the ideas in the Pattern Language. The firm also created a small working model that helped make visible the configurations that were being written about. This model is referred to as the armature (an armature is a skeletal framework on which plaster or clay sculptures are made), and a diagram showing the ideas in the model (see Attachment 2).

Although the model and diagram is incomplete, it is beginning to show how the development of the plaza, streets and buildings can create the qualities described in the Pattern Language. Even in this incomplete state, the model/diagram begins to provide a sense of character and wholeness that is strived for. The essential idea is to create a

coherent and beautiful whole that is built up in the South Downtown gradually over a period of years.

### **Coordinating with Light Rail**

During the same timeframe, CES has helped the City understand how early designs for light rail were being conceived for the Milwaukie station in the South Downtown area. At the City's request, CES has taken an active role in helping the City advocate for a light rail design that will support the overall feel and character of downtown Milwaukie, as expressed in the CES work to date and in adopted plans. CES has provided important suggestions regarding the size and height of the Kellogg/McLoughlin bridge structure, the platform configuration, and the possible transfer of Union Pacific right-of-way to allow the South Downtown to include new buildings on land that is currently unbuildable because of railroad ownership.

One of the important intersections between the South Downtown planning effort and light rail planning is the planned closure of Adams Street and Main Street in the study area. These closures have been approved by City Council through the Downtown and Riverfront Framework Plan adoption, but it bears emphasis that both TriMet and CES have envisioned designs in the South Downtown area that take advantage of those street closures (see Attachment 3).

### **Grappling with Implementation**

The Pattern Language not only describes what is desired for the South Downtown, but how the desired elements should be built. It is immediately apparent, and is in fact noted, that the customary arrangement of real estate, capital and commercial construction will not deliver what Milwaukie wants for the South Downtown. CES has been working on an implementation strategy that begins to explain how the plan can become real. One idea is the creation of a land trust that would assemble the south downtown property and control its development to protect the area from development that would violate the spirit of what's being planned. Money flows, work flows and social questions all arise as one contemplates implementing the South Downtown plan as it is emerging.

Though answers to these questions await a future phase of work, the challenge is to find a way to integrate long-term adaptive planning, ecological restoration, infrastructure, and building design and construction such that each step supports the wholeness that is expressed in the Pattern Language and armature diagram. This is not a conventional approach to planning, construction or site development. However the case that is being made here is that the public benefits, community feel, architectural beauty and ecological restoration that Milwaukians have so clearly demanded for this area require an unconventional (i.e. integrated) approach to

implementation. The roadmap for getting there is not yet understood, however CES believes there must be a development practice that has the following features:

- Owner occupancy, as far as it is possible to have.
- Patient capital that can support construction projects phased over a long period of time.
- Capital based more on cash flow than on debt (i.e. minimizing the need for loans).
- Incremental construction, with buildings and even parts of buildings taking shape in phases, as capital and land become available and in need of building activity.
- Some self-help and construction by owners, and finishing by owners.
- A process for choosing sites and projects in the proper sequence, continually updated as a guided master process.

Prior to, or concurrent with, the working out of these and other development features, the South Downtown planning work must be shared with additional organizations in Milwaukie, including neighborhood associations and downtown business organizations.

### **Concurrence**

There is no action with which to concur, however staff views this presentation and report as an important milestone in the South Downtown planning effort, which dates back to November 2006. Staff and the community members that have volunteered the most hours on the project are eager to hear Council's reactions to the progress and emerging ideas. During the past year and a half, CES has worked closely with the nine people who have volunteered more than 50 hours each (David Aschenbrenner, Lisa Batey Scott Churchill, Carlotta Collette, Mark Gamba, Jeff Klein, Mike Miller, Dion Shepard and Sarah Smith). CES has also met and shared the Pattern Language with TriMet light rail project staff and the City's urban renewal feasibility consultants. Three members of the Pattern Language committee are on the Planning Commission, two are on the Budget Committee, and one is on the Arts Committee. At the last NDA Chairs meeting, staff and two members of the working committee shared the Pattern Language and it was received with support and enthusiasm.

### **Fiscal Impact**

None, as no action is being requested. To continue the South Downtown planning effort, a new contract will need to be established, the funds for which are included in this year's Community Development budget. A formal solicitation is underway.

### **Work Load Impacts**

The South Downtown planning effort is one of a handful of high priority Community Development work areas, along with Portland-to-Milwaukie light rail, the Kellogg plant/Riverfront issue, the Kellogg-for-Coho Initiative, the Jackson Street project and the NE Milwaukie sewer extension project.

### **Alternatives**

Not applicable at this time.

### **Attachments**

1. *A Pattern Language for the South Downtown of Milwaukie, Oregon*
2. Armature Diagram for the Geometry of the South Downtown (with color annotation)
3. *Milwaukie Downtown and Riverfront Plan Public Area Requirements, General Circulation Requirements - Streets Diagram*

# ATTACHMENT 1

FOR THE PURPOSES OF STUDY ONLY

**A Pattern Language**  
**for**  
**THE SOUTH DOWNTOWN**  
**OF MILWAUKIE, OREGON**

**JUNE 2009 DRAFT**  
**FOR THE PURPOSES OF STUDY ONLY**

**CENTER FOR ENVIRONMENTAL STRUCTURE**  
**Berkeley, California**

In May of 2008, 35 people who live, work, or have interests in Milwaukie were interviewed by the Center for Environmental Structure (CES) team, as a first step to developing a Pattern Language for the South Downtown. In those interviews, we hoped to glean their deepest feelings about Milwaukie, and we are very appreciative of the information, hopes and dreams they shared with us. Our conversations with them tended to be about Milwaukie as a whole, and all of their comments were recorded in an earlier document we produced for the City of Milwaukie, entitled “WORKING DRAFT SUMMARY OF ISSUES AND INFORMATION RAISED BY MILWAUKIE COMMUNITY MEMBERS, June 20, 2008 (revised July 15 2008)”.

Following in this present document, is the Pattern Language that has been developed for the South Downtown of Milwaukie.

**Center for Environmental Structure Staff**

Christopher Alexander  
Randy Schmidt  
Maggie Moore Alexander  
Bev Behrman  
Howard Davis

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2. A Major Plaza forms the core and focus of the South Downtown.	page 13
3. The Plaza lies at the head of Main Street.	page 19
4. From the Plaza there are views of the Willamette River and the western setting sun.	page 21
5. The Transit Station leads directly into the Plaza.	page 24
6. The Plaza is given its shape and character by a inner frontage ring of two-story buildings faced all along its length with a generous colonnade. The ring creates beautiful and comprehensible outdoor space.	page 29
7. There is a second, wider and deeper outer ring of land, containing more loosely placed one, two & three story buildings and open land. In the outer ring, especially, there is a tangled network of narrow lanes, residences, businesses, and open space.	page 32
8. As an additional support for the Plaza, 25% of the boundary land that surrounds the plaza will be restored to its natural state, preserved as an ecological area for Parkland, Fish and Wildlife.	page 36
9. The prevailing form of buildings in the SDT are Shop/Houses -- small mixed-use buildings, which contain both dwellings and workplaces on the same lot, and are owner occupied. In many cases adjacent buildings share party walls or floors. Each lot will include some commercial workspace, some domestic living space, and some outdoor work area or garden.	page 42



10. The overall building density in the South Downtown will be limited to a floor area ratio of 1.51 for the 119,000 sf of buildable land within the SDT perimeter. Thus the buildings in the SDT, in their aggregate, will be limited to 140,000 sf of built space. page 51
  11. All buildings (and exterior works) in the SDT will be built by individual craftspeople working in a masonry tradition that emphasizes brickwork and cast stone, with lesser amounts of stone, concrete, ceramic tile, plaster, and metalwork. Smaller buildings may be built in wood frame with exterior woodwork. page 53
  12. From very the start, owners and owner-occupiers will be strongly encouraged to ornament their own buildings, perhaps give them an individual touch. This also means that the construction management will be organized to allow individual and personal qualities to appear in each building that is built. Furthermore, a subsidized maintenance program will assist and encourage owners to look after their properties, and keep them in sparkling order. page 56
  13. Throughout the South Downtown, there is a web of connected paths, roads, cars, electric cars, incentives for electric cars which need small parking areas, small buses, mini-parking, bicycles, sidewalks, paved areas, and parkland. They work unobtrusively and work smoothly together. page 58
- Questions to be addressed when individual streets and buildings are designed and built page 64
- Appendix: Overall Feeling and Vision from Milwaukie Citizens page 73

## What is a Pattern Language?

A pattern language is a word-picture that describes the wholeness of a place, envisioned as the place might and can become over time. It describes *what* the place can become, and also *how* it can become. Each pattern language is unique to the place for which it is constructed, but naturally shares some elements with other pattern languages created for other places – just as people’s desires for their neighborhoods are unique but also share certain universal desires with one other.

A pattern language is comprised of a series of patterns. Each pattern describes a certain element, or piece of the built environment, or a relationship between such pieces. It provides direction as to how that element or relationship should be generally configured. A pattern language taken as a whole is intended to convey and evoke the overall feeling that a place will have. It does not provide an overly detailed and highly specified picture (like, for instance, typical construction drawings or city plans do). That detailed level of configuration and differentiation is worked out through a careful process of adaptation at the time when each of the buildings and streets are built. As each thing is built over time, the detailed configurations are developed, evaluated, and modified to ensure that the proposed configuration for that building or street has both an overall feeling which stems from the pattern language, and which works in its particular place.

A pattern statement is the simplest expression of a quality that will help evolve a community toward greater and greater life and health. The simple statements string together, and gradually build a picture of what the place will be like. These statements are not intended to nail down details or establish rules. They are intended to capture elements that in combination comprise places in which people want to spend their time. As one contemplates each simple pattern

statement, one by one, the setting, the streets, the buildings, the environment take shape in the mind's eye.

The patterns range in scope from very large to very small. In other words, the piece of the built environment with which a particular pattern concerns itself might be large, small, or somewhere between. Certain patterns in a regional planning context might operate at the scale of miles. At another extreme, a pattern concerned with building and construction might operate at the scale of inches. So a pattern language always contains patterns at a variety of scales, working together, typically arranged within the pattern language nested from large to small.

The most essential thing in a pattern language is that it works as a whole – that it actually generates holistic structure for a specific place from its specific nature. This means the pattern language is capable of generating the large-scale and small-scale configurations, and the relationships between these elements, that will bring life to the place.

This cannot be done just by assembling a lot of small points. That approach would lead to a haphazard patchwork with no clear overall structure or coherence. Crafting a pattern language is a very difficult thing to do, because when we start by interviewing people – talking to them, listening to what they say, writing it down, studying it – the process which follows is not a straightforward one. We gradually and carefully distil people's expressed feelings and desires to arrive at global insights and craft them into statements that describe generative patterns and their interrelationships.

We have all the statements from the actual interviews, and they are very rich and wonderful. Almost all of them, are at the scale of about 100 feet or less. This is toward the small end of the range of scale of which urban structure is made. The pattern language, on the other hand, addresses several levels of scale, beginning with the largest ones. So in all pattern languages, there is an effort to arrive at the

global and wholeness structure, which stands on the many important details expressed by residents. The wholeness structure then, in turn, becomes an ongoing support structure to those details expressed by Milwaukie citizens.

The pattern language, and in particular its handful of top level large-scale patterns, has to be able to deliver a coherent whole, even if that whole is actually constructed piecemeal – project by project, over many years. The pattern language itself has to be able to tell you and show you how to gradually make a coherent whole out of the South Downtown that is nestled in the surrounds of Milwaukie.

Relative to Milwaukie’s South Downtown, we have been charged with developing the plaza and connection to the train station there. Many of the residents’ comments did relate to that area, and those comments are included with the pattern they help describe.

There were also many comments that relate to Milwaukie as a whole. In the previous report mentioned above, these were listed as the Overall Feeling and Vision for Milwaukie, and they are the ground from which this pattern language has sprung. Here are some examples:

Keep the downtown pedestrian in feel. Lots of small businesses could come in without destroying the small town feel, if the town is kept pedestrian.

All day long there is activity, vibrance and life. And there is a reason to be here, not just a place to stop.

Create a safe environment where you feel happy to be there. You feel invigorated by all the stuff going on around you.

Things to do at night: I could come to Milwaukie after 6PM and there would be things going on here. Social dancing, indoors because of weather; some sort of community center; people coming together to talk; having coffee at outdoor cafes or the cafes that are already here.

An affordable place. The average person can get a good meal, or a boutique. Not an upscale feeling. It is a very blue collar city now; keep it that way. Be careful of gentrification. We do not want to be NW Portland or the Pearl District, which are too upscale. But, we do want some touches of it.

What is it that creates the small town feeling of Milwaukie? A bounded zone around the core of the downtown, so that it cannot sprawl outward.

It is a place with trees, shops, bookstores, galleries, and cafes, concentrated together. Milwaukie can be a beautiful place for people to come on a Saturday.

We need to maintain the good schools,  
friendly neighborhoods.

People of all ages mixing downtown.

Families with strollers, people on their bikes,  
bikes locked up to bike racks. In good  
weather people are sitting outside in the  
plaza and at sidewalk tables of little  
restaurants.

All of Overall Feeling and Vision comments are listed in the  
appendix of this document.

Down to earth comments like these are the basis for the work CES  
has done to formulate this approach to building up the South  
Downtown over time. You will see that Milwaukie citizens gave us a  
lot of material that directly pertains to several of the patterns, and  
these comments really help describe the spirit of the place.

In April 2009, the Ad Hoc Pattern Language Committee<sup>1</sup> evaluated  
the patterns and suggested additions, changes, and detail that better  
describe the place they and their neighbors want to see. Their  
findings are reflected throughout this document. Please remember  
that the document which now lies before you is a collectively created  
document that currently has the consensus of the Ad Hoc Committee  
together with that of the full architectural team. We hope, therefore,  
that the present state of the document will satisfy most people in the  
Milwaukie community, even those who have not yet seen it.  
However, there will inevitably be some points which still need fine  
tuning. As you discuss the draft document with the Committee,

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<sup>1</sup> At this stage of the process, the work required broad representation of people, skills, and insight. In choosing the group of nine who agreed to form the Ad Hoc Pattern Language Committee, we carefully considered many criteria, and all the people who were interviewed in May of 2008. The criteria that served as the basis for selection included age and gender; where people live in town; skills; ability to access their deep reactions to natural areas and the built environment; that their involvement did not present potential conflicts of interest; ability to make time for frequent and lengthy meetings; their passion about their feelings for Milwaukie; that they knew what they were talking about and probably represented people their age to a fair degree; people who had lived in Milwaukie for varying lengths of time, so that the interests of the old-timers would be represented as well as the interests of the newly located; people with children, people without children, people from the Waldorf School, and others who were not. In the group of nine people who were selected, each one brought several different important elements to the challenging work they undertook. They were aware of the concerns of people throughout Milwaukie, and took the task to represent Milwaukie as a whole very seriously.

please keep your discussion within the spirit that the document contains. That will ensure your insights will be helpful to the community. Finally, please remember this is a working draft.

It is all of this together – the hopes and dreams of Milwaukie residents, the contents of this booklet, and the continuing exploration together of what this place can be – that makes up the pattern language for the South Downtown of Milwaukie.

Even after the forthcoming discussions, the content of the pattern language will still be open to change. As members of the community become involved in using the patterns, there will inevitably be a learning curve, as people encounter better ideas, or find flaws in the existing patterns. These opportunities for learning and for further improvement will only help to make the South Downtown better and better, as time goes by.

We at CES appreciate your commitment to making the best place possible for Milwaukie. The Ad Hoc Pattern Language Committee (Scott Churchill, Sara Smith, Dion Shepard, Jeff Klein, Dave Aschenbrenner, Mark Gamba, Mike Miller, Lisa Batey, and Carlotta Collette) have invested considerable time and effort in the evolution of this document so far. We look forward to your reactions to the material presented here.

FOR THE PURPOSES OF STUDY ONLY

## **The Milwaukie Patterns**

# 1 RELATIONSHIP OF THE SOUTH DOWNTOWN TO ITS SURROUNDING AREAS

**1.1 SOUTH AND NORTH DOWNTOWN.** The South Downtown is anchored by the North downtown.

**1.2 THE SIX BLOCKS OF MAIN STREET.** The north and south downtowns are connected by six blocks of Main Street, with City Hall at the north end, and the tower at the south end.

**1.3 MAIN STREET IS A WALKING STREET, MIXED WITH VEHICLES.** The organization of Main Street between these two anchors provides for and encourages a rich mixture of pedestrians, bikes, cars, and trucks and buses. *It is, however, primarily a walking street -- one which allows easy access to these different vehicles.*

**1.4 THE AREA OF THE DOWNTOWN AS A WHOLE.** Informs and enlivens each of its major parts. The south downtown, the north downtown, and the spine of Main Street which connects the two.

**1.5 INNER CORE AND TRANSITION.** The south downtown as a whole contains an inner core of half a dozen city blocks, and an outer zone which partly includes (but does not entirely contain) some additional blocks which will act as transitional blocks between the SDT and its surrounding neighborhoods.

**1.6 THE SDT PROVIDES A FOCUS FOR THE SURROUNDING AREA.** The core of the SDT acts as a focus for the surrounding area. It achieves this focal quality by creating views, passages, and pedestrian connections that provide 1) views from the center outwards, and 2) gateways to focus experience towards the core.

## *INSPIRATION AND IMAGINATION FROM MILWAUKIE RESIDENTS*

The following are suggestions and comments made by Milwaukie residents. They add helpful detail to the patterns listed above.



It must be OK for a six-year-old to go around alone, and kids from the high school to be safe. It needs to be comfortable and safe – that should be our goal.

Downtown is easily accessible to the neighborhoods- streets coming into the city with a minimum of traffic back up.

Do not want to have a lot of traffic down on the south end.

Must slow down the traffic on McLoughlin. When I was younger, McLoughlin wasn't a knife cut through the city. Traffic increased and made it so.

## 2 A MAJOR PLAZA FORMS THE CORE AND FOCUS OF THE SOUTH DOWNTOWN

- 2.1 POSITION.** The plaza and perimeter of the plaza are positioned in such a way as to make the connections to next door stuff work as well as possible. It is not necessary that it be a simple shape.
- 2.2 CONNECTIONS.** To make the plaza work effectively as the core of the SDT, it forms relationships and connections *going out in all directions* that tie the south downtown to the outer SDT, and to specific parts of the city beyond.
- 2.3 THE CONNECTIONS FORM A STAR.** These connections are streets or lanes, and occasionally roads, or trails literally forming a kind of distorted star, shaped by terrain and by existing buildings.
- 2.4 BUILDINGS AROUND THE PLAZA.** The plaza is surrounded by businesses, workshops, and residences, all creating life, day and night.
- 2.5 PERIMETER IS SEMI-ENCLOSED AND SEMI-OPEN.** This means that the plaza is partially enclosed by buildings, not *too* enclosed. There are views out to the city, the park and the river.
- 2.6 PLAZA DIAMETER.** The approximate size and shape of the plaza is perhaps 250 feet long, and about 100 feet wide. It may be rectangular or egg-shaped, according to diagnosis and terrain.
- 2.7 PLAZA SHAPE.** In shape, the Plaza is roughly symmetrical to the axis of Main Street, like a lollipop on a stick. However, the shape of the plaza's perimeter is based on the local conditions, creating an off-symmetrical shape, which varies along the perimeter.
- 2.8 TOWER.** At the southern end of the plaza there is a tower, perhaps four stories high. The tower is placed so that it becomes a focal point within the plaza, which can be seen from the distance: something that forms a natural center, but not necessarily in the middle of the plaza.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

- 2.9** The Plaza is contained on the left (facing south), by the embankment of the old railroad track.
- 2.10** The right hand portion of the plaza is a lawn, with the three beautiful dogwood trees, possibly separated and connected with the plaza itself by a wall or screen of columns and beams and arches.
- 2.11** At the Plaza, Main Street is closed, from Adams Street to E. 21<sup>st</sup> Street.
- 2.12** There is a Fountain in the plaza, and also running water in the Plaza, running in rills and over stones.
- 2.13** At the south end of Main Street, west of Main and between Adams and Washington, there is a terrace, elevated, and quiet, so that people can drink beer, have coffee or light meals, enjoy the river, watch the sunset.
- 2.14** There is a pedestrian bridge which connects the terrace -- at Main Street level -- to the waterfront. This pedestrian bridge crosses over McLoughlin Blvd. There is also an underpass to the riverfront.
- 2.15** There is a parking structure, near the plaza, but which is largely lower than the grade of main street.
- 2.16** There are canvas awnings, small in size but numerous, attached to poles. They can be raised to provide shade, or taken down quickly.
- 2.17** The plaza floor is a gently curving dish, not perfectly flat, but like a very flattened parabolic dish, so that people feel related, and it has a certain intimacy.
- 2.18** Paths crossing the plaza and surrounding the edge are well lit by rows of small lamps at night, making the plaza beautiful, and helping people in the plaza to feel safe.
- 2.19** There is a double row of trees, on the former main street block south of Washington, leading to the plaza. Could they be dogwood trees??
- 2.20** In order to minimize runoff of rain water into the creek, the plaza paving will be permeable in some places, and will have living green (grass, plants) in some places.
- 2.21** The tower is a building which people can inhabit and interact with, not only something to look at. There is a business in it on the ground floor.

People can climb up into the tower and see the view from upper floors.  
There are readerboards.

*INSPIRATION AND IMAGINATION FROM MILWAUKIE RESIDENTS*

The following are suggestions and comments made by Milwaukie residents.  
They add helpful detail to the patterns listed above.

We should have both a pedestrian bridge to riverfront, and underpass to riverfront.

When possible, small parking lots should be used.

Create a multi-purpose, open, safe, well lighted plaza. The city could organize events in this plaza.

There should be a plaza near the light rail station.

A pedestrian mall, focused on trees, gardens, natural look, fountains, and art, with lots of shade and plantings. Some people are sitting, some playing music, some talking; a happy place.

The pedestrian-only area is walking cobblestone and walkable ground cover that can take ground traffic, like pervious pavers.

The plaza area has no need to have cars in it. But it has to be accessible so people can get to it to use it.

Plaza should not be a place where it is easy to sell drugs. If people are always around, then the druggies etc. will not be comfortable sitting around.

Make sure plaza is not a place for high school kids to smoke dope and homeless people to sleep. More activity will help prevent this. Worried that south location will not have the needed level of activity (not central, and underutilized buildings and park surround it.)

Plaza should have a hang out area, with cascading water falls flowing over tiles and natural rock to have soothing feeling.

Create a town square or a communal area such as in Europe; there are places next to churches, which were town squares. Markets are there and people doing different things.

Create an area where the public could congregate and would maintain a small town feel, a place where people can feel that they are a part of their city.

Plaza should be central to downtown, rather than at south end. At Washington St at 21st St.

A plaza is good, need to make it in a fashion which doesn't attract loafers. The plaza is near the light rail.

There are public parks and a plaza, a gathering area.

A secondary plaza is at south end of downtown, but it would not be the major plaza.

Make a plaza at south end of town. Plaza needs nearby shops, with a bookstore. In plaza, pieces of canvas that are cool sails that can attach to poles so that if it is too hot can quickly put up a cover over people's heads. Not one big piece, rather several pieces. Some could be up, some down depending on light.

Colorful flags in the plaza- dealing with Milwaukie in a historical fashion.

Milwaukie needs a town square—it feels like it has one, only on farmer's market Sundays.

Main Street should stop at the plaza, not go through.

The plaza is adjacent to the light rail at Lake Road.

The plaza should be like the plazas in Portugal and Spain, a large area in the center of town where all public stuff will be.

Connect plaza with Kellogg Creek park area.

Make a rill on the surface of the plaza, with river rock on the bottom of it. (instead of a fountain) The rill should be 6" wide, with tile at the bottom and on the sides. Little fish embedded on the tiles at the bottom of the rill. South from the plaza, the rill goes through the center of the walkway, merging into the park. Have tile fish embedded into the walkway, which goes under the bridge that will be built.

The plaza would look like the plazas in Spain with hanging baskets of flowers.

Benches (not wooden), rather concrete aggregate with river rock – colored blue or purple.

Plaza should be open. Nothing higher than waist height. You can see all the facilities.

There would be summer carts with foods, veggies, hot dogs and snow cones.

The farmer's market would be held there too.

A European deli on the plaza, bakery with tables and chairs outside, so people can have coffee and enjoy kids playing.

A sternwheeler dock. The plaza is a place where the people can be picked up and dropped off for boat tours. The sternwheeler could come into a new dock, which would be there by enlarging the small boat ramp. It would be just below where the plaza is, so that the sternwheeler could tie up and load. This would be part of the integration of the river and downtown.

It would be a bright open sunny space with beautiful vibrancy.

Plaza has colored concrete; even when it is cold and gray out, colored concrete makes it brighter.

Integrate the plaza with the rest of the south end of the development.

Keep cars out of the plaza.

The plaza is a meeting place for the citizens of Milwaukie.

Plaza which would be tree lined with outdoor areas for people to congregate, have lunch, use computer, read at picnic tables.

Sunken plaza with steps that people could sit at different levels. Remember, this is not the square in Portland, and stepped seats may not be consistent with the natural terrain!

The Sunday market can use the plaza.

Temporary, not permanent, stage.

Frequent garbage pails with frequent pick ups, so that it is clean.

A plaza like in Fort Collins, that is blocked off to cars, with benches, and access to business that are around it. It is a great place to gather.

A gathering place where you could see a vendor of coffee, people would know that if they said "Hey, we'll meet you at the plaza after work and we'll go shopping, have a drink."

A friendly open environment where people can feel safe.

The plaza is in the park.

The plaza could have live music, instead of at the library.

Should be stores near the station, in a building which would be curved with a glass front. It would have: a store selling food sandwiches and coffee; a shop for magazines and newspapers, which could be separate or part of the food place; a "Boots the Chemist"-like store there too; a dry cleaner (drop off their dirty shirts in the am and pick them up in the pm); a shoe repair shop; a key maker.

The store building near the light rail station should be open from 6 AM to 7PM, so the people using the light rail can use the space. Kids from the high school could sit and play and eat lunch.

The shops at the plaza have blue metal roofs. So that light shines on them and shoots back to the plaza.

There should be reflections of light and movement all over. (The glossy tiles would reflect light) Have surfaces reflect light and make the spaces feel bigger. The exterior of the shops should reflect light as well. Make Main Street dead end at Adams and create more of a pedestrian area. Use 21st as the main route in that area.

Near the station should be a plaza, coffee shop, and gallery. Maybe a Post Office. Wide sidewalks in front of a grocery at Cashspot site (above parking), with a timber trellis overhead, trellis looks similar to the trestle. Roll-up doors in front of grocery, produce can be rolled out. Grocery becomes almost part of the farmers market. Tied together, grocery is semi-continuous with farmer's market.

A timber trellis runs around to south from a grocery store, into the plaza, toward the rail trestle. Houses the farmers market. Could connect down to a way to walk across the lake.

Don't allow dogs there.

Plaza and other public places can be paid for by individuals. Pioneer Square was paid for by people buying the bricks that make it up.

Locate a precinct police office at the station or on the plaza for Milwaukie police, sheriff's office and Tri Met police to use.

Closed Circuit TV cameras there. ?? Better not??

Safety and security – continuity of open and lighted walkways so there are no places for people to grab others.

### *COMMENTARY: WHY IS THE PLAZA A FUNNY SHAPE?*

Let's look carefully at what the concept of expanding and intensifying the whole actually means. In the area of the plaza, let's examine the context. We've got a little bit of green where the three dogwood trees are. It's a beautiful little spot, though somewhat amorphous in shape. As one comes south on Main Street to the South Downtown, it is sitting at the end of Main on the west or on your right-hand side. Then on the left you have something less defined, the rough triangle of land currently containing the Archery shop and Post Office, and on the far left, you have the diagonal line that is created by the railroad tracks. Also, this is the end of Main Street, and we have Kellogg Creek and the park straight ahead, as the land falls away into the creek's valley.

To do justice to Main Street, you do need to walk into the plaza directly. Some plazas are not like that – quite a lot of them, actually. The space is often to one side of the main thoroughfare that leads to it. But such a configuration can often create a plaza which struggles to feel alive. In this particular instance, in Milwaukie's South Downtown, there is a very strong feeling that the center of this plaza, to some degree, needs to be on axis with Main Street. In other words, it shouldn't be on one side of Main or the other, but actually should straddle both sides. If you then say, we've got this sort of amorphous shape containing the three small dogwoods on the west, which just begins to go down into the canyon,

you've got the diagonal of the rail line to the east, which is a little bit of an awkwardness, then the question is, how do you shape the plaza given these real and important conditions? What shape emerges naturally from that to reinforce the wholeness or the overall configuration that is already there, but makes it stronger and more meaningful and more beautiful?

It's likely that the answer to this question is not the typical square one might find in a small city, but rather something that fits into the overall configuration described here, in a lovely, gentle way. A simple square forced upon this situation would be ignoring the context and the forces at play described above. And so the plaza needs to be a bit more complex as a shape, in order to do justice to Main Street, to the river, to the park, to the train station, to the shape of the land.

### 3 THE PLAZA LIES AT THE HEAD OF MAIN STREET

- 3.1 PLAZA FORMS THE HEAD OF MAIN STREET.** Just as a body has a head at one end thus completing the trunk it sits on, the Plaza has a similar relationship to Main Street.
- 3.2 PEDESTRIAN MAIN STREET.** The Main Street/main drag is essentially pedestrian.
- 3.3 BLEND OF VEHICLES AND PEDESTRIANS.** Where vehicles are allowed, vehicles and pedestrians interweave smoothly, slowly, and safely along Main Street, making a practical blend of automobile flow, bike flows, trucks and deliveries, and people walking comfortably. (Exact configuration not yet established).
- 3.4 VIEW FROM MAIN STREET.** Walking south on Main Street, you see an expanding view of the plaza that draws you in. This is a subtle issue since there is a bump which presently hides the plaza. It will be fixed.
- 3.5 A GRADIENT DOWN MAIN STREET.** Physical elements on Main Street vary in such a fashion, as to lead one down toward the plaza. For example, there are more and more benches as one goes south toward the plaza; or more and more hanging flower baskets; or more and more street trees.
- 3.6 SHORT TERM PARKING.** There is short term parking along the edge of the street.
- 3.7 PUBLIC BENCHES.** There are benches all along Main Street, and along both sides so that people can possess the street, and stay there as long as they want, without having to pay money.
- 3.8 COVERED ENTRANCES.** All entrances to businesses and restaurants have a generous outdoor covered entrance area, freely accessible to all the public, so everyone can be comfortable in rainy weather.
- 3.9 MAIN STREET ENDS AT PLAZA.** Main Street dead ends at Adams, where the plaza begins. Main Street south of Adams is pedestrian in nature, possibly part of the plaza. East 21st becomes the main route in that area.



*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**3.10** There is a double row of trees, on the closed portion of Main Street: the block and a half south of Washington, leading to the plaza. They continue and connect to the trees that currently exist on Main Street, north of Washington.

**3.11** There are bike racks up and down Main Street.

**3.12** The density of seats, lights, etc on Washington Street, increases towards Main Street from either direction, in such a fashion as to lead you toward Main Street and therefore towards the north end of the plaza.

**3.13** Just south of the intersection of Main Street and Washington Street, there is a place to drop off and pick up passengers from cars – a “kiss and ride.”

*INSPIRATION AND IMAGINATION FROM MILWAUKIE RESIDENTS*

More public art on Main Street.

People need to take care of the plants. There needs to be a plan for taking care of them.

Bring out the cherry orchard incorporated in the park with an explanation of the history.

Fix the hump on Main Street. May disturb the view of the tower, and the pleasure of approaching it.

If there is something cool on both ends (of the six blocks), it will activate Main Street.

The downtown business Association might pay for baskets of flowers in the downtown.

The awnings and benches help business owners. Some of it should be public expenditure.

Put up signs that identify each business – e.g. Pharmacy, Flower Shop.

We need a more historic feel to downtown. The history of the community ought to be represented as well.

## 4 FROM THE PLAZA THERE ARE VIEWS OF THE WILLAMETTE RIVER AND THE WESTERN SETTING SUN.

**4.1 TERRACE.** There is a river sunset terrace that opens from the plaza, and has public access from three sides.

**4.2 PARKING STRUCTURE.** This terrace is built over a newly built parking structure to the west of Main Street, cut into the slope below the spot where the dentist has his office.

**4.3 CONNECTION TO RIVER.** There is also a generous connection from the plaza to the ACTUAL riverfront and access to the water, and grass along the river's edge. (*Detailed engineering studies have yet to be made*).

**4.4 BUILDINGS WRAP PARTIALLY AROUND THE TERRACE.** Buildings wrap partially around two or three sides of the terrace, leaving the west open to the view. The buildings rise only one or two stories higher than the terrace.

**4.5 VIEW FROM BUILDINGS ACROSS THE TERRACE TO THE RIVER.** The buildings which wrap around the plaza and around the terrace, have a view across the plaza and terrace to the Willamette river.

### *PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**4.6** Traffic sound from McLoughlin is buffered, so that the plaza does not receive too much noise.

**4.7** The trees which stand between SDT and the river should not be cut; the trees are important and filter the view, particularly from the plaza. The view from the terrace is naturally somewhat more open.

*INSPIRATION AND IMAGINATION FROM MILWAUKIE RESIDENTS*

I want to be able to access the terrace without going through a business. It's not the business' terrace, it's our terrace.

Tables and chairs are for everyone's use, not only paying customers.

The parking structure is under the 100 year flood plan.

The size of the parking structure should be based on a determination of how many cars need to be parked there

Strengthen views to the river from Main St. Watch the sunset.

Utilize the beautiful views of the river.

Make it so one can see the lake.

View from inside buildings across water.

Open up the view to the river by getting rid of junk buildings that obscure the view. The view to the far evergreens and hills to the west across the river. Important to see this from City Hall area and elsewhere.

Build things on this side of McLoughlin with a view of the river.

It is important and meaningful that the river is so close.

I love the river, its always changing and evolving.

Make McLoughlin easier to cross – I am afraid to cross it at rush hour.

Unite waterfront with downtown. Currently McLoughlin divides them. When I think of downtown I forget to even include the waterfront.

We need to make it so you can get back and forth from downtown to riverfront. Pick up your ice cream and be able to walk over to the park.

Create better connectivity to the waterfront, in a pedestrian friendly way. The recently added traffic light helps, but not enough.

Riverfront could be the heart of the city. Love Joann's plan.

Need to improve problematic access to waterfront. Access could be developed through Kellogg Creek conduit.

Pedestrian bridge to the waterfront. A safer way to get to the waterfront than crossing McLoughlin. It could be underground.

Need better access to river: two pedestrian bridges, 1 in the south and 1 in the north end of town, connecting Main Street area to Riverfront Park.

Connect the river to Milwaukie without having to cross the highway.

Friendly easy access to the river. Focus on the river. That is the draw.

Make river front more accessible and usable.

Connection to river is not good, should be two pedestrian overpasses. Underpasses are smelly. One overpass starts from the Dogwood Park area, out to the river. Because this place is well above McLoughlin, don't have to climb much in order go over McLoughlin toward the river. Could call it "Dogwood Overpass", with ironwork railings with dogwood ornaments in the railing. Another pedestrian overpass at the north end of town, around Jackson Street.

Need more crosswalks across McLoughlin, between the two overpasses. At least one more than currently. Perhaps a light and crosswalk at every corner?

Pedestrian overpass to riverfront.

Loves the waterfront, needs more strengthening, need to connect to it more.

Would love a comfortable integration of the downtown and the river.

Have a safe easy connection between downtown and the riverfront, making the riverfront the heart of the city. Have great big wide walkways across the McLoughlin Boulevard. It can go overhead too; if the walkway is raised, make it wheel chair accessible. It cannot be an underground walkway, which

becomes public urinals and are scary at night.

He has only been down to the shore at Milwaukie, one time. Yet he and his wife moved from San Francisco and need to be near water. The access to the Willamette has not been solved by the crosswalks.

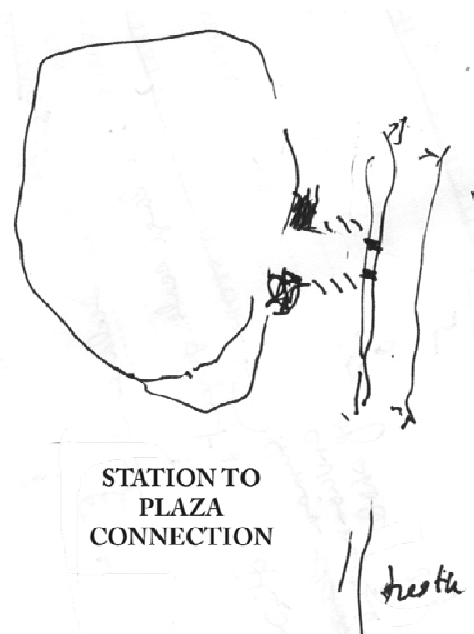
Strengthen connection between Main Street and the river – don't put up tall buildings between Main Street and the river.

An interconnectivity to the river – a safer way to get to the river.

Connection between the shops and the river. (like San Antonio)

## 5 THE TRANSIT STATION LEADS DIRECTLY INTO THE PLAZA.

- 5.1 THE STATION IS A BUILDING,** enclosed, with a roof and walls.
- 5.2 STATION SHAPE.** The station building is shaped so that the wings of the building embrace the plaza.
- 5.3 STATION CREATES CONNECTION.** The station creates a connection between the light rail platform, and the Plaza.
- 5.4 PASSAGE THROUGH.** The connection is a narrow gate-like passage, passing through the frontage building on the plaza, a triumphant and pleasant place, which opens into the plaza in a way that makes you appreciate the beauty of the plaza.



- 5.5 BACK SIDE IS BLOCKED.** On the far side of the station (away from the plaza), access to the neighborhood is restricted (except for emergencies), so that the people who come to and from the station will be encouraged to pass through the plaza.
- 5.6 TRACK LEVEL.** Track level of the light rail is at the same elevation as the railroad track (*thus making it easy for pedestrians to cross both sets of tracks, at grade, when entering the plaza, and also making it possible for*

*continued truck traffic from Lake to the Plaza*). This statement needs to be rewritten after the issue of track elevation has been clarified according to current ongoing discussions.

**5.7 RIGOROUS SAFETY MEASURES** The movement of pedestrians from trains and station platforms, to and from the plaza, will be separated from heavy rail tracks and trains.

**5.8 DARK TIMBERS.** The station itself is built of dark heavy timbers, like the current trestle.

**5.9 FACE NORTHWEST.** The station entrance faces roughly to the northwest, as it enters the plaza.

**5.10 LOW BARRIERS.** There are low barriers along the light rail right of way, as it nears the station from the north. Low wall barriers enclose the light rail, to reduce sound, visual impact, and encourage safety. The lower parts of the train (especially the wheels and undercarriage), are shielded sound-wise and sight-wise from the downtown, particularly from the Waldorf School.

**5.11 ACCESS FROM LAKE ROAD.** Pedestrians and vehicles can access the station, and the plaza, from the east side, and from Lake Road.

**5.12 MAINTAIN A VERY MODEST SCALE FOR THE PHYSICAL ELEMENTS OF CONSTRUCTION PERTAINING TO PLATFORMS, STATION, TRACKS, ENGINEERING, BRIDGE, AND TRACK RAMPS.**

**5.13 KEEP THE HEIGHT OF THE BRIDGE ACROSS THE CREEK, AT AN ABSOLUTE MINIMUM SO THAT IT RESPECTS THE SMALL SCALE AND HUMANE QUALITY OF THE PLAZA AND BUILDINGS THAT SURROUND THE PLAZA.**

**5.14 MAKE CERTAIN THAT ANY ELEVATED STRUCTURES ARE KEPT TO A MINIMUM.**

**5.15 MAKE CERTAIN THAT THE TRACK-STRUCTURES ARE KEPT TO MINIMUM WIDTH, SINCE THEY CAN WITHOUT CAREFUL REGARD, EASILY DESTROY THE SCALE AND INTIMACY OF THE SOUTH DOWNTOWN PLAZA AND ITS BUILDINGS.**

**Note:** Patterns 5.12 through 5.15 have only come to our attention in recent weeks, and during the next work phase, we shall do everything possible to avoid the destructive effects of harmful scale on the pleasantness of the SDT.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**5.16** We recommend that the light rail line is likely to continue to Park Boulevard, and terminates there. It does not terminate at the Milwaukie stop, this location (Lake Road).

**5.17** The trains are as quiet as possible, as they pass through Milwaukie. No whistles at intersections at night. Can this be true for both light rail and freight trains??

**5.18** Platform is well lit, so as to keep waiting passengers safe.

**5.19** There is a visitor's center, associated with the station. In this center, there is a concierge for the city, who gives information about Milwaukie. There one can find out about shops, get a walking map, where to find groceries, and so on.

**5.20** As one enters the station, there is a clear view of the entire platform, so that one feels safe when entering.

**5.21** The new light rail bridge across the creek is built in a similar style to the existing freight train trestle.

**5.22** The light rail bridge is constructed in a fashion so as not to disturb the beauty of the existing freight train trestle.

**5.23** Lake Road is closed to through traffic west of SE 21<sup>st</sup> Avenue.

**5.24** There is a Kiss-and-ride at the remaining cul-de-sac of Lake Road, just east of 21<sup>st</sup> Avenue.

**5.25** There is a waiting room – a place to wait and keep warm and out of the weather while waiting for a train.

**5.26** You can see through to the station from the plaza – they are not disconnected.

**5.27** There are public restrooms available for train passengers at the station.

- 5.28** In addition to the waiting room, the platform is roughly half-covered, so there is a place to wait out of the rain for who are passengers on the platform.
- 5.29** There are handicapped parking spots immediately adjacent to the station.
- 5.30** There is a police booth in the SDT staff with a police officer.
- 5.31** The station is manned at all times whenever trains are running. This person could have other duties to help cover the cost.
- 5.32** The station is a beautiful building– enough to stand alone for a while until other elements of the SDT gradually get built.
- 5.33** Pedestrian and bike commuters have access across the new light rail bridge.
- 5.34** The crossing at 21<sup>st</sup> and Adams will be safe.

*INSPIRATION AND IMAGINATION FROM THE MILWAUKIE RESIDENTS*

Safety is a concern. Access points to the station are key.

Pedestrians and bikes should be up high on the new bridge, not low down near the water. For people commuting from the south toward the downtown or the transit station, this higher path, roughly level, avoids the hassle of going down into the creek valley, crossing low to the water, and climbing back up. Pedestrians and bikes can come from the Trolley rail (Island Station neighborhood) right into the plaza.

In addition to dark timbers, can we also allow stone (perhaps local basalt) for the station? Other consistent materials should be OK, too.

Dark timbers – wood may not be possible. Perhaps we could say it should feel or look more like dark wood.

The low bridge should also be there – for leisurely walks, not for commuting.

The light rail bridge should have pedestrian and bike access.

Silent crossings – quiet zones.

We don't want a solid white concrete structure.

Put pillars in berms of soil so we can plant things where the soil goes up to the pillars.

We need handicapped and senior access for station that is close. Perhaps the triangle could have some H/C parking spots.

Integrating the light rail station is our biggest problem. We want it cozy and village-like.

In favor of a light rail stop. It can create energy around itself.



A south downtown rail station; it will have good access to downtown businesses.

Create a real station house for the light rail (like the old one in Bend Oregon).

There should be a proper, good-sized station building. It should look like a mini Paddington Station. It would have food vendors.

I want light rail, I will use it. But I don't like it stopping at the Waldorf School.

Platform at Lake Road may affect some things negatively.

Would like to see a real rail station, in the old station model; built like the existing trestle with heavy beams.

Want better public transportation.

Keep transit places active with people, for a feeling of safety. There is a transit mall behind city hall where buses layover. It's isolated and there have been problems there.

Ok to have light rail – the potential problems can be handled well if everyone works together to solve them. Light rail station should be centrally located. If only one station, it should be at

Don't put obstacles in the way of the platform, so that people can see what is going on the platform or around the platform.

The light rail should be in the center of the town to be more centered in a larger commercial area.

Washington. If two, one at this end and one on Lake Road. Light rail should go all the way to Park Road. Has been to new stations in North Portland that feel safe – no crime reported.

Protect Waldorf school from effects of light rail.

Is it possible to reduce the scale, length, car-size, noise, of the light rail? In addition, the light rail should be tangent to the downtown.

Love light rail, but I am concerned about the footprint. The size and the swath of how much room it will take up with two railroad lines. I am sure it could be somehow hidden. Maybe it is because all the buildings down there are so small. Just seems like it is such a small area for it to be coming in here.

Have a major light rail station at north end of town, rather than south end of town and a termination at Lake Road.

In favor of light rail for getting to work.

Light rail should be in the major street; this is how it is in Beaverton, Hillsborough, and Gresham. It makes more sense to have the light rail in McLoughlin, or in Main, or as a pair of lines in Main and 21st.

All of the things close to the light rail should have a natural feel. The rail line should fit in with Dogwood Park and Kronberg Park, not disturb them.

Don't let the light rail be a knife that slices through the city, for instance in the way that McLoughlin currently does.

**6 THE PLAZA IS GIVEN ITS SHAPE AND CHARACTER BY A NARROW FRONTAGE RING OF TWO-STORY BUILDINGS FACED ALL ALONG ITS LENGTH WITH A GENEROUS COLONNADE. THE RING CREATES BEAUTIFUL AND COMPREHENSIBLE OUTDOOR SPACE.**

**6.1 FRONTAGE RING.** The ring of land contains an inner, plaza-frontage belt, immediately adjacent to the plaza, and is about 40-50 feet wide (deep). What is built in this Frontage Belt will provide the front face of the plaza, and will largely guide its architectural character.

**6.2 OPENINGS IN THE RING.** The ring is not continuous. The total length of openings and views is about 30 percent of the total perimeter.

**6.3 SEVERAL LONG OPENINGS.** There are likely to be long breaks in the ring, thus making views and openings towards the river, up Lake Street towards the southeast, and up Main Street.

**6.4 FRONTAGE BUILDINGS TWO STORIES HIGH WITH TWO-STORY COLONNADE.** The buildings in the frontage ring are mainly two stories high, with a spacious colonnade possibly including low roofs, eaves, and ceilings here and there. Buildings four (or three) stories or higher are not allowed.

**6.5 SMALL LOTS.** The buildings themselves may be built on individual parcels, (and may *possibly* be made by different builders), often with subtly different details and layout -- but always conforming to the layout and detailing of the colonnade.

**6.6 THE STATION ENTRANCE IS PART OF FRONTAGE RING.** The entrance to the light rail station is part of the Frontage ring of buildings. It is continuous with the buildings of the ring, and forms part of the wall defining the plaza.

**6.7 THE PLAZA COLONNADE AND ITS COMMON ELEMENTS.** All of the plaza frontage buildings will have certain common elements, columns, arcades, windows, which are different in dimension, but made from the same patterns, thus making a friendly and coherent whole. The buildings of this narrow frontage ring will form a coherent envelope

that has a vital and varying, but nevertheless definite, repeating structure of columns and windows that gives the plaza form and meaning.

**6.8 LARGE MULTI-PANE WINDOWS.** The buildings have large windows, divided into elegant panes.

**6.9 HEAVY STRUCTURE.** The windows are set directly into heavy structural frames which are visible, and which form the structure of the buildings.

**6.10 BUSINESSES AROUND THE PLAZA.** There are many businesses around the plaza in the Frontage ring. They bring additional pedestrian traffic to the plaza. The shops in turn gain customers because of foot traffic from the light rail stop.

**6.11 A FIRST (FEELING) SKETCH GIVING A ROUGH SENSE OF THE OVERALL FEELING OF THE COLONNADE**



**6.12 COLONNADE IS MADE IN A FASHION WHICH IS COMPATIBLE WITH MILWAUKIE'S IDENTITY AS A NORTHWESTERN CITY.** There are arches, which are found in northwestern architecture. The colonnade is made of native materials common to the area – for instance, timber, stone such as basalt, and cast concrete showing delicate detail for arches, balustrades, columns, capitals, and so on.

*INSPIRATION AND IMAGINATION FROM THE MILWAUKIE RESIDENTS*

All of these buildings will block the view of the trestle from the north. I want to see at least a bit of it.

There is signage indicating how to get to the train and other places.

The buildings should be sustainable and environmentally sensitive structures. We can surpass LEEDS.

We should not have a McMansion effect. Create it as ours. No pseudo grandeur.

Noise from McLoughlin will amplify more. With that of the freight trains, it is critical that this be addressed.

The 12 buildings should be continuous – not 12 different buildings.

Building heights: 2 floors maximum.

The buildings should be beautiful, with big arches. Not just a big block of concrete.

**7 THERE IS A SECOND, WIDER AND DEEPER OUTER RING OF LAND, CONTAINING MORE LOOSELY PLACED ONE, TWO & THREE STORY BUILDINGS AND OPEN LAND. IN THE OUTER RING, ESPECIALLY, THERE IS A TANGLED NETWORK OF NARROW LANES, RESIDENCES, BUSINESSES, AND OPEN SPACE.**

**7.1 NOT CONTINUOUS BUILDING.** This outer ring is not a continuous building like the inner ring, but an intricate system of buildings, open space, outdoor work areas, lanes and gardens, practical for business, and very pleasant and informal for customers.

**7.2 SMALL LOTS.** The buildings stand on individual small lots, and these separate lots may not be aggregated into a single-owner large monolithic structure.

**7.3 TANGLED NETWORK OF LANES.** Within this outer 150-foot-wide ring, there is an entangled network of small streets and paths and lanes and buildings.

**7.4 STREETS *THEMSELVES* ARE ENCOURAGED TO GROW PIECEMEAL.** The streets and lanes inside this belt are not planned but will be allowed to grow piecemeal, as needed, so that the quality of this wide belt is shaped by its buildings, which are then connected by lanes and small streets.

**7.5 ACCESS FOR EMERGENCY AND DELIVERY.** The network of lanes will be configured so as to allow emergency access to all lots. Delivery vehicles will have clearly marked paths which they can access, and places they can stand while making deliveries.

**7.6 ONE, TWO, AND THREE STORY BUILDINGS.** The buildings in this outer belt will be a mix of one, two, and three story buildings, the shape of each building being constrained by access to sunlight and views. This will have the effect of creating an irregular harmonious structure according to these impacts of the surroundings of every lot and nearby building.

**7.7 BUILDINGS AND SPACE.** About a third of the total area of the outer ring consists of open space, park and views (mainly in the direction of

the park and the Willamette River). The rest is a dense zone of small buildings that will (as a whole) typically be about 100 to 150 feet in width.

**7.8 HOUSES AND BUSINESSES IN OUTER RING.** Both residences and businesses will be allowed and encouraged within the outer ring. The essential quality which they will all share is that the lots are small, and may not be aggregated.

**7.9 DENSITY IN THE SDT.** The density (measured by FAR or *floor-area ratio*) is critical. We believe (but have not yet established) that the ultimate built-out square footage of built space within the SDT could go as high as approximately 180,000 square feet of built space, with an average overall FAR greater than 1.5. (*We are still calculating this number*).

The FAR in an area of land is defined as: the total built square-footage built on the land summed over all built stories, building by building) divided by (The total square-footage of buildable land parcels, when all parcels are summed over the same land area.

**7.10 CHEAP SHOP SPACE.** Shops below (if they are below), will be very cheap to rent (comparable to the rent of old buildings like disused garage buildings), to make them commercially viable for start-up businesses.

**7.11 EACH BUILDING OR BUILDING-LOT HAS AN APPROXIMATELY EQUAL NUMBER OF SHOP SPACES AND HOUSES.** Each building is comprised of some number of “units”. Units come in pairs: one work space and one dwelling; or, for a smaller version, the workspace and dwelling are in a single unit, with some rooms dedicated to living, others to work, and the whole unit being given the permissions that normally apply to both workspace and to living space.

**7.12 THREE SIZES OF BUILDING.** Small is 1 unit; Medium is perhaps 3-4 units; Large perhaps 6 units and above. The large appear in the Frontage ring, and the small and medium appear in the Outer ring.

**7.13 SMALL SHOP/HOUSES.** Small shop/houses (1 unit) will house one family, living and working in the same building. Most of them will be on small lanes away from the plaza; a few may be on the plaza itself. They will be two or three stories tall.

**7.14 MEDIUM-SIZED SHOP/HOUSES.** These buildings will be close to the plaza or on the plaza itself. They will be two-three stories tall.

Medium-sized shop/houses will contain from 2-4 units, each of which may be subdivided into a dwelling and a workplace. Each unit will have the same characteristics of flexibility as the small shop/houses, and will each incorporate outdoor space that can be used for either a garden or workspace, or both.

**7.15 FLEXIBILITY.** These buildings will have an additional feature of flexibility beyond that of the single shop/house. They will be built so that commercial space at the ground floor may be easily combined, allowing for larger businesses to locate at the ground floor of two or more adjacent businesses. The stairs to upper floors will need to be placed in positions that maximize this possible connection while at the same time allowing for maximum flexibility of use of the individual building.

**7.16 OUTDOOR SPACE.** Each unit includes some outdoor space, which can be used for gardens if the owners wish for it, or it can be used for various business uses, parking, storage of outdoor materials – also for children’s play and pets. All these uses together will make the ring better for the inhabitants.

**7.17 WINGS OF LIGHT<sup>2</sup>.** The buildings are made of wings no more than 25 feet thick, in order to have good natural light within the buildings.

**7.18 NARROW LANES.** The small lanes can be very small where building heights are lower. If buildings on both sides of a lane are one story, the lane can be as narrow as 8 feet. If one building is one story and one is two story, the lane is minimum of 11 feet. If both buildings are two story or more, the lane width needs to be at least 14 feet.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**7.19** The small buildings may include a variety of architectural styles and materials.

**7.20** Each small building will have a small piece of outdoor space that may be used for work activities, as a garden, or both. They will be flexible

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<sup>2</sup> Wings of Light is pattern 107 in *A Pattern Language* (Christopher Alexander, 1975). It explains that “modern buildings are often shaped with no concern for natural light. Buildings that displace natural light as the major source of illumination are not fit places to spend the day...If we treat the presence of natural light as an essential – not an optional – feature of indoor space, then no building could ever be more than 20-25 feet deep, since no point in a building which is more than about 12 or 15 feet from a window can get good natural light.”

in their use of space, so that the activities of dwelling or work may expand and contract as family life changes over time.

**7.21** For flexibility of use, the small houses will have a stair placed along one side of the building, toward the front, so that it may be used either to access an independent apartment or workspace on upper floors, or to allow the family to move easily from the ground floor to the upper floors. This will allow the lower floor to be used as either a workplace or a dwelling.

**7.22** Flat roofs will be configured if possible to be used as roof-top terraces that people can go out and enjoy.

*FURTHER STUDY REQUIRED:*

Emergency access in the Red Ring.

Business that are allowed and not allowed.

How to establish rents.

*INSPIRATION AND IMAGINATION FROM THE MILWAUKIE RESIDENTS*

We should encourage sustainability – especially with the roofs.

Small parks every other block, like Buenos Aires.



**8 AS AN ADDITIONAL SUPPORT FOR THE PLAZA, 25% OF THE BOUNDARY LAND THAT SURROUNDS THE PLAZA WILL BE RESTORED TO ITS NATURAL STATE, PRESERVED AS AN ECOLOGICAL AREA FOR PARKLAND, FISH AND WILDLIFE.**

**8.1 BOUNDARY AREA.** In the area of Kellogg Creek there is a boundary area where water, and green, and wild animals, birds, butterflies and fish can make their homes (Kellogg Park).

**8.2 PEOPLE IN CONTACT WITH NATURE.** In this area, people can come in contact with the natural ecology of birds and fish, in a fashion which does not disturb them. Goal of a limit of x visitors per day, distances of yy.

**8.3 GRASSY TRIANGLE.** Especially important is the small patch of green with dogwood trees that lies directly west of opening of the plaza.

**8.4 DOGWOOD PARK.** Also part of the Plaza, and attached to it, is a small Green park, beautifully articulated, with fresh creek water running in it.

**8.5 PLAZA EDGE GIVES APPROACH TO NATURE PATHS.** The west edge of the plaza, where the land drops away towards the creek, when it is re-established, will be carefully shaped, so that paths and walks lead gently towards the creek.

**8.6 RESTORE CREEK.** Kellogg Lake is drained and restored to be a creek.

**8.7 PATHS IN PARK.** There are paths which lead down from the plaza into the park, and which then join with a path that meanders roughly parallel with the creek alignment. The paths are narrow and quiet, inviting and yet tranquil in quality. They form an immediately accessible alternative to the more town-like and busier nature of the plaza. The path that parallels the creek is not too close, in order to allow the fish a peaceful habitat. The average distance from path to creek edge is xxx feet, with observation points allowed to be yyy feet away.

**8.8 BRIDGE.** There is a pedestrian bridge across the creek that connects Dogwood Park and Kronberg Park. This bridge is low, not far

above the water. It is reached by the paths from the plaza, and joins to paths in Kronberg Park on the other side of the creek.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**8.9** The lake is drained slowly over time, to allow time for all concerned parties (City, CES, Army C.O.E., State government, et al.) to design for the creek path and walking paths, based on impressions gained after actually seeing the once-submerged landscape. The Army C.O.E may wish to modify this regime as the time approaches, and will coordinate the parameters and overall surface geometry of the east bank of the creek as set by CES .

**8.10** Pools, paths, benches, other improvements to the creek area, will be designed after the creek has been drawn down.

**8.11** The park is connected to the waterfront park by an open, light, and well-lit tunnel. (This needs careful engineering study)

**8.12** The park connects to other parks through pedestrian trails, and bike trails clearly marked.

**8.13** Wildlife well-being in the boundary area is very important and will be monitored. Access by people will be modified if wildlife are found over time to be adversely affected by high levels of people in the park.

*FURTHER STUDY REQUIRED:*

Values for xx's and yy's above

Water levels vis a vis low bridge level

*INSPIRATION AND IMAGINATION FROM THE MILWAUKIE RESIDENTS*

Bike paths and paths for quiet and tranquil walking are not easy to mix. Perhaps there is one bike path that is fairly straight, and other paths for walking but not for bikes.

Perhaps there are two bridges that make a loop for leisurely walking. One near the trestle, and one upstream.

Material of path could control bike usage. Make a smoother surface for bikes, and rougher paths for walking.

Fish and birds should be around.

Geese and ducks.

Plants- landscaping like the area outside of City Hall. Grass where people can hang out. It gives the location a kind of calm feel and a place that you want to hang out.

I would see lots of trees.

Interesting mixture of trees and grass (not overly maintained grass, not golf club grass).

Keep the trees.

A great variety of native northwestern trees in the park.

Growing up in the Philippines, had classes outside under growing bamboo. Perhaps Milwaukie could have a version here: a place outside, shaded by a native plant or tree, within which people could picnic, enjoy the moonlight or just sit. Plants and trees and flowers.

Leafy trees that look beautiful and play off each other.

Flowers and hanging baskets.

A lot of green landscaping that is sustainable.

Flowers and landscaping that you can smell in the air.

Preserve significant trees.

More street trees.

Loves green; need trees and plants downtown.

Likes the two dogwood trees in front of City Hall.

Protect trees: he loves the big tree in front of Ledding Library, on Harrison Street.

Create a Bing cherry orchard.

Flowers and decorative plants downtown.

Use natural grasses and plants like salal and huckleberries. The grasses would be in motion from the wind.

Use plants in an informal way, rather than formalized rows of trees.

Keep Dogwoods in the downtown.

Use natural planting whenever can so that it does not require a lot of care.

Trees which create a canopy. I like tree lined streets, there are not enough.

Really like the trees up and down Main Street.

Shade is important. Birds are drawn to the trees that give shade. Shade draws people in.

Perhaps some area might be devoted to a fruit farm or orchards. Mayberry quality of life.

Flowering baskets on every light pole.

Easily maintained landscapes.

Have community supported agriculture.

Bring back the Old Pacific Dogwoods to downtown.

Downtown should have a nice park setting – someplace where there is a desire for people to go. People can enjoy their lunch or go somewhere after work.

There is a sense of peace in the park, like on Lake Road. Less car traffic, open space with the trees. One can enjoy the sun and walk around.

Protect green space.

Create a nice park by joining both banks of the creek into a single park.

More parks – more formalized parks, which have a sign that says this is a City of Milwaukie park. Rather than an undeveloped plot of land that nobody really knows what it is there for.

Connection with nature –not necessarily like you are in the middle of an old growth forest, but there is a connection to nature well within your grasp.

Better access to Elk Rock Island, with bike rack and allow dogs.

Green spaces which are different than parks, which are reserved for wildlife, and landscaped in a way that humans are not encouraged to go in. Like the area behind the library. There should be some in downtown or area surrounding downtown. Open spaces, park for kids to play in.

Create local neighborhood parks.  
Create a park at the Kellogg Creek area, a place for people to do things like play Frisbee and still have a natural area.  
A community garden – a Pea patch.

Maybe a dog park.

We need a lot more parks, not just small pocket parks but real significant sized neighborhood parks that people can walk to and enjoy.

The waterfront and plaza will take care of parks for downtown, but need a park at Lake Road area.

A city park setting without any grass, and a close by area of grass where you can sit down and have a lunch or a festival. Meet a girl or guy close by. It is a nice relaxing area where everyone feels comfortable.

Integrate Dogwood Park into the downtown. A flow and an inviting approach.

In Dogwood Park create small public plaza or meeting area as one approaches down to the level of the creek. Progression from public sidewalk, into the park, then from there down to small meeting areas, and then down to the creek so it does have water access.

Create 2 kinds of gardens: a) for people to pray and b) to socialize. (eg: Japanese garden, and Mediterranean European garden) .

Create informal natural places integrated into the urban environment, where people can communicate with nature. The waterfront is no longer a natural place, but there are a lot of opportunities to do informal nature places.

A pedestrian bridge on the trestle.

Preserve parks; don't let them be used as the next parking lots.

Parks need lighting and trimming so that police can monitor and keep them from being used as hangouts for kids.  
Create access to Kellogg Lake.

Integrate buildings and developed parkspace with natural environments, in a way that allows the community to experience this integration.

Must preserve wilderness areas in Milwaukie. Johnson Creek, Kellogg Lake.  
Re-establish native biological diversity around the edges of the lake.

Restore the Kellogg Lake to a creek, but it must be well done, the habitat must be restored for the fish and other animals – beavers, eagles, osprey, etc. This is a quiet place where the animals thrive, as very few people go back there.

Link the parks in the city with bike paths. One can walk or bike from one park to another.

Efforts to clean up the trails should especially include restoration of water edges and improvements for fish.

A natural park, separate from the built-up downtown.

Community gardens in Kronberg Park. The community gardens would supply local food into the farmers market.

Preserve areas in each neighborhood that are used for recreation.

Don't cover natural areas with development.

Keep the south end of town natural.

Dogwood Park becomes the termination of the downtown.

If they drain Kellogg Lake, it needs to be a park, so nothing is built on it, because it will be open to flooding in the future. We should not build in the flood plains.

Keep the mouths of Johnson and Kellogg Creeks, and the riverbank between them, as natural as possible.

Connect the three parks: Riverfront, Dogwood Park, and Kronberg Park.

Restore connections such as trails: The Spring water trail, the Trolley Trail, and so on.

There should be a bridge connecting two banks of Kellogg – joggers could go over, jog around a circuit in a safe neighborhood around the area. It would connect to other bike paths.

Put in a pedestrian bridge over the creek to Kronberg Park .

Integrate Kellogg Lake with the river.

Connect riverfront with Dogwood Park and the south downtown.

Doesn't want park development to be concentrated only in the south downtown. Wants other areas of the city to be connected through the parks.

Incorporate Dogwood Park and the south end of town with the riverfront. Develop Kellogg Lake area and connect it to the Willamette.

Beautiful walkways along the Kellogg Creek, pedestrian bridge(s) across it; maybe a stone arch bridge down low – you

go down the bank, cross that stone arch bridge close to water, then go up again.

When Kellogg lake is lowered, create a walkthru to the river.

There would be paved and unpaved trails for walking and running.

Unpaved trails for teenagers with dirt bikes, they need to have a safe place to use them.

Complete the Trolley Trail.

A path that runs into the new Trolley Trail, so that the Trolley Trail is easily accessible from the downtown Milwaukie area.

Continue efforts to clean up and complete the Spring Water Trail, including restoration of water edges and improvements for fish. This trail on an old rail line is a very important connection – a trail that one can access by the riverfront, that goes to Gresham, then south, and loops around. It feels good to use it.

### *WATER ELEMENTS*

I would like the fountain to be an interactive water feature. You can play in it. It's on when people aren't there.

Water feature should not be just driven by storm water (as is the one in the North Main project). It needs to run all the time.

Clean water for public use. Everyone should protect and nurture it.

Fountains in the plaza which are simple, for kids to enjoy.

Fountains in the park for kids to play in too.

Simon Benson bubble features like in downtown Portland. Get a drink and wander on.

Bring creeks back up above ground, with walking bridges crossing them. On Harrison we have a creek that runs from the Waldorf school under Harrison street

to the Pond house and then it goes underground till it dumps in the river. You could have a walking bridge across it to get from the Pond House to the Library. So you can see the water, rather than have it shoveled underground.

Restore Kellogg Creek so you can hear the sounds of the trickling water.

Leave Kellogg Lake as is, without draining.

Running water from water features. It is soothing and relaxes you.

The fountain in front of Ledding library – might be repeated, and the sound of water flowing could be heard in various places. Very much likes the fountain in front of Ledding library.

A water feature in the middle on the south end of the downtown. A more artful way

of getting the storm water to where it needs to be .

Small water feature where kids play.

Make a place to be near water.

Accessible water: maybe running water, trees, in a calm location which is not too close to car traffic. Must be able to get right up to the water.

Restore Kellogg Lake to a pretty little creek.

Need to be able to get to the creek.

Fountains that kids could run through to cool down.

I want water – fountains, features, cascading rocks.

I want the sound of water—a water feature that you can hear.

Make places where one can play in water.

I like the water feature at north Main.

A fountain for whole family to enjoy on hot days. The whole area of the fountain, within the white, line fills up and then recedes every few minutes. People put their feet in it. People could go to this location on their lunch hour, soak their feet. A grassy area nearby, people put blankets on the grassy area. Aspen or Birch provide shade and grow quickly.

I'm OK with restoring Kellogg Lake to a creek.

Special places: library/pond house and surroundings, Washington St. flour mill with water wheel (at Washington and 27th); the place where "Spring Creek" passes under Monroe – not visible from the road.

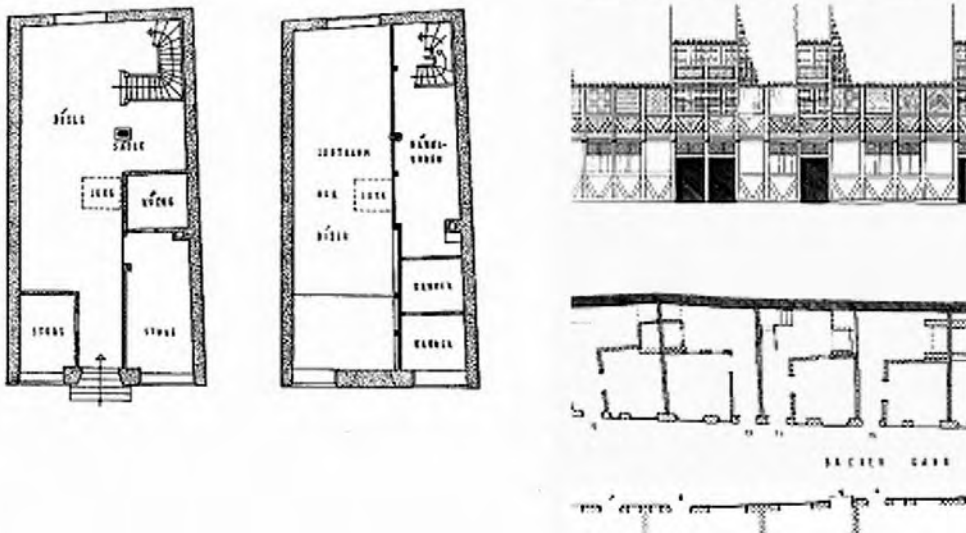
Use swales to take runoff and guide it into Kellogg Creek.

Clean up the two creeks, Johnson and Kellogg.

**9 THE PREVAILING FORM OF THE BUILDINGS IN THE SDT ARE SHOP/HOUSES :– SMALL MIXED-USE BUILDINGS, WHICH CONTAIN BOTH DWELLINGS AND WORKPLACES ON THE SAME LOT, AND ARE OWNER OCCUPIED. IN MANY CASES ADJACENT BUILDINGS SHARE PARTY WALLS OR FLOORS. EACH LOT WILL INCLUDE SOME COMMERCIAL WORKSPACE, SOME DOMESTIC LIVING SPACE, AND SOME OUTDOOR WORK AREA OR GARDEN.**

**9.1 SHOP/HOUSES.** Most buildings in the SDT are to be shop/houses; they will provide both work/retail space and dwelling space. Live/work use will be encouraged (the use of both types of space by a single occupant).

**9.2 LÜBECK SHOP/HOUSES.** These north German examples show archetypal examples of composite buildings which include residence, workshop, and courtyard or garden. Although archaic, they illustrate the spirit of the way space is allocated and distributed in a typical shop house. These diagrams convey a feeling and general sense of what the internal mixture and spatial flow of the shop/house interiors can be. The details of



what will work in the SDT of Milwaukie will be considered when they are built.

**9.3 THE SHOP/HOUSE CONCEPT IS EXTRAORDINARILY FLEXIBLE AND CONTAINS A VAST POSSIBLE MIXTURE OF FACILITIES AND OPPORTUNITIES.**

There are virtually no rules. Living space can be mingled with workspace. Indoor space, and outdoor space can be freely mingled. Private space and semi-public space can be interspersed. Miniature gardens may appear.

Interior stairs may be placed at will. Bathrooms and kitchens may be provided, or not;

The atmosphere of a shop/house can range from the atmosphere typically found in Manhattan lofts or warehouses. At another end of the spectrum, a magnificent house may be built within a modest framework.

**9.4 BECAUSE PEOPLE ARE LIVING AND WORKING AT CLOSE QUARTERS, THE USE OF MASONRY WALLS, AND SOLID FLOORS IS ESSENTIAL.**

**9.5 REASONABLE COST HOUSING.** The residences are reasonably priced. The for-sale apartments are 600 to 900 square feet in area on average for a price of ~\$135,000. The approach to pricing, construction operations, and methods of construction of buildings will be described in a separate report on implementation, to be issued some time in the next six months.

**9.6 ELDERLY HOUSING.** There is housing for the elderly in the downtown.

**9.7 HOUSING MIX.** The residential units are of varying size and configuration and number of rooms, in order to accommodate a mixture of people: elderly, couples whose children are away at college, young couples.

**9.8 HOUSING TAILORED FOR YOUNG PEOPLE.** Some of the housing units built will be specifically tailored for young people; the size, room count, and cost will be aimed at this market.

**9.9 SHOPS DOWNSTAIRS.** First floor spaces are for retail, restaurants, and the like.

**9.10 OFFICES UPSTAIRS.** Offices, to the extent they are there, are on the upper floors.



**9.11 HOUSING UPSTAIRS.** Housing to the extent it is there, is chiefly located on upper floors, but may also be at ground level.

**9.12 LOCATION OF DIFFERENT BUILDING SIZES.** The larger buildings will be located directly on the plaza (in the Frontage ring). The medium-sized buildings will be located in the Outer ring. The smaller buildings, too, will be located on small lanes away from the plaza, in the Outer ring. This distribution will result in visual mixture and variety. It will also give people choice as to the location and character of their own unit. Some people will want to be located in a building of their own, and others in a building shared with others.

**9.13 LARGE SHOP/HOUSES.** Some larger shop/houses will be concentrated on the plaza frontage, and each may be subdivided into a dwelling and workplace.

**9.14 FLEXIBILITY BETWEEN DWELLING AND WORK USE.** Each unit will be flexible, allowing for easy transformation between dwelling and work, and they will each incorporate outdoor space that can be used for either a garden or workplace, or both.

**9.15 LARGE OPENINGS.** The buildings will have large openings at the ground floor, suggesting their use for shops and businesses, and windows in walls at upper floors, allowing for privacy of dwellings.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**9.16** The small shop/house (1 unit) will be designed with a strong 'public face' toward the lane (or plaza), with a large opening that may be left open or closed in as the family living in it sees fit. At the same time, it will have a private 'back,' away from the lane (or plaza), facing the garden.

**9.17** The building (2+ units) will be designed with a strong 'public face' toward the street or plaza. The private space connected to individual dwellings/workplaces will be on the back, or raised up above the second floor of the building.

**9.18** Outdoor space is important for many business uses.

**9.19** When dwellings and businesses are mixed, it is important that noxious areas which can sometimes be associated with businesses should not offend, clutter up, or cheapen the environment of the family dwellings.

**9.20** There are small courtyards scattered through the south downtown, formed in the middle of and between buildings, half-hidden from the street. These spaces have some cover over part of them, so that they can be used in both fair and rainy weather.

**9.21** There are baskets of planted flowers overhead at sidewalks hanging from buildings and lampposts. The baskets are 18” deep, and 2 to 4 feet in diameter. They have nasturtiums and similar flowers hanging down.

The following patterns apply to the houses and businesses which appear in both the Frontage and Outer ring.

**9.22** Affordable rental space for businesses. In order to make it possible for new, small businesses to easily establish themselves in the neighborhood, work space – particularly work space that is located in shop fronts at the street level – will be made as inexpensively as possible, with only the basic structure and service that are required to meet building codes.

In addition, rents on at least some of these spaces will be further reduced through a system of cross-subsidies, in which building owners will agree to make cheaper units available.

This will allow for a mix of businesses that does not include only those sorts of businesses that typically are found in new developments—upscale restaurants and boutiques—but also modest businesses such as hair salons, tailors and small clothing shops, run by people who want to invest in a business with less money. This will make the neighborhood into a place of real, everyday life, where everyone can feel comfortable and everyone can benefit from the presence of other people and businesses.

It will include people going about their everyday tasks—bringing clothes to the drycleaners, picking up a pizza, getting a haircut, stopping at the pharmacy to have a prescription filled—and including patronizing the more upscale businesses that are typically found in new developments.

**9.23** Small half-public outdoor spaces, which may be extremely modest, in sunny spots, are scattered through the working and domestic areas, allowing for casual pleasant conversation.

**9.24** The privacy gradient<sup>3</sup> of outdoor spaces will be carefully established by experimenting with space around the buildings as they are designed and built.

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<sup>3</sup> This is similar to pattern 127 Intimacy Gradient in *A Pattern Language* (Alexander 1975). Unless the exterior spaces are arranged in a sequence which corresponds to their degrees of privateness, the visits made by strangers, neighbors, friends, guests, clients, family, will always be a little awkward.

*INSPIRATION AND IMAGINATION FROM THE MILWAUKIE RESIDENTS*

*HOUSING*

It would be nice to have a few more people living downtown.

Add residential – apartments above buildings – and that adds people to the street.

If there is housing, minimize it so the open space is not compromised.

People living downtown. It adds more life to the downtown. 5 stories might be ok, depending on where it is.

I don't want every balcony with a barbeque and lawn chairs on housing in downtown.

Elderly people living downtown, they do not have to drive places, but could walk to what they need. Parking has to be provided though. Should be a better quality building than the north Main building is.

Bring in residential: condos, apartments. Something with a little bit of upscale, nothing shabby that drives people away. Could be for people whose kids have gone to college looking to downsize, young ones looking to go to Reed College on the light rail. Have a variety of ages to join together.

Don't build low income housing just because the light rail is here. Build what people want to own.

Don't build more condos right now. The condo market has gone soft, not worth building them at the moment.

Potential development areas which are outside of downtown, should be developed as residential rather than business, so that they don't compete with downtown businesses. (One is behind the Milwaukee marketplace and one near hospital).

Have real co-housing opportunities with a central gathering place and a central kitchen.

Have 3 ft wide doors for wheelchairs so people can live in places long term.

Milwaukee Lumber would be a good site for multi family projects that have a style which brings in young people and older people, so you would see people in school or out of school coming to town.

Could locate co-housing + other retail too, at Kronberg Park.

Above any new storefront buildings, make apartments; so there are people on the streets all the time.

*BUSINESSES*

Mixed use buildings for businesses + residential.

Variety of stores that feels homey.

Businesses that operate throughout the day, that draw people to the downtown.

Businesses rather than homes in the downtown. Like a bank, or post office and restaurants (serving healthy NW cuisine).

Coffee places as well.

Small local businesses selling things that are hand made or grown on their farm.

You are talking to people who made the thing.

More restaurants. Independently owned restaurants. Low key. Mexican, delis, Internet café, vegetarian/vegan place. Non smoking.

Bar that has a different feel than the bars that are currently in town, like non smoking. The bar would attract younger people, 20 to 40 somethings – live music some nights, bluegrass or folk music or blues, jazz.

Have the education material store currently in the Waldorf School connected to the downtown.

Restaurants – variety, but no fast food. Nice to have a deli – slice meat etc. Small restaurants that have a specialty type food. Bookstore, though not competing with library, maybe a specialty store of Powell's.

A brew pub on the upper floor of one of these buildings that overlooks the river. A place where you can take the family and also meet friends, a place like McMenamans. I would like to sit with my friends and have a beer.

More mixed-use development. You could live in downtown Milwaukie and go someplace nearby and have a complete neighborhood. You could be born and die in your neighborhood.

There should be small specialized shopping – a small kitchen houseware shop, shops that are more local as opposed to national, northwest related clothing.

A bike shop at the north end of town near the bike trail.

Small movie theater which shows first run movies, classic movies too. Could be in conjunction with a theater group, interconnected.

Have businesses like attorneys, CPAs, graphic designers, they can be anywhere so it is nice to have them in your community. Then you have office people adding to the streets of downtown during the day.

Pizza place. Hair salon. (like new Safeway project in Milwaukie.) Local bank. Post office, to do your mailing – but it does not have to be a separate entity.

A hat store.

Downtown would have retail businesses like card store, small grocery store.

Need good informal restaurants downtown.

Restaurants should be accessible directly from the sidewalk.

A place to do events. A candidate comes to town and could speak there, a flower show, as opposed to having to close off the street every time to do something.

A really good place to meet people publicly -- a meeting room to meet a few people at. A social restaurant where you can take a team and have a meeting. Have a pitcher of beer, talk for an hour, then make room for the next people. Like a Pancake House with a separate meeting room, like a brewery that has a space for the meetings.

Move lumberyard to contaminated railroad creosote site in Hector Campbell neighborhood northeast of downtown. Might be difficulties associated with doing so.

A place in which you do speed dating.

On Cashspot site, would like to see 2 story garage, with a grocery like Trader Joe's or a Bi Mart on top, grocery is street level to Main Street.

Downtown should have a mix of shops where you can get everyday normal items: a shoe store, small Ace hardware store, a general mercantile. So you can just come downtown for much of what you need. Should be able to buy a nut and bolt, nightcrawlers, a sweatshirt, groceries.

Downtown should be more shops than restaurants.

Bring more business to downtown. Businesses are needed more than open space.

Milwaukie is a hub for medicine: hub of acupuncture, massage and chiropractor.

A movie theatre.

A live music venue.

A Trader Joes grocery store.

Update the Bowling Alley into a hot bowling alley, pool place, brew pub to make synthesis with the restaurants.

More of an active specialty niche retail scene. Dark Horse may be the starting point of that. Take that and broaden it into a wider arts community.

Coffee shops, bakery, florist, (we have had them but they don't make it), popcorn and Chinese food, restaurants of whatever they are making.

Brew Pub.

A junior college.

Used book store.

Cooking school.

Knitting store.

Clothing store. We have used one next to Sullys. Not a big store, a local one.

McMenamins

A good bagel shop – some sort of a deli. A small grocery store, bakery, dairy, that you could walk to. Doesn't have to be a super chain.

A child care center.

More destination restaurants, which carry local produce and farms, lots of desserts chocolate, not fast food chains.

Attract new small businesses: baker, upscale grocery/deli, restaurants, gourmet food.

A grocery store like Trader Joe's – a specialty store – would be great, a reason to come downtown everyday. Variety of different types of stores like antique stores, clothing store, grocery store Art galleries and shops.

A signature hotel and conference center, a meeting place. It would bring jobs and business here. A 700-1,000 room facility, with a 2,000 seat auditorium; smaller rooms for smaller meetings; shops and boutiques.

A marina.

Has got to be grocery store for all those things at the north end of town.

More boutiques type retail businesses – clothes, giftware, good card and paper shop, any kind of galleries, textile store with yarns etc.

More restaurants (any ethnic foods, Indian, Italian, Thai,) a bakery.

A grocery store that has a small footprint, like New Seasons. Like Select Market.

Restaurants which have outdoor tables on the sidewalk, build the sidewalks to accommodate that.

Have credit unions, banks, churches; things that draw people in. Upscale it a little bit.

Little boutiques, comfortable – mom and pop shops like candy shop.

Wonderful to have a grocery downtown.

Mixed use –ground floor retail, second and third story can be office/residential. If you have a small scale office that supports the retail that is below, that is good. Restaurants at right size and pricing, like Cha Cha Cha. It is an appropriately scaled restaurant, on the small side, and it will survive.

Don't do artificial subsidies to get development off the ground – if we do, we are propping something up that should not be.

It would be nice to have more services and shops here, so you do not have to get in car and leave Milwaukie. Need dry cleaner, florist, pharmacy, shoe repair.

Put a hotel on the Waverly Country Club; a destination conference place.

A bookstore. Maybe Powell's could have specialty book store related to youth books.

A Bed and Breakfast in the downtown. No fast food.

Really nice deli where you can get olives and pre-made salads and good meats and cheeses.

Hair salon, spa.

Clothing retail, New Seasons grocery store, small store like this, small boutiques, book store, a bakery.

Bring back theater to show real first run movies.

Need a grocery store downtown.

A good coffee shop in south downtown.

Shops should be locally owned.

Produce store featuring locally grown and raised produce.

Music store selling CD's etc.

Wine and cheese store (like Vino, sit down and taste wines, bring your own cheese etc. 5 different wines to taste for \$10.

More restaurants – no fast food. Good steak house with seafood that doesn't allow smoking. Quirky home style kinds of food du jour. Cajun café- like the Delta café, which is a lot of home cooking, soul food. Every meal comes with corn bread, homemade- real food. Slow food. Ingredients you didn't need a special degree to pronounce.

Brew pub – quality craft ale – menu not fried pub food- cheap foods, something on the fresher side as well. Microbrew tastings. Not smoky. Man in Estacada has a Fearless Brewing company and I would like to have him come here.

An espresso cart run by the church on farmer's market Sundays, perhaps at the SE corner of Jefferson and Main. This could be an extension of the church, and an extension of the farmer's market.

Quickie food and drink, but no fast food.

Street vendors -- all the time, but on holidays more of it.

There should be small cafes, bakeries, delis to attract everyone in Milwaukie. There should be ice cream stores and a movie theater.

Milwaukie should have a brew pub like Laurelwood Pub. Friendly, fun for the family and it has the entire brewing operation visible. I want a place where my friends and I can go to have a beer, here in my neighborhood, so I don't have to go to their neighborhood.

Not box stores or national chains.

An antique store would be nice.

Vibrant shops and restaurants.

There ought to be a variety of restaurants. Bring a diverse group of people by having diverse foods.

Rooftop restaurant with a view of the water.

A nice restaurant, where you can have drinks and sit on the deck watching the river traffic.

Create a place where people that are not yet successful, can be out there marketing and bringing their products to the market.

Have a food coop -- a small grocery store. Make this grocery store accessible by bike.

Indoor and outdoor cafes with large windows to see and be seen.

State, county and federal offices need to be downtown. The extra foot traffic caused by those offices being here would energize the downtown.

A municipal court in town. We should trade with the county commissioners. Build a court they could use for their court needs and we could use it too.

Could be higher density of offices down at the south end. Nothing commercial. Keep truck traffic out as much as you can.

Ballroom dancing for older people at night.

More restaurants; nice casual moderate to low priced.

Clothing stores, galleries, bakery.

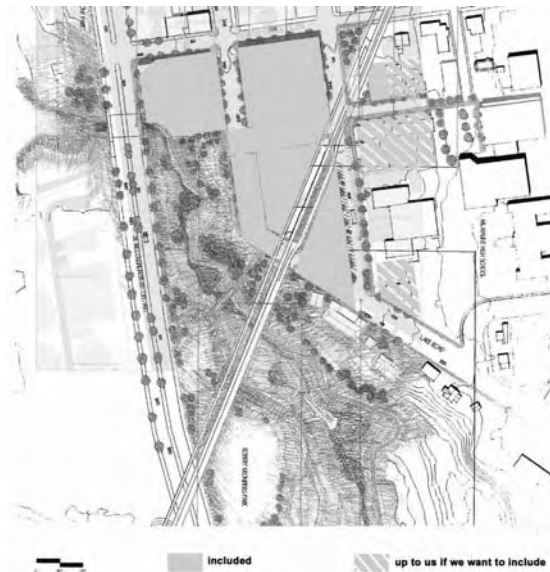
The downtown needs to be self sustaining: all major amenities like grocery, hardware store, and clothing store; so you don't have to drive elsewhere to get what you need.

Mother Goose store in Portland is a nice set up. That is a good kind of store for here -- high end craft and home accessories.

**10 THE OVERALL BUILDING DENSITY IN THE SOUTH DOWNTOWN WILL BE LIMITED TO A FLOOR AREA RATIO OF 1.51 FOR THE 119,000 SF OF BUILDABLE LAND WITHIN THE SDT PERIMETER. THUS THE BUILDINGS IN THE SDT, IN THEIR AGGREGATE, WILL BE LIMITED TO 180,000 SF OF CONSTRUCTION.**

**10.1 THE TOTAL (GROSS) AREA OF THE SOUTH DOWNTOWN IS 228,731 SQUARE FEET, or approximately five acres.**

**10.2 EXCLUDING ROADS, PUBLIC GREEN SPACE, RAILROAD LAND, PARKING SPACE, AND THE PLAZA ITSELF, THE REMAINING (NET) BUILDABLE LAND AREA IN THE SDT IS 119,000 SQUARE FT.**



**10.3 WE ESTIMATE THE TOTAL BUILT AREA AT BUILD-OUT, consistent with the provisions of this pattern language, will be approximately 180,000 square feet of usable, habitable space.**

NOTE: This density is a comfortable medium value – it is denser than the current Milwaukie downtown, but it is not a giant change. It indicates an approach of gradual change, of gradual addition to density, which is sensitive to the existing context in downtown Milwaukie. Some other



urban planners may believe that sudden and much higher increases in density are OK in an existing low density area like Milwaukie. We disagree. This density will be higher than current density, but not uncomfortable or overwhelming.

**10.4 IN THIS CASE, THE MAXIMUM POSSIBLE DENSITY OF THE SOUTH DOWNTOWN**, as a whole, and at completion, would be a Floor Area Ratio of approximately 1.51.

**10.5 IF THE BUILDINGS WERE TO BE BUILT BY CURRENT DEVELOPMENT METHODS**, using 2009 construction dollars as a benchmark, net construction costs for the SDT habitable buildings will amount to some \$27 million. This figure does not include exterior work, public works, roads, plaza, parking structure, courtyards, light rail station, terrace, sidewalks, street lights, trails, benches.

**10.6 HOWEVER, IF THE DEVELOPMENT PROCESS IS DONE IN PUBLIC-PRIVATE PARTNERSHIP**, with a degree of self-financed, non-profit development, and individual development of small projects by direct construction, the costs are likely to be substantially less.

NOTE: As part of this project, CES is investigating how a non-profit Land Trust can be formed to work with public and private organizations in the development of the SDT. CES' findings will be reported in a separate document.

**11 ALL BUILDINGS (AND EXTERIOR WORKS) IN THE SDT WILL BE BUILT BY INDIVIDUAL CRAFTSPEOPLE WORKING IN A MASONRY TRADITION THAT EMPHASIZES BRICKWORK AND CAST STONE -- WITH LESSER AMOUNTS OF STONE, CONCRETE, CERAMIC TILE, PLASTER, AND METALWORK. SMALLER BUILDINGS MAY BE WOOD FRAME, WITH EXTERIOR WOOD STRUCTURE.**

**11.1 REAL MASONRY.** Buildings will be masonry, not as a veneer on a stud frame, but as a reliable, and long-lasting structure. This may include brick, concrete block, and cast concrete, combined with portions of wood frame structure.

**11.2 HEAVY ARCHED COLONNADE.** In front of all the buildings fronting on the plaza, there is a deep colonnade, perhaps 8-10 feet deep, with cast concrete and terrazzo columns and arches, and ceilings with heavy timber beams.

**11.3 A MIXTURE OF MASONRY AND WOOD STRUCTURES.** Smaller buildings may have metalwork and exterior wood structure.

**11.4 EXTERIOR TERRACES, STAIRS, AND PORCHES,** making outdoor living possible and enjoyable.

**11.5 MULTI-PANE DOORS AND WINDOWS.**

**11.6 ROOF TYPE AND ROOF SHAPE.** Roofs will be flat more often than pitched or sloping.

NOTE: Craftspeople concentrate on the art of making, and they make things that fit in, and enhance, the environment that is being constructed. This is not to say that their work costs more. It is a difference in orientation to their work: whereas a contractor is likely to be more interested in cost and efficiency, a craftsperson focuses on making something beautiful for the space. That is the orientation we are looking for.

*INSPIRATION AND IMAGINATION FROM MILWAUKIE CITIZENS*

Include sustainable materials.

Building heights: 2 floors maximum.

The buildings should be beautiful, with big arches. Not just a big block of concrete.

Some amount of building restoration to encourage the sense of history. I would like to see more pride in the historical aspects of those buildings we have that are obviously not of our generation.

Encourage local ownership of buildings, rather than out-of-town owners, so that building owners are more engaged in civic matters.

No building over 3 stories.

A lot of the storefronts could use a facelift.

Development should not have a feel like a strip mall; should not have large national retailers like Walgreens.

Buildings should have an English cottage feel.

Buildings should not be overbuilt—we need enough walking space, parking space and open space. Should not feel surrounded by high buildings.

New development could have storefronts and condos on the street, and several parking levels in the center of the building.

Small buildings.

Storefronts should be retail businesses that use and encourage foot traffic. Office uses should be on 2nd floor, rather than first floor storefronts.

Through codes, we adopt a plan which says this is our niche and we are going to try to build our city this way. Make sure that when people sell a building, the new owner maintains the character.

Don't want more than 4 stories on buildings.

Two stories buildings are ideal. Three stories might be allowed, but only with special conditions. Four stories and above not allowed!

Businesses on Main and 21st Street need a face lift.

Must shine up downtown a bit. You walk through downtown now and it is nice and quaint, but has a feeling of rattiness. You can tell the type of people you are asking to draw to the city by what the place looks like. I don't want the kind of people drawn to Milwaukie that our downtown speaks to. I don't want it to be snooty. Ask the business people who don't vacuum their rugs to vacuum. Raise up the blue collariness a bit so it isn't tawdry.

Buildings with a style and a feel that maintain a little bit of the home town feel but yet with an imaginary tone.

Openness. Keep views of the river as open as you possibly can. Maybe have archways throughout the buildings to give views to the river.

Find our own style, don't repeat what other areas have done (like Lake Oswego).

2 to 3 story buildings.

Big multi-pane windows, surrounded by big solid members.

Buildings should have a simple shape, and should be well sited which means tucked in, and surrounded by trees.

Prefer 2 to 3 stories downtown, instead of one story.

Likes brick on buildings, for instance on Ed Parecki's Main St building.

Buildings should have nooks and crannies in their facades, like the small commercial Horton Electric Building, on 21st Street. It's not the style of that building; it's the various different small volumes, the separate entrances, along the building edge.

5-story buildings OK, if they have a good relationship to the street.

Building height: 2 to 3 stories is ideal; 4 stories might be ok at either end of Main Street, and only if it's on the east side, as a backdrop for the plaza, not blocking the river.

Developments should be in small scale increments; this is realistic and cautious. Ed Parecki's renovations are a good example: small scale, re-use of existing buildings. He has 100% occupancy, very successful.

Buildings should be eclectic, not all the same. Likes that Milwaukie is eclectic, buildings are different styles.

Make sure that we don't wind up with retail on the street frontage and garbage alleys on the sides or back of a block. Retail and pedestrian friendly experience should be on all sides of a block.

Nothing should be over 3 stories.

Buildings shouldn't be higher than 4 stories.

The old Milwaukie feel should be kept.

Old buildings like "Wetzler 1913", with the old bricks on it, should stay.

Preserve height and character of Milwaukie buildings 1 to 2 stories, not like what was done in the north end.

Maintain the character of the buildings - what Ed Parecki is doing with the bank building is exactly what we should be doing. Don't turn it into a high rise Pearl district.

The City Hall building represents what the past was, the present and the future.

Spec development should not be a high price point - hard to rent if too expensive.

Need to incorporate 21st Street in the upgrades also; it is ugly and awful now.

Milwaukie needs its own unique style of buildings so people could say, "I have been there. I enjoyed being there and I want to go again."

Mixed use buildings.

Neon signs. Loves the neon letter "B" of Bernard's garage and the neon lights of the theatre/arcade.

Buildings no more than 3 stories tall.

No overly large buildings that build a wall between McLoughlin and the downtown.

South downtown area should have new 3 story buildings (Bernard Garage area and south).

**12 FROM THE VERY START, OWNERS AND OWNER-OCCUPIERS WILL BE STRONGLY ENCOURAGED TO ORNAMENT THEIR OWN BUILDINGS, PERHAPS GIVE THEM AN INDIVIDUAL TOUCH. THIS ALSO MEANS THAT THE CONSTRUCTION MANAGEMENT WILL BE ORGANIZED TO ALLOW INDIVIDUAL AND PERSONAL QUALITIES TO APPEAR IN EACH BUILDING THAT IS BUILT.**

**FURTHERMORE, A SUBSIDIZED MAINTENANCE PROGRAM WILL ASSIST AND ENCOURAGE OWNERS TO LOOK AFTER THEIR PROPERTIES, AND KEEP THEM IN SPARKLING ORDER.**

**12.1 SHOP/HOUSES WILL BE DESIGNED AND BUILT INDIVIDUALLY BY THEIR OWNER-OCCUPIERS,** so that they become personal in quality, and make areas which are unique, and which reflect the individuals who live and work in the SDT. As far as possible, absentee owners will be discouraged. The aforementioned unique quality will be easier to attain in the red-ring, and somewhat harder in the blue ring, where the beauty of the structures will require more coordination of dimension and proportion.

**12.2** In the same spirit, the buildings are marked, painted, ornamented, tiled, in a way which reflects the people who live there and work there.

**12.3** The space between the buildings is owned, emotionally, and psychologically, by the people who live and work there. So, one will expect to find tables, benches, signs, plants, pots, even games, in the areas between the buildings, thus leading to an inhabited neighbourhood.

**12.4** The buildings of the outer ring are the places where lots of variation can occur.

**12.5** And under the arcade the individual shop fronts can have a great deal of variation, too.

**12.6** The one place where there needs to be less variation is the colonnade itself. The colonnade is a structure that gives a kind of magnificence to the SDT. There will still be variations of spacing, of height, of details of thickness and dimension, ornament on different columns and arches, but they will all be made the same way, so that they produce a family of forms which creates a simple rhythm of repetition.

**13 THROUGHOUT THE SOUTH DOWNTOWN, THERE IS A WEB OF CONNECTED PATHS, ROADS, CARS, ELECTRIC CARS, INCENTIVES FOR ELECTRIC CARS WHICH NEED SMALL PARKING AREAS, SMALL BUSES, MINI-PARKING, BICYCLES, SIDEWALKS, PAVED AREAS, AND PARKLAND. THEY WORK UNOBTRUSIVELY AND WORK SMOOTHLY TOGETHER.**

**13.1 THE ESSENCE OF THE SDT IS THAT IT IS ABOVE ALL A PEDESTRIAN AREA.** It is a place where people walk around, and to some extent it is contained. The focus of the pedestrian paths and places within the area, is that they are pleasant, refreshing, and beautiful.

**13.2 AT THE SAME TIME IT MUST BE REMEMBERED THAT MOST PEOPLE WHO COME TO THE SDT WILL COME TO IT FROM OUTSIDE, BY CAR OR BIKE OR BUS OR TRANSIT.** Some people will walk from the North Downtown, or from nearby neighborhoods.

**13.3 THE NETWORK OF PEDESTRIAN PATHS NEEDS TO BE COHERENT, AND HAS WELL DEFINED CENTERS AND TARGETS TO WALK TOWARDS.** The purpose is that the SDT has a clear organization that can be understood and visualized as one thing, and takes into account all the oddities of the site, and its beautiful and important spots.

**13.4 THE BASIC RULE IS THIS:** To generate a comfortable interplay of vehicles and pedestrian movement, each path from a vehicle drop-off point, must lead in a natural way to become part of a major pedestrian path that leads towards one (or another) interesting and magnetic center that draws you towards it emotionally.

**13.5 ALL IN ALL, THERE WILL BE MANY IDENTIFIABLE AND IMPORTANT LARGE AND SMALL CENTERS IN THE SDT** – perhaps as many as 15-20 major centers and another 25-30 minor centers.<sup>4</sup>

**13.6 PARKING IS POSITIONED TO GENERATE MOVEMENT ALONG MAIN PEDESTRIAN PATHS, TOWARDS MAJOR PEDESTRIAN CENTERS.** Parking lots, bike storage, bus drop points, and structures and their pedestrian exits will be located such that the pedestrian exit from that parking feeds directly into a pedestrian center or major path, so as to generate pedestrian life along the major lines, in the correct places.

**13.7 AN OVERALL PARKING POLICY, WILL CREATE INCENTIVES FOR PEOPLE TO BUY AND USE VERY SMALL ELECTRIC CARS, AND TO DISCOURAGE THEM FROM USING LARGE CARS.** In conventional 20<sup>th</sup> century parking, each car required app. 300 sf/car for standing space and driving lanes. For small electric cars in the 21<sup>st</sup> century, space required can be reduced to about 150 sf/car, and the pollution is negligible, street traffic is halved in physical volume. We propose that The City of Milwaukie, Metro, together develop a public/private policy based on this conception of park and ride be implemented with

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<sup>4</sup> A center is a well defined, identifiable part of the built environment. For instance, a plaza is a center, as is a building, a column, a window, a tree, a courtyard, a room, a table sitting in the sun, the space inside a colonnade, a door, and the knob on a door. A center has a middle and a roughly defined perimeter or boundary. It may be large or small. Centers exhibit certain qualities, such as strong boundaries, rough symmetry, good shape, positive space (no leftover bits), and several other commonly recurring properties (explained in Christopher Alexander's *The Nature of Order*). In order to be part of a rich and comfortable city fabric, a given center should itself be made up of many smaller centers, and should also be part of, and contribute to, a center or centers larger than itself. A rich built environment is really like a tapestry of centers large and small -- the many smaller centers nested within and composing the larger centers. In the best human environments – the beautiful cities and comfortable neighborhoods which people really like – the various centers tend to be numerous, well defined, and strongly interrelated. In environments which people don't tend to like, it turns out the centers are few and weakly related to one another.



the South Downtown as a hub for this approach. Conceivably the City might make provision for some kind of subsidy, or lease lend, for these vehicles, to encourage people to try them out.

**13.8 PARKING FOR GASOLINE CARS.** Off-street parking for old style cars will be provided within the SDT at the following at a ratio to be determined.

**13.9 SMALL OR HIDDEN PARKING.** Parking will be in small lots of no more than 6 cars in one spot. Aggregations of more than 6 cars will be partially hidden.

**13.10 BIKES STORED AT STATION.** There is a place for bikes to be stored near the station entrance. The bikes are covered from rain and can be secured against theft.

**13.11 BIKE ROUTES FANNING FROM THE STATION TO EACH MILWAUKIE NEIGHBORHOOD.** These bike routes lead from the station, to the different residential neighborhoods in the city. They are comprised of dedicated bike paths, and dedicated bike lanes on streets. They have unique identifying signs for clarity and are configured for rider safety.

**13.12 THE SDT SUPPORTS THE WHOLE DOWNTOWN AS A PLACE WHERE PEOPLE CAN GET TO AND FROM NEIGHBORHOODS EASILY AND SAFELY.** Residents of neighborhoods must still be able to get downtown from their homes, easily, even if the SDT increases traffic and activity, and light rail creates more “guards-down” times. Traffic will not be diverted on to 27<sup>th</sup> Street.

*PATTERNS THAT PERTAIN TO SMALLER LEVELS OF SCALE*

**13.13** There is a parking structure just south of the CashSpot site, with the terrace built on top of it. The structure has two levels of parking. The pedestrian exit is at Main Street where it joins the north end of the plaza.

**13.14** Bike lanes on Lake Road.

**13.15** Cars flow around the edge of SDT. The major flow of through-traffic flows around the SDT, on streets such as Main Street, Washington, East 21<sup>st</sup>, and Lake Road.

**13.16** Cars are not allowed in the plaza. Only service vehicles or vehicles temporarily loading or unloading are allowed in the plaza.

**13.17** Slow local traffic in outer ring. Cars within the outer ring will be limited to speeds no more than 10 miles per hour. Within the SDT traffic will be primarily local.

**13.18** The intersection and rail crossing of 21<sup>st</sup> and Washington will function in a way that allows easy neighbourhood access.

**13.19** Washington Street will be used for bus stops. Bus riders can walk through the plaza to connect to the light rail.

**13.20** There will be a small bus service, running small size buses, which connects the Milwaukie neighborhoods to the SDT. The buses will run during all hours of the day and evening that the light rail runs.

*FURTHER STUDY REQUIRED:*

Parking requirements

Access to parking

Bus placement

*INSPIRATION AND IMAGINATION FROM MILWAUKIE RESIDENTS*

*PEDESTRIAN*

Hanging baskets of planted flowers high in the air, hanging off utility poles at sidewalks. (can see them in various cities, including Portland). Should be 18" deep, 4' diameter, with nasturtiums and the like hanging down.

Street side amenities – planters, benches, place for bikes to be parked, activity that happens on the street.

On the street restaurants have tables outside, people sitting and reading, there is some parking, but there is openness to that.

Places where people could stand and talk or sit and have a sandwich. A vendor could have a rack of clothes outside, or displaying their wares, so you see them when you are going by.

Small shade trees along street with small branches over the sidewalk, to shade me as I walk downtown. Not big trees overarching the whole street.

Garbage pails next to the trees, in sufficient numbers that one doesn't have to walk far to find one.

Garbage cans downtown, which have recycling containers on them.

Profound absence of car exhaust smell.

Do more of the sidewalk improvements from the downtown plan, for instance those installed by St John's church on Jefferson Street between Main and 21st.

More terrazzo medallions in sidewalk, like the one by City Hall.

Parking signs, which to tell me where to go to park, like at Pietros. Identify what places are ok for public to park, in downtown.

We need wide sidewalks.

Incorporate historical plaques in the downtown (idea from the Atlanta Olympics). Milwaukie is important in the history of this area. I think we are technically older than Portland.

Trees on Main Street are beautiful.

Wide sidewalks (about 12 feet) on Main Street are very good, might possible be extended to other blocks.

Sidewalk improvement at Main and Jefferson, SE corner – we need to generalize what the issue is.

Some green streets, parking strips are permeable pavers that grass and weeds grow up through.

Combination recycle, garbage cans, and ash tray, a la Santa Barbara.

Replace awful barricades you see coming into Milwaukie on Harrison St. and off of McLoughlin. Use something else besides barricades. Have kids do art work on canvas that depicts the river and create boards that hide the barricade.

Ashtrays for the people who smoke at the bus stops - there is no place to put their butts except on the ground.

### *TRAFFIC*

Downtown is easily accessible to the neighborhoods- streets coming into the city with a minimum of traffic back up.

Do not want to have a lot of traffic down on the south end.

Some pedestrian streets that are closed off to cars.

Likes brick in the sidewalks.

Likes the terrazzo dogwood medallion in the sidewalk, SE corner of Main and Harrison.

Likes the bump-outs at corners being done in accordance with the downtown plan.

More bump outs on the sidewalks for planting. Corners where mass planting can be made.

Sidewalks should be wide enough for tables near the building, then the walking area, and then shade trees near the curb. The Wind Horse block is an example, but it could be wider still.

Flat wooden canopies over sidewalks, like in front of "The Brew" (pub on Main Street). This kind of canopy could be an architectural touchstone for the town that makes sense for the climate.

Like the flat canopy on Main Street, by the Brew Pub.

Some streets blocked off from cars, with cobblestone surface.  
More sidewalk benches.

Benches, places for people to sit down.

Outdoor seating.

Do not put in benches, community does not use them. Only people on benches are people drinking beers or the like.

Garbage cans.

Possibility of making Main Street pedestrian, or mainly pedestrian. Needs thinking through.

Must slow down the traffic on McLoughlin. When I was younger, McLoughlin wasn't a knife cut through the city. Traffic increased and made it so.

### *PARKING*

Need for parking. This needs thinking through, a difficult issue.

Create parking structures at either end of the downtown area, so people can get out on foot. Would mitigate the current feeling that downtown is one giant parking lot.

Cash Spot site, as a park and ride, but not strictly that, needs to feel part of Dogwood Park.

Parking – a place for the public to park to connect with the bus depot or light rail, so it encompasses much of the ridership. It could be multi level. Go underground 1 level, plus 2 levels above ground.

At CashSpot site, would like to see two levels of parking, with retail shops on McLoughlin, a grocery store fronting on Main Street on top of the parking, lively retail on Main Street south of the grocery. 2 stories of residential above that. Parking structure near bowling alley, shops at ground, with parking above. Entire block. (This spot is better than Cashspot site, which occasionally will flood as river rises.)

There needs to be more parking, hidden.

Want parking – underground is best, or parking structure with retail on ground floor.

Commute parking should be in industrial areas or at Park Blvd.

Parking structure, parking tucked into building with shops and restaurants all the way around the building. There could be parking for 500 cars and you will not see the cars.

A parking structure. The parking structure does not have to be an ugly block; it can

have hanging baskets, elevators that move cars, shops on the first floor, art work. It could be a beautiful structure.

By the plaza you need some sort of good parking area.

Parking for people going to go sit by the river.

Parking for Farmers Market on Sunday, where do they park?

Parking in a structure, 2 stories below ground, and 2 stories above ground at most.

Have a green roof on top of the parking structure, covered with sedum and natural grasses.

Should be more parking downtown.

Employees of downtown businesses should have their own parking provided by the business, so that street parking is left for customers. Currently Dark Horse employees use street parking, and come out every 2 hours to move their cars.

Parking on the periphery. That gets people out of their cars and gets them walking. Point of getting around is that people are on foot, not in cars. City has to invest in some sort of parking structure.

If there is a parking structure, make it central so you come out right in the middle of things.

Milwaukie needs parking. Make a place for people to park that is subtle and nice. Parking for park and ride should be close to downtown, but not in it. A parking garage would be better than large sprawling areas for cars.

Parking can be on the interior of the blocks, with stores on the outside.

### *BIKES*

Lots of people on bikes with helmets on, obeying laws. Bike racks all over that are full of bikes.

Encourage bike use. More bicycle racks, a safer way to bike here. More bike lanes, especially on Lake Road. Create lockers

for bikers, so people can leave their things safely, if they are going to take the light rail or bus to go somewhere else.

Everything should be convenient to us, so you can ride a bike anywhere.

## **Questions to be addressed when individual buildings and streets are being developed**

The Milwaukie Patterns describe the overall South Downtown project, the elements of the project, and the relationship between these elements. They also provide direction as to how the elements and relationships should be generally configured. They create a vision for the South Downtown in that they describe the overall feeling the place will have. More than that, as each of the elements will be designed and built by the people who will participate in this work over the coming years, these patterns will guide what they do. Their proposals, designs and construction will be evaluated according to whether they are consistent with the intent of the pattern language.

The Ad Hoc Pattern Language Committee raised many conscientious questions about the details of implementing the patterns. Some of their comments and questions resulted in changes to the patterns themselves, and others in topics for further study, which have been woven into the patterns on the previous pages. They also raised detailed questions, the answers to which will be derived during a careful process of adaptation<sup>5</sup> at the time when each of the elements (plaza, buildings and streets) are built. As each thing is built over time, the detailed configuration is developed, evaluated, and modified, to ensure that the proposed configuration for that element has both the overall feeling described in the pattern language, and works with and for its particular place in the landscape. This is how we can ensure that each element is a supportive (and, we hope, vibrant) part of the whole. Because these details are so particular to each element, it is necessary to wait until then to consider them.

However, we do not want to lose the valuable questions and considerations that the Ad Hoc Committee raised. So, they are recorded here under each pattern for future reference.

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<sup>5</sup> The need for an adaptive method of design and construction is discussed at length in *The Nature of Order* Book 3: *A Vision of a Living World* (Christopher Alexander, 2005).

**Pattern 1: Relationship of the South Downtown to its Surrounding Areas**

How are we connecting the north and south downtown as a whole?

How does 21<sup>st</sup> Street fit into all of this?

**Pattern 2: A Major Plaza forms the Core and Focus of the South Downtown**

What is the configuration of parking – one or two stories, are they small parking lots, does it need to be a structure, can there be more than one structure, and where are they?

Must the awnings be canvas? Could other materials be used? Could trees be used instead? Maintenance of the awnings could become problematic.

Are small parking lots a possibility (about 6 cars), or does parking need to be in a structure?

**Pattern 3: The Plaza Lies at the Head of Main Street**

How long is short term parking?

How will vehicles be slowed?

Who is going to pay the cost of maintaining the plaza?

Is it a good idea to have another parking structure where the grey hashed area is, to the east?

Where does car access end on Main Street? Is it OK to allow cars to come into this one block cul-de-sac? Or is it better to end at Washington?

How will the bump on Main Street be fixed?

Who will take care of the plants?

**Pattern 4: From the Plaza there are Views of the Willamette River and the Western Setting Sun**

4.6 How do we buffer noise from McLoughlin? A low sound wall? Dig it in and put it underground? Other?

4.2 What is the target number of parking lots?

How do we get into the parking structure without snarling traffic? Is access on the northside, in present gap behind the Cashspot site? What if I'm coming westbound on Washington – do I have to make a left turn into the parking access? How long will I have to sit there waiting to make my left, meanwhile backing up cars behind me?

Can we park trailers and trucks on the ground floor of the parking structure?

**Pattern 5: The Transit Station Leads Directly into the Plaza**

Will the measures used to mitigate sound be effective for both light and heavy rail?

In addition to dark timbers, can we also allow stone (perhaps local basalt) for the station? Are there other consistent materials that could also be allowed?

Is the northeast end of the station blocked?

Can we use the term Quiet Zone here in the pattern language?

What is happening behind the structure?

### **Pattern 6: Frontage Ring**

How do we make sure the façade of the buildings is the same?

How does the colonnade get built in pieces over time, but feel all the same? What happens if at any given time some sections of the colonnade aren't there yet – like gaps in a smile? What if different pieces of the colonnade look different because it is built at different times by different people?

What are the long openings in the ring – is that where we see all the way through?

How can you make a colonnade so it can be closed and used in all weather?

6.5 What are small lots?



**Pattern 7: Second Wider Ring of Land**

How many people are we thinking about living and working here?

How tangled are the lanes – what does that mean?

How do the streets flow and connect – what is the pattern of the streets?

Do you see the red ring facing the plaza, or out?

How do we avoid creating a red ring with its back to the train tracks?

What is the amount of space used for parking, and what kind of parking?

What is a work space? What uses are OOK there? Would a wood shop be OK? A metal shop? What about sound and dust?

Are there places in the red ring where noisy manufacturing will exist? We could say that noisy shops must be located on the train track side.

Will there be retail?

How can we dictate rents, or encourage low rents?

How will we ensure that the place will look nice – not be cluttered by the outdoor storage of materials?

Is there fencing between lots? How would we set up guidelines as to what is OK?

Are 4 story buildings too tall?

Is the space 200 feet thick, or are the buildings 100-150 feet thick?

7.11, 12, and 13 – What would it feel like to live so close to the tracks? Would I want to live so close to the tracks?

In 7.12 and 7.13 – does this mean residences on Main Street near Washington?

In 7.15 – is there only one car per lot on site?

7.17 – is the narrow lane just for pedestrians, or for a vehicle?

**Pattern 8: Ecological Boundary Area**

8.8 – If the bridge is low to the water, what does that mean in winter when the Willamette floods up into the creek and the water level goes up? Is the bridge high enough to accommodate this?

How will the fill be done?

**Pattern 9: Shop/Houses, Residences and Businesses**

How will the colonnade get built in increments?

How are the units arranged vis a vis front and back? Does each lot face a different way?

Will there be courtyards?

Who qualifies as “young people”?

9.12, 9.13 – How do we maintain the mix nature of the businesses?

Are we creating rental space for young businesses? Starter space?

Would a moderate income person be excluded from being there – having cheap space? That doesn’t seem right.

Are we putting beneficial businesses here? If a particular business ceases to be beneficial, what should we do?

Should there be two kinds of space – low cost and market rate?

**Pattern 10: Building Density**

If there is a land trust, does it pay property taxes? If not, the land trust represents a loss of tax revenue for the City.

Can FAR be set up as a soft target?

How do we do this over time? If the first few projects build to three story, as much as is wanted in total, then how do we say no to the next person who wants to build three story?

Can there be parking in the first two floors of the Cashspot site – two stories of parking and two stories of building above?

How do we anticipate parking for the long term?

Can we avoid park and ride structures?

Should we mention dwelling units per acre as a parameter? This area will likely fall between neighborhood DU/acre, and North Main project DU/acre.

### **Pattern 11: Masonry Materials**

How deep is the blue ring if you take out 10' of thickness for the colonnade?

Can we consider green roofs?

Will we allow people to build stud frame?

### **Pattern 12: Ornament**

On “subsidized” maintenance – where does the money come from?

12.1 – will this exclude a lot of small business people? For instance, will a restaurant that wants to be in the blue ring be able to afford to buy or build a building?

How do we ensure that a restaurant happens?

Should we consider hotel space and identify where it should go?

How can maintenance be addressed? Perhaps it done by partnership between the City, business owners, and NPLT.

**Pattern 13: Pedestrians, Cars, Parking**

Where do delivery trucks park?

Where do buses drop off?

Who parks there – residents, commuters, boats and trailers?

Where do we put small parking lots, and who parks there?

How do we ensure that Lake Road residents are able to get downtown easily?

How do we deal with traffic flows downtown? There will be more traffic and also more constraints (light rail, street closures).

How do we ensure safety at the rail crossing at 21st?

## APPENDIX: OVERALL FEELING AND VISION

from WORKING DRAFT SUMMARY OF ISSUES AND INFORMATION  
RAISED BY MILWAUKIE COMMUNITY MEMBERS

June 20, 2008 (revised June 15 2009)

Keep the downtown pedestrian in feel. Lots of small businesses could come in without destroying the small town feel, if the town is kept pedestrian.

All day long there is activity; vibrance and life. And there is a reason to be here, not just a place to stop.

Create a safe environment, where you feel happy to be there. You feel invigorated by all the stuff going on around you.

Things to do at night: I could come to Milwaukie after 6 PM and there would be things going on here. Social dancing, indoors because of weather; some sort of community center; people coming together to talk. Having coffee at outdoor cafes or the cafes that are already here.

An affordable place: the average person can go to get a good meal, a restaurant or boutique. Not upscale feeling. It is very blue collar city now, keep it that way. Be careful of gentrification. We do not want to be NW Portland or Pearl district, which are too upscale. But, do want some touches of it.

What is it that creates the small town feeling of Milwaukie? A bounded zone around the core of the downtown, so that it cannot sprawl outward.

It is a place with trees, shops, bookstores, galleries, and cafés, concentrated together. Milwaukie can be a beautiful place for people to come on a Saturday.

We need to maintain the good schools, friendly neighborhoods.

People of all ages mixing downtown.

It is really quiet downtown now. There are a lot of people out on the streets in my ideal downtown.  
For the many older Milwaukie citizens for whom walking is difficult, provide a place for

them downtown and a way for them to get here.

Families with strollers, people on their bikes, bikes locked up to the bike racks. In good weather people are sitting outside in plaza and at sidewalk tables of little restaurants.

Developers need to demonstrate commitment to protecting and extending quality of Milwaukie, in order to be allowed to do a project here.

Each street is different: unique markets, antique shops, and small stores.

Don't alter things so much that they lose their character. A lot has to do with what your past is and what our past history is that you want to see maintained.  
More people walking on the street.

People walking their kids and dogs.

Smells of trees and flowers, food and people.

A Milwaukie that is well funded; a different tax base would help – getting more businesses to the downtown core would help with that.

Keep the downtown contained with park-like spaces, so there is no sprawl. It is contained by Library, the Pond house, Waldorf School, Washington St, Harrison St as it goes along the creek. Preserve these, and preserve this feel.

The restoration of connections is fundamental to enhancing Milwaukie – an effort to make Milwaukie serve as a modest hub.

Downtown should have small, personal scale. Small, so it's all walkable. Like Larkspur.

A downtown that is people-centric rather than car-centric. The farmer's market is a good example. People walking to the downtown, or are biking with their kids to town. You can pay attention to other things other than traffic. People are communing rather than commuting.

I want others who use the town a lot and stay here for what they do in their life.  
Small businesses and residential downtown.

A village of shops, restaurants, townhouses, stretching north to north industrial area.

I want a place I want to go to downtown, something to walk to, not just to drive to.

Places to sit outside and eat and have a drink.

Places to gather.

Places and situations where people are gathered and talking, the more the better.  
There should be lots of light in the downtown.

Want all amenities close -- go no more than 6 to 8 blocks for groceries, restaurants, boutiques.

More openness and connection between the Waldorf campus and the downtown.

Nature is hugely important; giant trees, eagle nests, fish jumping in the river. Salmon, sturgeon, steelhead. Big Madrone trees.

Utilize Dogwood Park as something gorgeous. The plaza is on the top of the hill and looks at this grassy knoll below. It has an estuary feeling; wildlife, ducks and birds. You can bring your dog on a leash. You meet someone. You can get over to the river. If you have a festival in town, that would be a great place to have it. Even the Farmers Market. As you get off the light rail you see the hustle and bustle, and it is warm and welcoming.

In nice part of year, outdoor tables and people sitting outside.

Urban-looking; a lot of buildings and shops in a row.

The whole downtown should be festive for holiday seasons.

People would be shopping, eating lunch or dinner. Going to events, theater or arts – something that they could go to. Socializing. Talking to friends and neighbors. Picking up a few things they need. Not as crowded as Farmers market is on a beautiful Sunday, more spread out. I don't want to have to stand in line, I don't like big crowds.

My dream: Milwaukie becomes a city of museums. For instance, there is an opportunity for the largest Kodak Camera museum on the west coast, and a maritime museum for the waterfront park.

A draw to bring in people from outside the community.

Have events that are of interest to residents (if they are of interest to residents, others will come).

I like the hustle and bustle, music playing (live – anything), people talking, tables on the streets, no skateboarding.

Neighborhoods that provide services to the neighborhood. Like a neighborhood grocery store.

Nice place to sit outside and enjoy the riverfront and have a cup of coffee.

Downtown should be more for late teenagers and adult-oriented because that is where the strength of our neighborhood associations comes from. They are the people who are spending money. Children would come but it would not be geared to them.

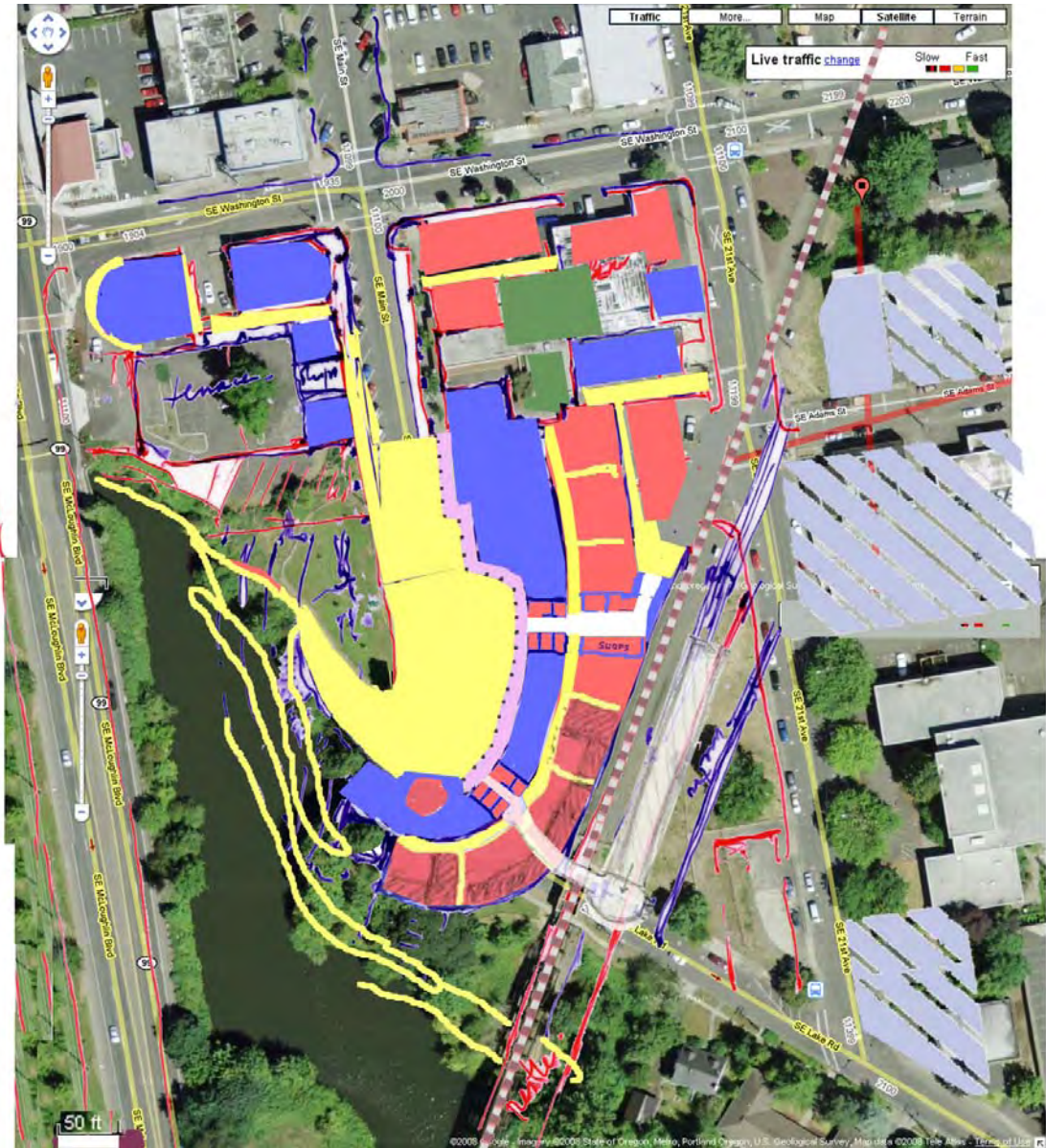
Invest first in the middle of town; gradually this growth will creep to the south. Putting lots of \$ into the south end first seems perhaps risky. Can it invigorate town, or is it too far from things already working?

Small festivals and farmers market draw people to downtown.

Make the downtown the center of the city again. Nowadays people coming to Milwaukie tend to come to the new shopping center area on 224, rather than downtown.

ATTACHMENT 2

I ARMATURE DIAGRAM FOR  
THE GEOMETRY OF  
THE SOUTH DOWNTOWN



This is a scale diagram of the SDT site, taken from a Google photo showing all roads and buildings



**THE ARMATURE DIAGRAM PROVIDES THE BASIC GEOMETRIC SKELETON THAT WILL SUPPORT THE DEVELOPMENT OF EACH STREET AND BUILDING OVER TIME. IT IS A SPATIAL GUIDE TO THE DETAILS FULLY EXPLAINED IN THE PATTERN LANGUAGE.**

Yellow indicates outdoor paved areas.

Blue indicates the arcaded buildings, the arcade itself shown lilac.

Blue indicated two story buildings occasionally going to three stories.

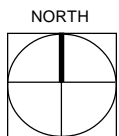
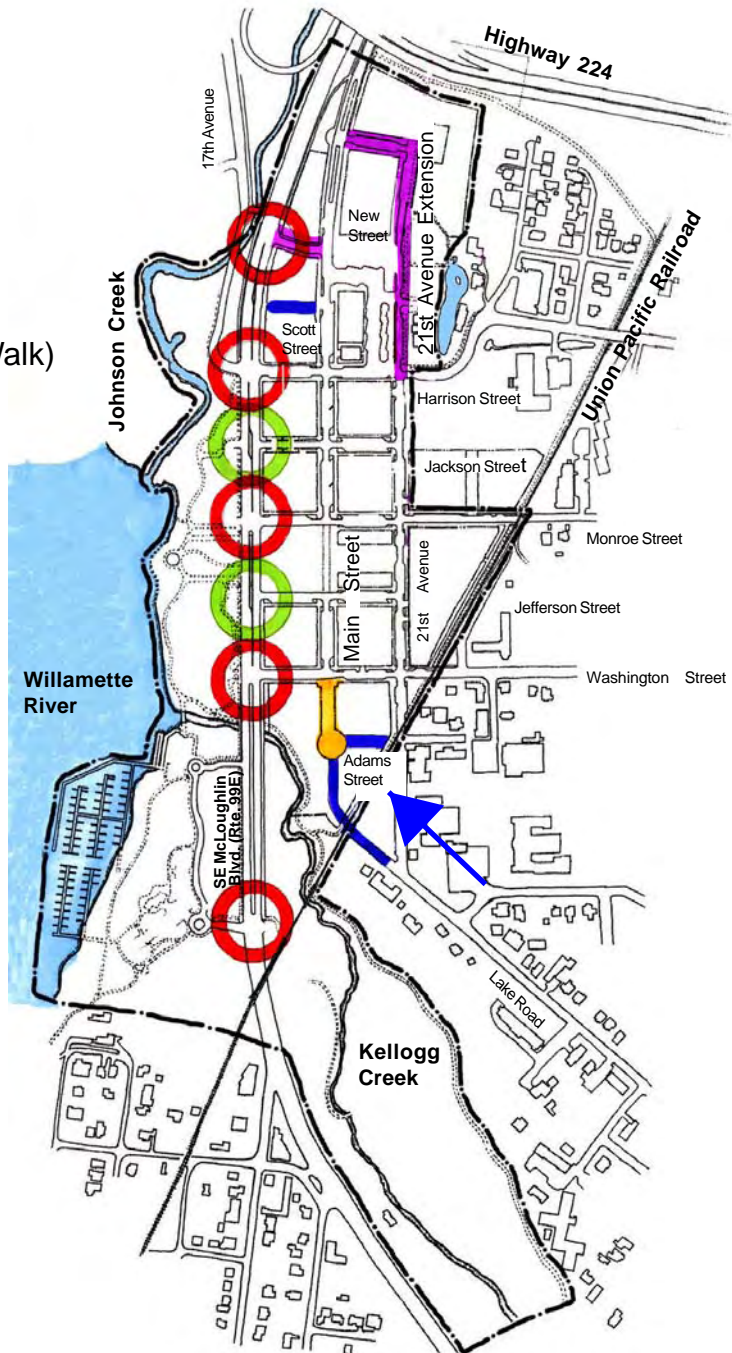
Red indicated parcels that include outdoor space (red), buildings shown in pencil shading. These buildings are one, two and/or three stories high.

We will provide further annotation in a later edition.

# General Circulation Requirements

## 1.2 Streets Diagram

-  Existing Roadways
-  New Public Roadways
-  Vacated Roadway
-  Pathway (Main Street Walk)
-  Signalized Intersection
-  "Right-In, Right-Out Only" Intersection (no signal)





**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development and Public Works Director  
Katie Mangle, Planning Director

**From:** Susan P. Shanks, Senior Planner

**Subject:** Right-of-Way Annexation in NE Sewer Extension Project Area

**Date:** October 20, 2009

### **Action Requested**

Approve an expedited annexation petition<sup>1</sup> to annex specified portions of rights-of-way in the NE Sewer Extension Project Area (Attachment 1) and adopt the attached ordinance and associated findings in support of approval (Attachment 2). Approval of this application would not result in the withdrawal of the annexed territory from any urban service providers or districts since the territory proposed for annexation consists entirely of rights-of-way not private property, nor would it be used for future annexation of islanded private property. Approval of this application would result in the application of the City's land use and zoning designations to the annexed territory based on the territory's existing zoning designation in the County (Attachment 3).

### **History of Prior Actions and Discussions**

**September 2009:** Council initiated annexation of the rights-of-way in the NE Sewer Extension Project Area by resolution (Resolution No. 58-2009).

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<sup>1</sup> Expedited annexations are authorized by Metro Code Section 3.09.045 and Milwaukie Municipal Code Section 19.1504 and apply when all property owners consent to the annexation and are willing to accept the City's automatic zoning and land use designations. Since property owner consent is not needed or required for annexation of right-of-way pursuant to ORS 222.170(4), Council initiated the expedited annexation petition on its own motion on September 15, 2009 pursuant to ORS 222.111(2).

**August 2009:** Staff briefed Council on the status of the NE Sewer Extension (NESE) Project and the need to annex the rights-of-way in this area.

**June 2009:** Council awarded a contract to Right-of-Way Associates Inc. for easement and appraisal services within the NESE Project area.

**February 2009:** Staff briefed Council on the status of the NESE Project in Dual Interest Area “A”.

**February 2009:** Council approved a resolution authorizing the City Manager to enter into a contract with Century West Engineering for the engineering services needed to extend the City’s sewer system into Dual Interest Area “A”.

**December 2008:** Council approved a loan agreement from the Clean Water State Revolving Fund (CWSRF) to fund the extension of the City’s sewer system into Dual Interest Area “A” (Resolution No. 94-2008).

**October 2008:** Council approved moving forward with the extension of the City’s sewer system into Dual Interest Area “A” including: entering into an intergovernmental agreement with Clackamas County for use of Century West Engineering services through a contract between Century West Engineering and Clackamas County; making application for a DEQ loan needed to accomplish the sewer extension; and moving forward with the public information needed for the project (Resolution No. 81-2008).

**September 2008:** Staff briefed Council at a work session on the proposed sewer extension project. Council requested additional information prior to acting.

**May 2008:** Staff briefed Council at a work session on the proposed sewer extension project, specifically with regard to City, County, State and intergovernmental requirements and policies. Staff presented information on relevant City and County policies, State law regarding annexation, and raised questions regarding service delivery and governance.

**March 2008:** Staff briefed Council at a work session on the need for sewer service in Dual Interest Area “A”. Staff informed Council that the City was coordinating with Clackamas County and reaching out to owners and residents in this area to determine the level of interest in connecting to the City’s sewer system.

**September 2006:** Staff briefed Council on State statute and City Comprehensive Plan policy regarding island annexations.

**November 2002:** Council directed the City Manager to sign a CDBG grant application to subsidize connection costs for low-income residents in Dual Interest Area “A”. This

proposal assumed a City project to extend sewer service into this unincorporated area of Clackamas County.

**July 1990:** Clackamas County Order No 90-726 established an Urban Growth Management Agreement (UGMA) in which the City and County agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County. With respect to Dual Interest Area “A”, the agreement states: *“The City shall assume a lead role in providing urbanizing services.”*

## **Background**

### **Key Points**

The territory proposed for annexation consists entirely of rights-of-way and includes no private property. All of these rights-of-way have been dedicated to the public for right-of-way purposes, with the exception of Hazel Place between Hollywood Ave and Wichita Ave on Tax Map 1S2E30DA. This segment of Hazel Place is a public road under Clackamas County ownership. Pursuant to ORS 222.170(4), the City is not required to obtain consent from property owners in the territory proposed for annexation when the territory is publicly owned (as in the case of right-of-way owned by the County) or exempt from ad valorem taxation (as in the case of right-of-way dedicated to the public).

Annexation of the rights-of-way in the sewer extension project area would make private properties in the project area contiguous to the City’s boundary. Since contiguity with the City’s boundary is required for annexation, and since annexation is required with sewer connection, annexation of the streets would enable the City to process property owners’ annexation applications when sewer connections are voluntarily made in the future.

Annexation of the rights-of-way in the project area would create an unusual City boundary. It would, however, be filled in over time as incremental private property annexations occur in this area in the future.

Annexation of the rights-of-way in the project area would also technically create unincorporated islands.<sup>2</sup> The Oregon Revised Statutes give cities the authority to annex islanded territories. The Milwaukie Comprehensive Plan also contains a policy that states that islanded territories should be annexed to the City. However, in past discussions between City Council and affected property owners, Council has indicated that it would not involuntarily annex properties within the project area that do not need

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<sup>2</sup> Per state statute, islands are territories not in the City but that are completely surrounded by the corporate boundaries of the City. Islands are not created when a street constitutes more than 25% of the perimeter of any given territory.

or desire to connect to the City’s new sewer line. This is consistent with City policy to only provide services to properties within the City and to require annexation in lieu of extraterritorial provision of services. *As a result, the right-of-way annexation ordinance affirms that the City would not annex any newly created islanded territories, provided they are within the project area and not currently connected to City sewer.*<sup>3</sup>

### **Site and Vicinity**

The territory proposed for annexation is contiguous to the existing city limits and is within the City’s urban growth management area (UGMA). It consists entirely of existing public rights-of-way in an established neighborhood that is primarily composed of single-family residences. More specifically, the territory proposed for annexation is within the NE Sewer Extension Project area, which is bounded on the north by SE Westfork Avenue, on the east by SE Linwood Avenue, on the south by SE King Road, on the west by the current city boundary, and on the northwest by SE 55<sup>th</sup> Avenue.

### **Annexation Petition**

The petition meets the requirements for initiation set forth in Oregon Revised Statutes (ORS) ORS 222.111(2), Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Section 19.1502.2.

The petition is being processed as an expedited annexation. Under the expedited process, a City land use and zoning designation is automatically applied to the annexed territory.<sup>4</sup> Expedited annexations do not require a public hearing, but Council must adopt an ordinance to implement the proposed annexation at a public meeting. All necessary parties, interested persons, residents, and property owners within 400 feet of the territory proposed for annexation have been notified of the October 20, 2009 annexation proceedings as required by City, Metro, and State regulations. See Attachment 4 for a copy of the public meeting notice sent to affected property owners and residents.

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<sup>3</sup> Staff believes the City should seek voluntary annexation—and consider involuntary annexation—of properties that: (1) are currently islanded by the City, or (2) are currently receiving City sewer service and will become islanded once the rights-of-way in the project area are annexed. Since the City will require annexation prior to extending sewer service to project area property owners, staff believes it would be fair and appropriate to seek and/or compel annexation of those properties within or on the edges of the City that are already receiving City sewer service. Such an action would forestall any perceived inequity and be consistent with the City’s existing approach to extraterritorial extension of services. Staff will bring this item for discussion to City Council at a future date.

<sup>4</sup> Per MMC Table 19.1504.1.E, the City automatically assigns a City land use and zoning designation based on a territory’s existing zoning designation in the County.

### **Expedited Annexation Approval Criteria**

The applicable approval criteria for expedited annexations are contained in Milwaukie Municipal Code 19.1502.3. Staff's responses to the applicable criteria are provided below.

- A. The subject site must be located within the City's urban growth management area (UGMA);  
*The territory proposed for annexation is within the City's UGMA.*
- B. The subject site must be contiguous to the existing city limits;  
*The territory proposed for annexation is contiguous to the existing city limits.*
- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;  
*The annexation petition meets the Oregon Revised Statutes requirements for initiation.*
- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;  
*Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: 1) delivery of City services to annexing areas where the City has adequate services, and 2) requiring annexation in order to receive a City service. The proposed right-of-way annexation is in anticipation of the completion of the City's NE Sewer Extension Project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.*
- E. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).  
*The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed below.*

Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045 of the Metro Code, which are as follows:

- (1) Find that the change is consistent with expressly applicable provisions in:
  - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

*There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an urban growth management agreement (UGMA) with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the process of extending City sewer service to this area. The proposed right-of-way annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.*

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;  
*There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.*
- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;  
*There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.*
- (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;  
*A public facilities plan was developed by Clackamas County and subsequently adopted by the City through the City's urban growth management agreement with Clackamas County pursuant to the statewide planning goal on public facilities. The City's extension of City sewer in the area of the proposed annexation is consistent with this public facilities plan.*
- (E) Any applicable comprehensive plan.  
*The proposed right-of-way annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA, which identifies the area of the proposed annexation as being within the City's urban growth management area. The UGMA requires the City to notify the County of annexations, which the City has done. The UGMA also calls for City assumption of jurisdiction of local streets that are adjacent to annexed territories. The territory proposed for annexation consists entirely of rights-of-way. The City is in the process of assuming jurisdiction of these rights-of-way from the County.*



- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
  - (B) Affect the quality and quantity of urban services; and
  - (C) Eliminate or avoid unnecessary duplication of facilities and services.

*The City is the identified urban service provider in the area of the proposed annexation. This area does not currently contain a public sewer system. The City is currently in the process of extending City sewer service into this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line. As a result, the proposed annexation will indirectly facilitate the timely, orderly, and economic provision of urban services in this area.*

### **Service Providers, Service Districts, and Maintenance Responsibilities**

The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. Approval of this application would not result in the withdrawal of the annexed territory from any urban service providers or districts since the territory proposed for annexation consists entirely of rights-of-way and includes no private property. Moreover, approval of this application would not alter the delivery of urban services, including fire and police services, to properties in this area. Changes in service delivery would only occur when individual private properties annex into the City in the future.

The City is not currently responsible for maintaining the rights-of-way in this area. Annexation would not alter this arrangement. However, the City will become responsible for maintaining the rights-of-way in this area when it takes jurisdiction from Clackamas County. Since annexation and jurisdiction are separate yet related issues, staff will be asking Council to declare the annexation and consider taking jurisdiction of the rights-of-way in this area concurrently.

### **Concurrence**

Community Development, Community Services, Engineering, and Planning have been working together on the NE Sewer Extension Project for over a year. Annexation of the rights-of-way in this area is but one component of the sewer extension project. The timing and need for right-of-way annexation was carefully considered and vetted among project team members.

Staff briefed the Planning Commission in April 2009 and the Neighborhood District Association leadership in September 2009 on the status of the NE Sewer Extension Project.

Staff consulted with the City Attorney, Clackamas County Tax Assessor, and State of Oregon Department of Revenue on numerous occasions to ensure that the City was acting within its authority and following the correct legal procedures for initiating and processing the proposed right-of-way annexation. Staff did not receive any indications of non-concurrence.

Delivery of services by the Milwaukie Police Department and Clackamas County Fire District No. 1 would not be affected by the proposed right-of-way annexation.

### **Fiscal Impact**

There are no fiscal impacts associated with the proposed right-of-way annexation. However, there are fiscal impacts associated with taking jurisdiction of the right-of-way. These impacts are discussed in a separate staff report.

### **Work Load Impacts**

There are no immediate workload impacts associated with the proposed right-of-way annexation. However, future workload impacts are expected since annexation of the rights-of-way in this area will make all the properties in the project area contiguous to the City boundary and, therefore, eligible for annexation.

### **Alternatives**

The application is subject to Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1500 Boundary Changes.

The City Council has two decision-making options:

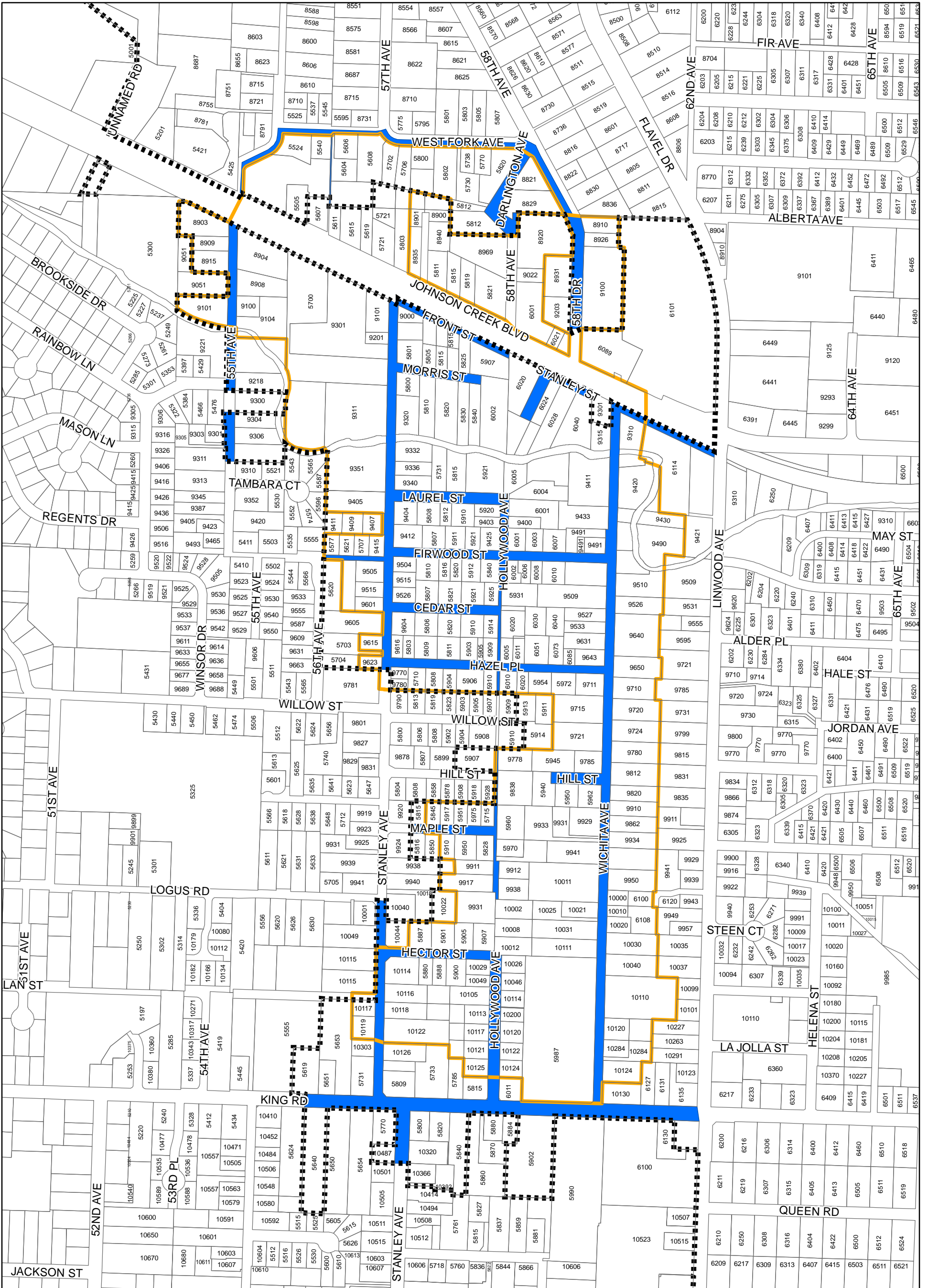
1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

The only alternative to the proposed right-of-way annexation is incremental right-of-way annexation over time as individual properties annex into the City. Staff does not recommend this alternative as it would prevent properties that are not currently contiguous to the City's boundary from annexing into the City when they either wanted or needed to connect to the new City sewer line.

Annexation of the rights-of-way in the project area would create an unusual City boundary. A more typical City boundary would be created if the City proceeded with incremental annexation of abutting right-of-way at the time of voluntary private property annexation. However, this approach would prevent properties that are not currently contiguous to the City's boundary from annexing into the City when they either wanted or needed to connect to the new City sewer line. A more uniform City boundary would also be created if the City annexed all rights-of-way and properties in the project area. However, Council has indicated that it does not want to annex properties that do not need or want to connect to the new City sewer line.

### **Attachments**




1. NE Milwaukie Sewer Extension Project Right-of-Way (ROW) Annexation Map
2. NE Milwaukie Sewer Extension Project ROW Annexation Ordinance
  - Exhibit A. Findings in Support of Approval
  - Exhibit B. Legal Description and Tax Maps
3. Portion of Zoning Map: Proposed City Boundary and Zoning upon ROW Annexation
4. Notice of Public Meeting dated September 30, 2009

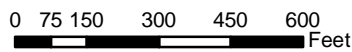


# NE Milwaukie Sewer Extension Project Right-of-Way (ROW) Annexation

Data Sources: City of Milwaukie GIS  
Metro Data Resource Center

Date: September 2009

-  City Boundary
-  Sewer Extension Project Boundary
-  Proposed ROW Annexation



The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator  
City of Milwaukie  
3200 SE Harrison Street  
Milwaukie, OR 97222  
(503) 786-7498



## ATTACHMENT 2

### ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING PORTIONS OF RIGHTS-OF-WAY IN THE N.E. SEWER EXTENSION PROJECT AREA WHICH IS BOUNDED ON THE NORTH BY SE WESTFORK AVENUE, ON THE EAST BY SE LINWOOD AVENUE, ON THE SOUTH BY SE KING ROAD, ON THE WEST BY THE CURRENT CITY BOUNDARY, AND ON THE NORTHWEST BY SE 55<sup>TH</sup> AVENUE AND AS MORE SPECIFICALLY DESCRIBED AND DEPICTED IN THE ATTACHED EXHIBITS. **(FILE #A-09-03).**

**WHEREAS**, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

**WHEREAS**, the territory proposed for annexation consists entirely of rights-of-way in the NE Sewer Extension Project Area; and

**WHEREAS**, the properties in the NE Sewer Extension Project Area are in need of, yet not currently served by, a public sewer system.

**WHEREAS**, the City is in the process of extending sewer service to the properties in this area pursuant to its 1990 urban growth management agreement with Clackamas County; and

**WHEREAS**, annexation of the rights-of-way in this area is in anticipation of the completion of the City's sewer extension project. Since City policy does not support extraterritorial extension of City services, annexation is required when individual properties either need or want to connect to City sewer. Annexation is not required for any other reason; and

**WHEREAS**, annexation of the rights-of-way in this area will make properties in the NE Sewer Extension Project Area contiguous to the City boundary. Since properties need to be contiguous to the City boundary in order to annex and since annexation is required with sewer connection, annexation of the rights-of-way enables property owners to connect to City sewer on their own timeline; and

**WHEREAS**, annexation of the rights-of-way in this area creates unincorporated islands; and

**WHEREAS**, the City does not intend to initiate or require annexation of properties within the NE Sewer Extension Project Area that are islanded by City territory but not connected to City sewer; and

**WHEREAS**, the rights-of-way in this area are not served by any urban service providers and do not require the removal from any urban service provider districts; and

**WHEREAS**, the annexation petition was initiated on September 15, 2009 by the Milwaukie City Council on its own motion pursuant to Oregon Revised Statute (ORS) 222.111(2). The petition meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.4; and

**WHEREAS**, the annexation petition meets the requirements of the expedited annexation process, which does not require a public hearing on the matter. The petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1504; and

**WHEREAS**, the annexation petition was not contested by any necessary party; and

**WHEREAS**, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

**WHEREAS**, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the rights-of-way based on findings and conclusions attached hereto as Exhibit A;

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. The Findings and Reasons for Decision attached as Exhibit A are hereby adopted.

Section 2. The rights-of-way described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The rights-of-way annexed by this ordinance and described in Section 2 are hereby assigned the applicable land use and zoning designations as prescribed by Table 19.1504.1.E of the Milwaukie Municipal Code.

Section 4. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on \_\_\_\_\_, and moved to second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on \_\_\_\_\_.

Signed by the Mayor on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

Document1 (Last revised 09/18/07)

## FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for expedited annexation of the rights-of-way in the NE Sewer Extension Project Area, the Milwaukie City Council finds:

1. The territory proposed for annexation is contiguous to the City's boundary and within the City's urban growth management area. The territory consists entirely of rights-of-way in an area of unincorporated Clackamas County that is zoned and developed with single family residential homes. The City seeks annexation of this territory because the City is in the process of extending City sewer service to this area. Annexation of the rights-of-way would make the properties in the project area contiguous to the City's boundary. Since contiguity with the City's boundary is required for annexation and since annexation is required with sewer connection, annexing the rights-of-way would enable the City to process property owners' annexation applications when sewer connections are made in the future.
2. The annexation petition was initiated on September 15, 2009 by the Milwaukie City Council on its own motion pursuant to Oregon Revised Statute (ORS) 222.111(2). The petition meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.4.
3. The majority of the territory proposed for annexation is land that has been dedicated to the public for right-of-way purposes. Public right-of-way is exempt from ad valorem taxation. The only portion of the territory proposed for annexation that has not been dedicated to the public is Hazel Place between Hollywood Ave and Wichita Ave. Hazel Place is a public road under Clackamas County ownership. Clackamas County is a public entity. Pursuant to ORS 222.170(4), the City is not required to obtain consent from property owners in the territory proposed for annexation when the territory is publicly owned or exempt from ad valorem taxation.
4. The annexation petition meets the requirements of the expedited annexation process, which does not require a public hearing on the matter. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045 Expedited Decisions, and MMC Section 19.1504 Expedited Process.
5. The expedited annexation process provides for automatic application of City land use and zoning designations to the territory based on the territory's existing zoning designation in the County. The territory's existing zoning designations in the County are primarily R7 and R10, with a few properties zoned for commercial and industrial uses. Pursuant to MMC Table 19.1504.1.E, the automatic City zoning and Comprehensive Plan land use designations upon annexation to the City would be primarily R7 and R10 and Low Density Residential, respectively.



6. The applicable approval criteria for expedited annexations are contained in MMC 19.1502.3. They are listed below followed by Council's findings.
- A. The subject site must be located within the City's urban growth management area (UGMA);  
*The territory proposed for annexation is within the City's UGMA.*
  - B. The subject site must be contiguous to the existing city limits;  
*The territory proposed for annexation is contiguous to the existing city limits.*
  - C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;  
*The annexation petition meets the Oregon Revised Statutes requirements for initiation as described in Findings 2 and 3 above.*
  - D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;  
*Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: 1) delivery of City services to annexing areas where the City has adequate services, and 2) requiring annexation in order to receive a City service. The proposed right-of-way annexation is in anticipation of the completion of the City's NE Sewer Extension Project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.*
  - E. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).  
*The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as described below.*
7. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045 of the Metro Code. They are listed below followed by Council's findings.
- (1) Find that the change is consistent with expressly applicable provisions in:
    - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;  
*There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an urban growth management agreement (UGMA) with Clackamas County that states that the City will take*

*the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the process of extending City sewer service to this area. The proposed right-of-way annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.*

(B) Any applicable annexation plan adopted pursuant to ORS 195.205;  
*There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.*

(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;  
*There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.*

(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;  
*A public facilities plan was developed by Clackamas County and subsequently adopted by the City through the City's urban growth management agreement with Clackamas County pursuant to the statewide planning goal on public facilities. The City's extension of City sewer in the area of the proposed annexation is consistent with this public facilities plan.*

(E) Any applicable comprehensive plan.  
*The proposed right-of-way annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described in Finding 6D. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA, which identifies the area of the proposed annexation as being within the City's urban growth management area. The UGMA requires the City to notify the County of annexations, which the City has done. The UGMA also calls for City assumption of jurisdiction of local streets that are adjacent to annexed territories. The territory proposed for annexation consists entirely of rights-of-way. The City is in the process of assuming jurisdiction of these streets from the County.*

(2) Consider whether the boundary change would:

(A) Promote the timely, orderly and economic provision of public facilities and services;

- (B) Affect the quality and quantity of urban services; and
- (C) Eliminate or avoid unnecessary duplication of facilities and services.

*The City is the identified urban service provider in the area of the proposed annexation. This area does not currently contain a public sewer system. The City is currently in the process of extending City sewer service into this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line. As a result, the proposed annexation will indirectly facilitate the timely, orderly, and economic provision of urban services in this area.*

8. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation. Approval of this annexation petition would not result in the withdrawal of the annexed territory from any urban service providers or districts since the territory proposed for annexation consists entirely of rights-of-way. Moreover, approval of this annexation petition would not alter the delivery of urban services, including fire and police services, to properties in this area. Changes in service delivery would only occur when individual private properties annexed into the City in the future.
9. The City is not currently responsible for maintaining the rights-of-way in this area. Annexation would not alter this arrangement. However, the City will become responsible for maintaining the right-of-way in this area when it takes over jurisdiction from Clackamas County in the near future.

ANNEXATION TO THE CITY OF MILWAUKIE  
Rights-of-Way in the NE Sewer Extension Project Area  
File #A-09-03

LEGAL DESCRIPTION

**SE King Road**

A Public Right-of-way in Sections 29 and 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE King Road (County Road No. 132) from the northerly extension of the easterly boundary of Lot 17, Block 7, MINTHORN ADDITION, east 1260 feet to the westerly right-of-way line of SE Linwood Avenue.

Said right-of-way is 60 feet wide, more or less.

**SE 55<sup>th</sup> Avenue**

**Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

That portion of SE 55<sup>th</sup> Avenue (County Road No. 1239) from the northerly right-of-way line of SE Johnson Creek Blvd, northerly 400 feet, more or less, to the westerly extension of the centerline of the right-of-way of SE West Fork Street, that is east of the centerline of the right-of-way.

Said half right-of-way varies in width from 12.5 feet to 25 feet, more or less.

**Parcel 2**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE 55<sup>th</sup> Avenue (County Road No. 1283) from the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) south 722 feet, more or less, to the westerly extension of a line 50 feet south of and parallel with the northerly line of Tract 4, GIBSON'S SUBDIVISION OF TRACTS 10, 11, 12, AND THE WEST 480 FEET OF TRACTS 1 AND 2 OF LOGUS TRACT, in Clackamas County, Oregon.

Said right-of-way is 40 feet wide, more or less.

**Parcel 3**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE 55<sup>th</sup> Avenue (County Road No. 1283) from the westerly extension of a line 65 feet north of and parallel with the southerly line of Tract 4, GIBSON'S SUBDIVISION OF TRACTS 10, 11, 12, AND THE WEST 480 FEET OF TRACTS 1 AND 2 OF LOGUS TRACT, in Clackamas County, Oregon, southerly 213.5 feet to the westerly extension of the northerly line of Lot 1, TAMBARA MEADOWS, a duly recorded subdivision in Clackamas County, Oregon.

Said right-of-way is 40 feet wide, more or less.

### **SE West Fork Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

That portion of SE West Fork Street from the easterly right-of-way line of SE 55<sup>th</sup> Avenue east 1050 feet, more or less, to the westerly right-of-way line of SE 58<sup>th</sup> Drive, that is south of the centerline of the right-of-way.

Said half right-of-way varies in width from 15 feet to 25 feet, more or less.

### **SE Stanley Avenue**

#### **Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Avenue (County Rd No. 1229) from the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) south 1,604-feet, more or less, to a point 191.25 feet northerly of the easterly extension of the southerly right-of-way line of that portion of SE Willow Street that lies west of SE Stanley Avenue.

Said right-of-way is primarily 40 feet wide, more or less.

#### **Parcel 2**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Avenue (County Road No. 1229) from the easterly extension of the southerly right-of-way line of SE Logus Road south 862 feet to the northerly right-of-way line of SE King Road.

Said right-of-way is 40 feet wide, more or less.

#### **Parcel 3**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Avenue from the southerly right-of-way line of SE King Road south 230 feet to the easterly extension of the centerline of Llewellyn Street (Magnolia Avenue) vacated.

Said right-of-way is 60 feet wide, more or less.

### **SE Hollywood Avenue**

#### **Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of the southerly right-of-way line of SE Laurel Street south 340 feet to the south boundary of HOLLYWOOD PARK ANNEX, a duly recorded subdivision in Clackamas County, Oregon, and its westerly extension.

Said right-of-way is 37.4 feet wide, more or less.

#### **Parcel 2**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the westerly extension of the southerly boundary of said HOLLYWOOD PARK ANNEX south 480 feet to the easterly extension of the southerly line of Lot 7, Block 5, HOLLYWOOD PARK, a duly recorded subdivision in Clackamas County, Oregon.

Said right-of-way is 12.5 feet wide, more or less.

#### **Parcel 3**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of northerly line of Lot 7, Block 6, of said HOLLYWOOD PARK south 617.5 feet to a point 137.5-feet south of the southerly line of said HOLLYWOOD PARK.

Said right-of-way is 12.5 feet wide, more or less.

#### **Parcel 4**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue from the easterly extension of the southerly line of the Plat of HOLLYWOOD PARK south 167 feet as conveyed to Clackamas County in Book 408, Page 236, Clackamas County Deed Records, for use as a public street.

Said right-of-way being 12.5 feet wide, more or less.

### **Parcel 5**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hollywood Avenue (County Road No. 2452) from the northerly line of HOLLYWOOD PARK ANNEX NO. 2 and its westerly extension south 635 feet to the northerly right-of-way line of SE King Road.

Said right-of-way is 50 feet wide, more or less.

### **SE Wichita Avenue (also know as SE 60<sup>th</sup> Avenue)**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Wichita Avenue (AKA SE 60<sup>th</sup> Avenue)(County Road No. 668) from the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) south 3,060 feet to the northerly right-of-way line of SE King Road.

Said right-of-way is primarily 40 feet wide, more or less.

### **SE Front Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Front Street, as dedicated in STANLEY subdivision, a duly recorded subdivision in Clackamas County, Oregon, but unconstructed or maintained, being easterly from the easterly right-of-way line of SE Stanley Avenue.

Said right-of-way is 25 feet wide, more or less, and 540 feet in length, more or less.

### **SE Alderhurst Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Alderhurst Street from the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) southerly 230 feet to its southerly terminus, as dedicated in ALDERHURST subdivision.

Said right-of-way is 50 feet wide, more or less.

### **SE Stanley Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Stanley Street from the easterly right-of-way line of SE Alderhurst Street easterly 200 feet to its easterly terminus, as dedicated in ALDERHURST subdivision.

Said right-of-way is 30 feet wide, more or less.

### **Un-named Street between SE Wichita Avenue & SE Linwood Avenue**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

The un-named and unimproved street along the Southwest boundary of property deeded to the City of Portland in Instrument No. 90-21136, Clackamas County Deed Records, (formerly the Portland Traction Company right-of-way) from the easterly right-of-way line of SE Wichita Avenue (AKA 60<sup>th</sup> Avenue) easterly 455 feet to the westerly right-of-way line of SE Linwood Avenue.

Said right-of-way is 25 feet wide, more or less.

### **SE Morris Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Morris Street from the easterly right-of-way line of SE Stanley Avenue easterly 371 feet to its terminus.

Said right-of-way is 40 feet wide, more or less.

### **SE Laurel Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Laurel Street from the easterly right-of-way line of SE Stanley Avenue east 500 feet to the easterly terminus at the northerly extension of the easterly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 50 feet wide, more or less.

### **SE Firwood Street**

#### **Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:



SE Firwood Street (County Road No. 1283) from the northerly extension of the easterly right-of-way line of SE 56<sup>th</sup> Avenue east 260 feet to the westerly right-of-way line of SE Stanley Avenue.

Said right-of-way is 20 feet wide, more or less.

**Parcel 2**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Firwood Street (County Road No. 2329) from the easterly right-of-way line of SE Stanley Avenue east 462.5 feet to the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

**Parcel 3**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Firwood Street (County Road No. 2329) from the easterly right-of-way line of SE Hollywood Avenue east 430 feet to the westerly right-of-way line of SE Wichita Avenue (AKA SE 60<sup>th</sup> Avenue).

Said right-of-way is 40 feet wide, more or less.

**SE Cedar Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Cedar Street (County Road No. 2328) from the easterly right-of-way line of SE Stanley Avenue east 462.5 feet to the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 42.2 feet wide, more or less.

**SE Hazel Place**

**Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hazel Place (County Road No. 2326) from the easterly right-of-way line of SE Stanley Avenue east 462.5 feet to the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

## **Parcel 2**

A parcel of land lying in the Hector Campbell D.L.C. No 59, Township 1 South, Range 2 East, W.M., Clackamas County, Oregon and being all of that property described in that Bargain and Sale Deed to Clackamas County, a political subdivision of the State of Oregon, recorded October 18, 1952, in Book 461, Page 744, Film Records of Clackamas County.

Said parcel is 34 feet wide and 457 feet long and extends from the East right-of-way of SE Hollywood Avenue to the West right-of-way of SE Wichita Avenue (AKA SE 60<sup>th</sup> Avenue).

### **SE Hill Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hill Street from the westerly right-of-way line of SE Wichita Avenue (AKA SE 60<sup>th</sup> Avenue) west 220 feet to its terminus.

Said right-of-way is 50 feet wide, more or less.

### **SE Maple Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Maple Street (County Road No. 2325) from the northerly extension of the west line of Lot 2, Block 8, of said HOLLYWOOD PARK east 362.5 feet to the westerly right-of-way line of SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

### **SE Hector Street**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE Hector Street (County Road No. 2465) from the easterly right-of-way line of SE Stanley Avenue east 475 feet to its easterly terminus at SE Hollywood Avenue.

Said right-of-way is 40 feet wide, more or less.

### **SE 58<sup>th</sup> Drive**

#### **Parcel 1**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE 58<sup>th</sup> Drive (formerly Josephine Avenue) from the westerly extension of the southerly line of Lot 5, Block 2, MULLAN HEIGHTS, a duly recorded subdivision in Clackamas County, Oregon northerly 500 feet, more or less, to the northerly line of said MULLAN HEIGHTS.

Said right-of-way is primarily 50 feet wide, more or less.

**Parcel 2**

A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

That portion of SE 58<sup>th</sup> Drive (formerly Josephine Avenue) from the northerly line of MULLAN HEIGHTS, a duly recorded subdivision in Clackamas County, Oregon, northwesterly 350 feet, more or less, to the easterly extension of the centerline of the right-of-way SE West Fork Street, that is southwesterly of the centerline of the right-of-way.

Said half right-of-way is 30 feet wide, more or less.

**SE 58<sup>th</sup> Avenue (formerly Darlington Avenue)**

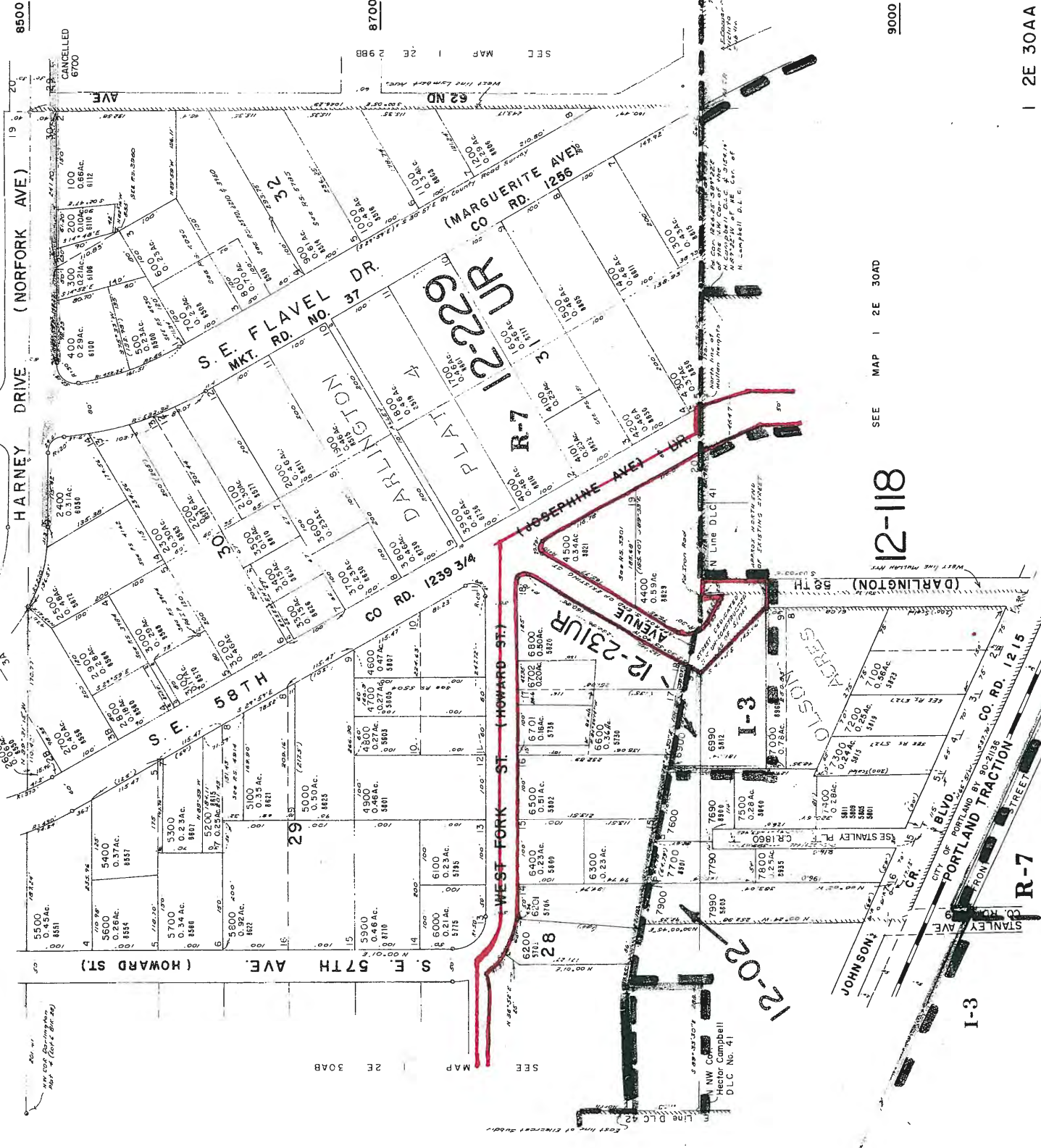
A Public Right-of-way in Section 30, Township 1 South, Range 2 East, W.M., more particularly described as follows:

SE 58<sup>th</sup> Avenue (formerly Darlington Avenue) from a point 30 feet north of the easterly extension of the south line of Lot 9 OLSON ACRES, a duly recorded subdivision in Clackamas County, Oregon northwesterly 170 feet, more or less, to easterly extension of the northerly boundary line of said OLSON ACRES; thence northeasterly 300 feet, more or less, to the westerly right-of-way line SE 58<sup>th</sup> Drive and the southerly right-of-way line of SE West Fork Street..

Said right-of-way is 25 feet to 60 feet wide, more or less.

NE 1/4 NE 1/4 SEC 30 T.1S R.2E. W.M.  
 CLACKAMAS COUNTY  
 MULTNOMAH COUNTY  
 HECTOR CAMPBELL NO. 41  
 D. L. C.

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I 2E 30AC  
MILWAUKIE  
9900

DLC  
HECTOR CAMPBELL NO. 41  
GEORGE WILLS NO. 42

SW 1/4 NE 1/4 SEC. 30 T.1S. R.2E. W.M.  
CLACKAMAS COUNTY

5200

CANCELLED NO.  
1400  
1402  
2000  
2001  
5800  
5801  
1902  
5701

9701

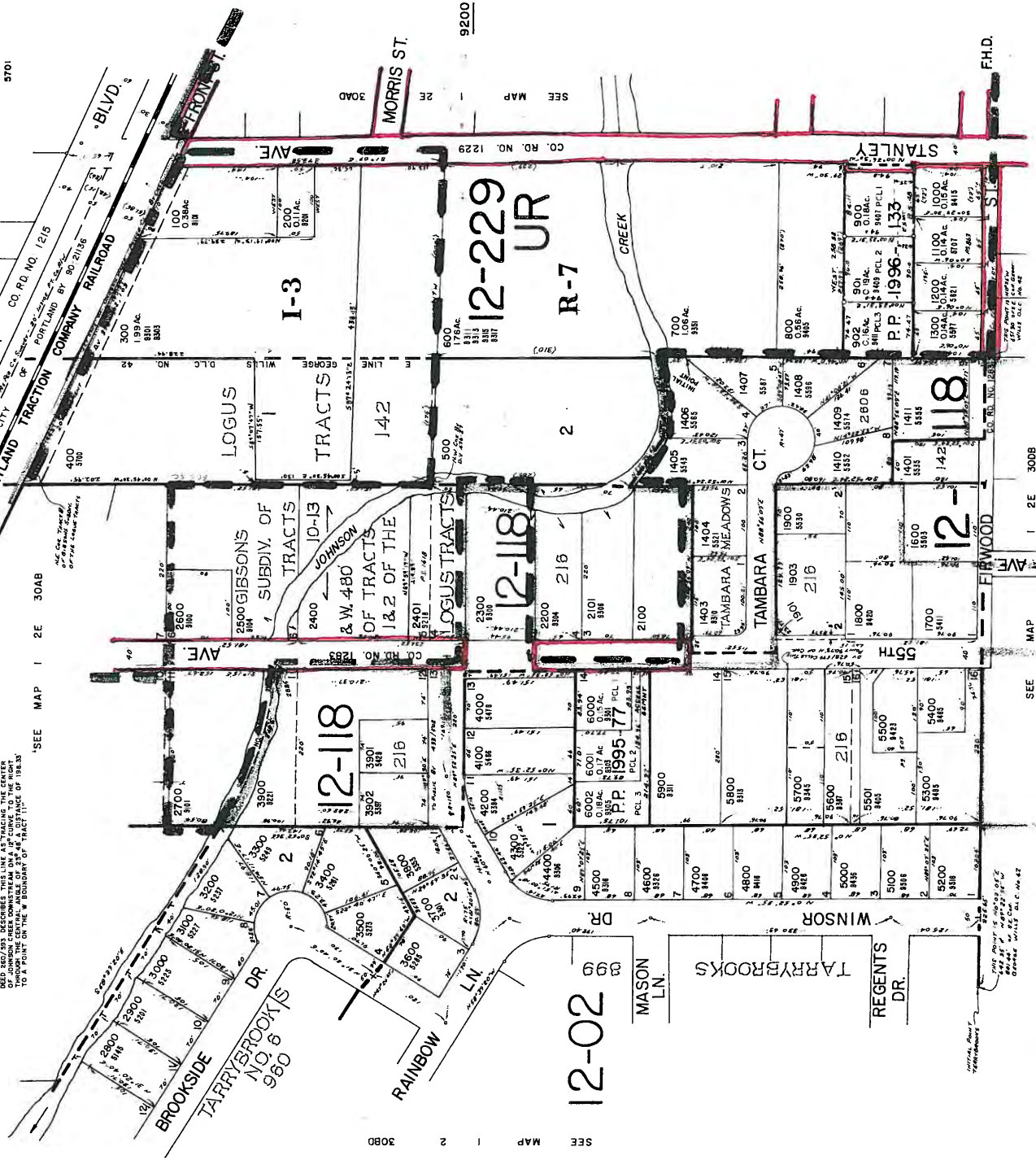
9901

9902

This map was prepared for  
assessment purpose only.

NOTE: NO. 1 INDICATES THIS LINE AS TRACING THE CENTER  
OF JOHNSON CREEK DOWNSTREAM ON A 90' CURVE TO THE RIGHT  
TO A POINT ON THE W BOUNDARY OF TRACT 12-118.

\*SEE MAP I 2E 30AB



I 2E 30AC  
MILWAUKIE  
BOOK 3

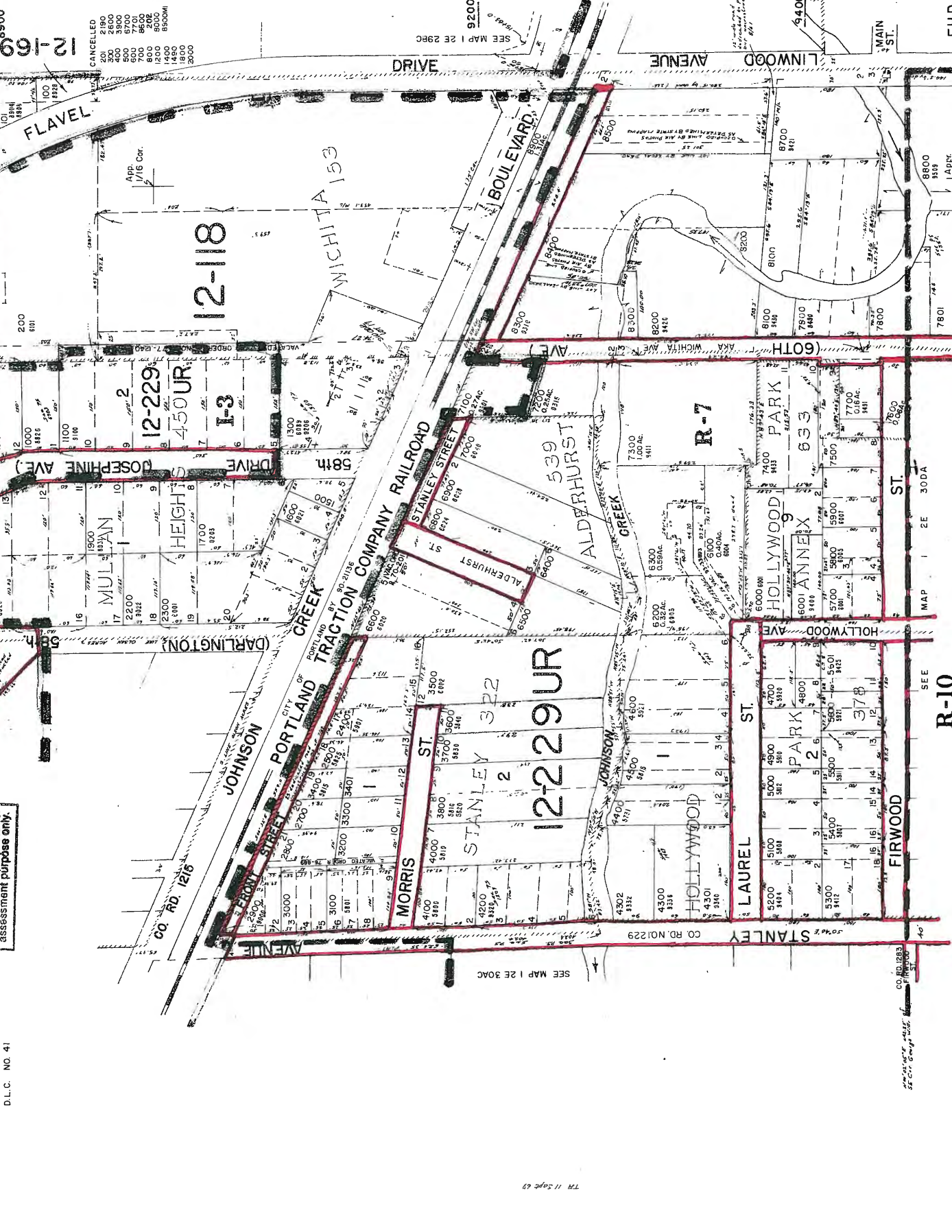
SE 1/4 NE 1/4 SEC.30 T.1S. R.2E. W.M. CLACKAMAS COUNTY D.L.C. NO. 41 HECTOR CAMPBELL NO. 41

I 2E 30AD

This map was prepared for assessment purpose only.

NW Cor HECTOR CAMPBELL D.L.C. NO. 41

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202 2600  
203 3000  
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CANCELLED TAX LOTS  
900  
7101  
7201  
3000  
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6000  
7001  
8401  
701

1" = 100'

SEE MAP I 2E 30AD

NO. 2329

NO. 2328

NO. 2326

NO. 2327

NO. 2325

NO. 2324

NO. 2323

NO. 2322

NO. 2321

NO. 2320

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NO. 2316

FIRWOOD  
STREET

CEDAR  
STREET

HOLLYWOOD  
PARK ANNEX

HOLLYWOOD  
PARK

WICHITA  
AVENUE

LINWOOD  
AVENUE



12-229 UR

APPROX. 1/16 COR.

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MILWAUKIE

D. L. C.  
DANIEL HATHAWAY NO. 40  
HECTOR CAMPBELL NO. 41

SW 1/4 S.E. 1/4 SEC. 30 T.1.S. R.2.E. W.M.  
CLACKAMAS COUNTY

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MILWAUKIE  
BOOK 3

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assessment purpose only.

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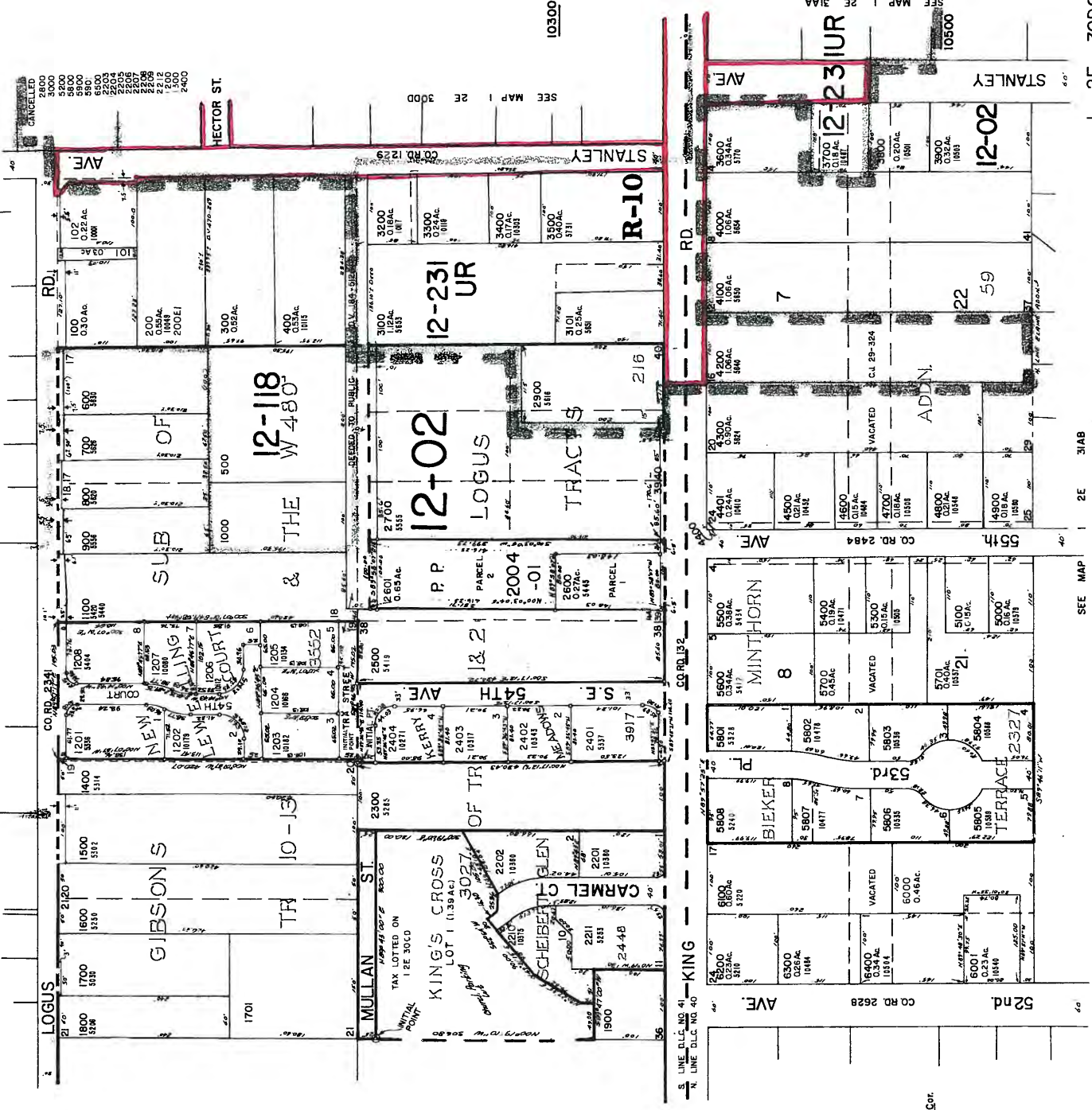
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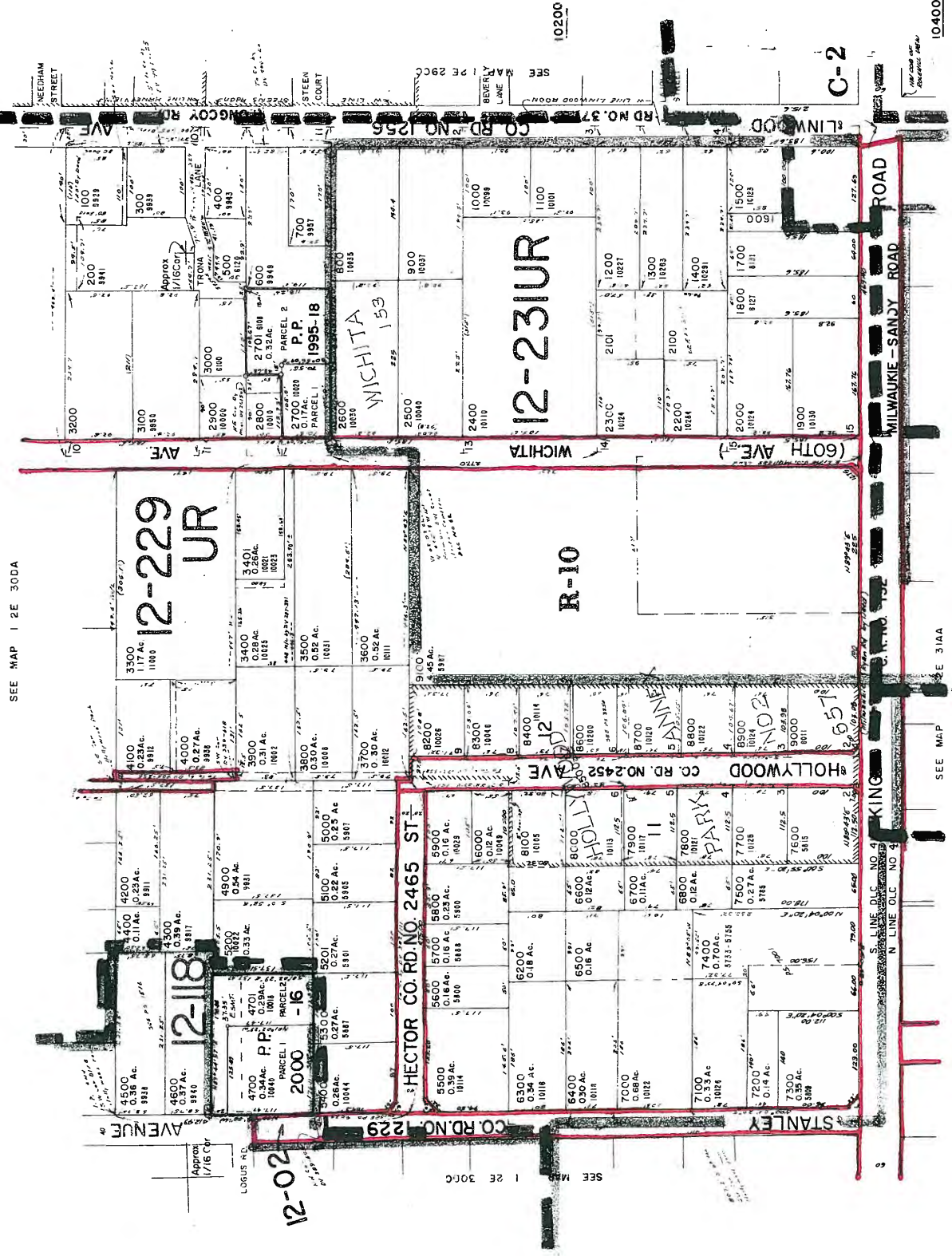
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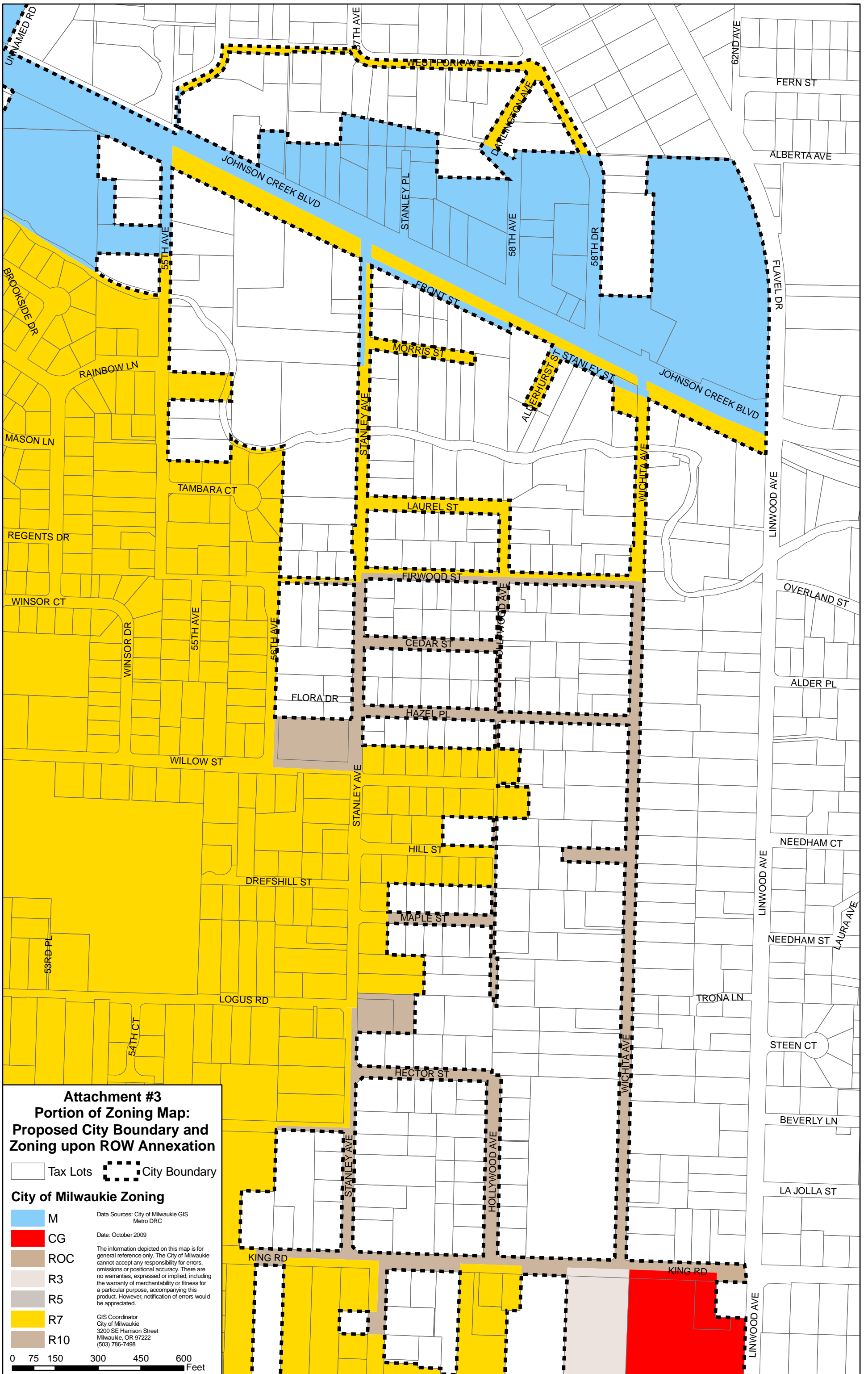
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# ATTACHMENT 4



## NOTICE OF PUBLIC MEETING

**TO:** Property Owners and Residents  
**DATE:** September 30, 2009  
**FILE:** A-09-03 (Annexation of Rights-of-Way in NE Sewer Extension Project Area)  
**MEETING** Tuesday, October 20, 2009, beginning at 7:00 p.m.  
**INFO:** Milwaukie City Hall, 10722 SE Main Street

The City of Milwaukie will be installing new sewer lines in the NE Sewer Extension Project area in the near future. The boundaries of this project area are depicted on the enclosed map. As part of this project, the Milwaukie City Council will consider approving an expedited annexation application (File #A-09-03) that was initiated by the City on September 15, 2009. The annexation application proposes to annex the public rights-of-way (i.e. public streets) that are located in and adjacent to the NE Sewer Extension Project area. The streets proposed for annexation are more specifically identified on the enclosed map. You are receiving this notice because you either live or own property within 400 feet of one of the streets proposed for annexation.

**The proposed annexation is for streets only and does not include any private property.**

Annexation of the streets shown on the enclosed map will make the properties in the sewer extension project area contiguous to the City's boundary. Properties need to be contiguous to the City's boundary in order to annex. Since annexation is required upon connection to City sewer, annexation of the streets now simply enables property owners to more easily annex into the City later when they need or want to connect to City sewer. Future property annexations are not being required by the City for any other reason. This means that if you don't need or want to connect to the City's new sewer line, you will not be required to annex.

Annexation of the streets in the project area will technically create unincorporated islands.<sup>1</sup> Per state statute, islands can be annexed. **The City will not require and/or initiate annexation of islanded properties not currently connected to City sewer.**

---

<sup>1</sup> Per state statute, islands are territories not in the City but that are completely surrounded by the corporate boundaries of the City. Islands are not created when a street constitutes more than 25% of the perimeter of any given territory.

### **Expedited Annexation Process**

Expedited annexation applications are not land use decisions and do not require a public hearing. They do, however, require approval by City Council at a regularly scheduled public meeting. Pursuant to Metro Code Section 3.09.045(b), an annexation application cannot use the expedited annexation process if a necessary party objects to the proposed annexation in writing prior to the scheduled City Council meeting. A necessary party is any county, city, district, or local unit of government whose boundary includes, or who provides services to, the proposed area to be annexed.

### **Expedited Annexation Approval Criteria**

The criteria to be used by City Council in reaching a decision are found in Milwaukie Municipal Code Section 19.1502.3 Boundary Change Approval Criteria; Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships; Metro Code Chapter 3.09 Local Government Boundary Changes, and; Oregon Revised Statutes Chapter 222 City Boundary Changes. Copies of these criteria are available upon request.

### **How to Submit Comments**

You are invited to submit written and/or verbal comments on this application prior to or at the October 20 meeting. Written comments submitted in advance of the meeting should be directed to the Milwaukie Planning Department. Written and/or verbal comments submitted at the meeting, should be made during the “Audience Participation” portion of the meeting.

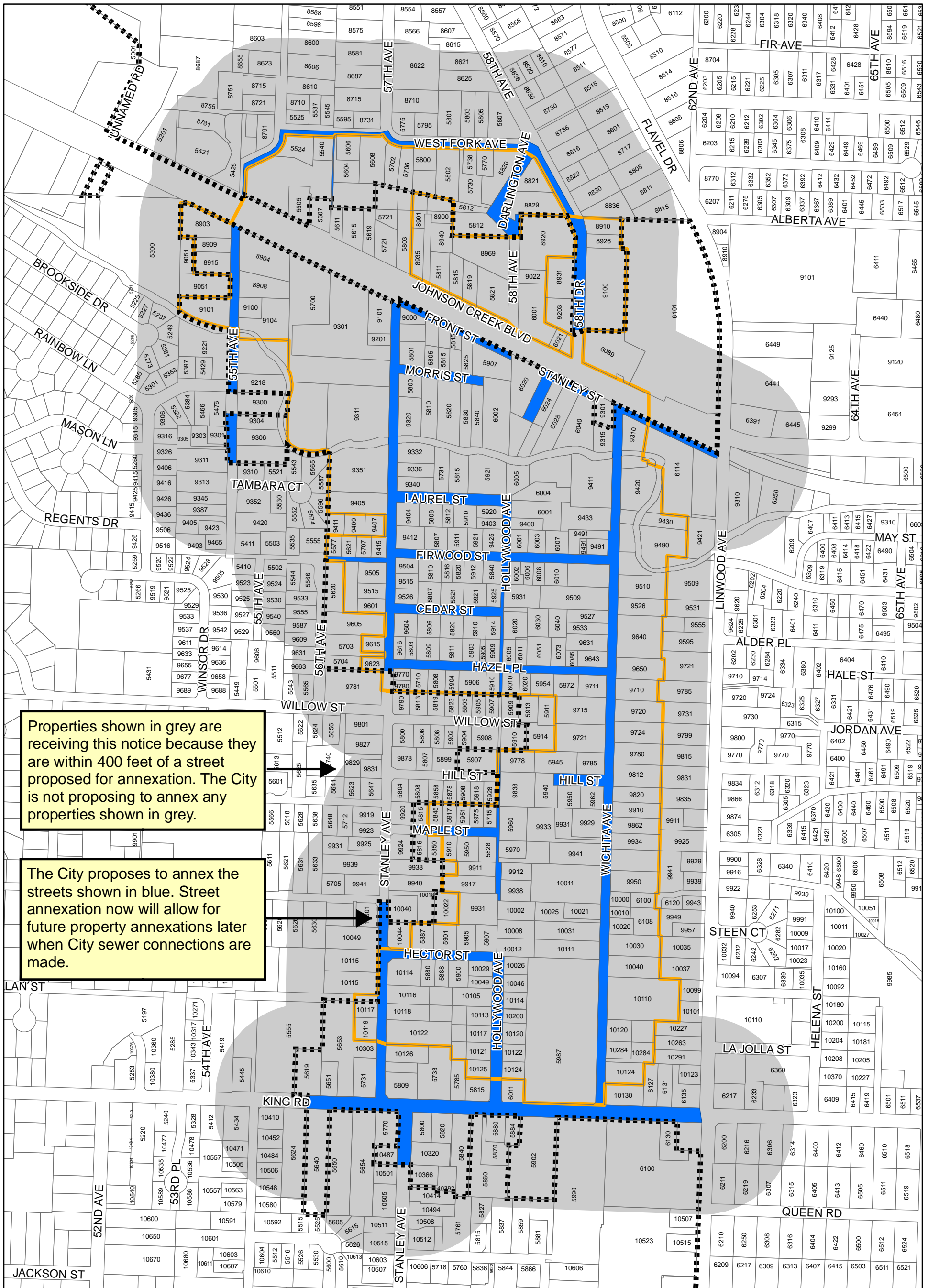
### **Where to Get More Information**

If you have any questions about the proposed street annexation, please contact Susan P. Shanks in the Planning Department at 503-786-7653 or [shankss@ci.milwaukie.or.us](mailto:shankss@ci.milwaukie.or.us). If you have any questions about the NE Sewer Extension Project, please contact Grady Wheeler in the Community Services Department at 503-786-7503 or [wheeler@ci.milwaukie.or.us](mailto:wheeler@ci.milwaukie.or.us).

The application and all applicable approval criteria and ordinances are available for inspection at the Planning Department at 6101 SE Johnson Creek Blvd. A staff report will be available for public review after 8:00 a.m. on Wednesday, October 13, 2009, at the Planning Department; at the Ledding Library, local information shelf; at <http://www.ci.milwaukie.or.us/council/currentmeetings.html>; and at City Hall, 10722 SE Main. Copies of any materials, including the staff report, are available for purchase at a reasonable cost.

*For assistance/service per the Americans with Disabilities Act (ADA), dial TDD (503) 786-7555.*







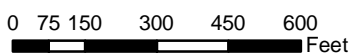


Properties shown in grey are receiving this notice because they are within 400 feet of a street proposed for annexation. The City is not proposing to annex any properties shown in grey.

The City proposes to annex the streets shown in blue. Street annexation now will allow for future property annexations later when City sewer connections are made.

# NE Milwaukie Sewer Extension Project Right-of-Way (ROW) Annexation

-  City Boundary
-  Sewer Extension Project Boundary
-  Proposed ROW Annexation
-  Properties within 400 feet of Proposed Annexation Receiving Notice



Data Sources: City of Milwaukie GIS  
Metro Data Resource Center

Date: September 2009

The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator  
City of Milwaukie  
3200 SE Harrison Street  
Milwaukie, OR 97222  
(503) 786-7498





**To:** Mayor and City Council

**Through:** Mike Swanson, City Manager  
Kenneth Asher, Community Development and Public Works Director

**From:** Gary Parkin, Engineering Director

**Subject:** Road Jurisdiction transfer from Clackamas County to the City of Milwaukie in the Northeast Sewer Extension Project Area

**Date:** October 9<sup>th</sup> for the October 20, 2009 Regular Session

### **Action Requested**

Approve by resolution, the transfer of road jurisdiction from the Clackamas County Department of Transportation to the City of Milwaukie in the Northeast Sewer Project area.

### **History of Prior Actions and Discussions**

**September 2009:** Initiated annexation of the right-of-way in the NE Sewer Extension Project Area by resolution as well as, authorized the City Manager to sign an updated Clean Water State Revolving Fund Loan Agreement for the NE Sewer Extension (NESE) project.

**August 2009:** Staff briefed Council on the status of the NE Sewer Extension Project and the need to annex the right-of-way in this area.

**June 2009:** Council approved the award of contract to Right-of-Way Associates Inc. for the easement and appraisal services within in the project area.

**February 2009:** Staff presented an update during Work Session to refresh Council on the NESE Project status.

**February 2009:** Council approved a resolution authorizing the City Manager to enter into a contract with Century West Engineering for the engineering services needed to provide a sewer system to the Dual Interest Area “A”.

**December 2008:** Council approved a loan agreement for the Clean Water State Revolving Fund (CWSRF) loan to fund the extension of wastewater sewer to the Dual Interest Area “A” (Resolution No. 94-2008).

**October 2008:** Council approved moving forward with the extension of wastewater sewer to the Dual Interest Area including; entering into an Intergovernmental Agreement (IGA) with Clackamas County for use of Century West Engineering services through a contract between Century West Engineering and Clackamas County; making application for a DEQ loan needed to accomplish the sewer extension; and moving forward with the public information needed for the project (Resolution 81-2008).

**September 2008:** Work session discussing the sewer extension project. Council requested additional information prior to acting.

**May 2008:** Work session to discuss the sewer extension project in light of City, County, State and intergovernmental requirements and policies. Staff presented information on relevant City and County policies, state law regarding annexation, and raised questions regarding service delivery and governance.

**March 2008:** Work session to discuss the need for, and timing of wastewater service to the unincorporated area adjacent to the northeastern border of the City. Working with Clackamas County, the City was beginning a public outreach effort to inform residents about the Dual Interest Area and determine public interest regarding connection to the City’s public wastewater sewer system.

**September 2006:** Staff briefed Council on State statute and City Comprehensive Plan policy regarding island annexations.

**November 2002:** Council directed the City Manager to sign a CDBG grant application to subsidize connection costs for low-income residents in the Dual Interest Area. This proposal assumed a City project to extend service to the unsewered unincorporated area.

**July 1990:** Clackamas County Order No 90-726 established an Urban Growth Management Agreement (UGMA) in which the City and County agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County.



In the northern Dual Interest Area (DIA), or DIA, the agreement states: *“The City shall assume a lead role in providing urbanizing services.”*

### **Background**

The NE Sewer Extension (NESE) project is moving forward with construction of the sewer system for most of the unincorporated area known as “Dual Interest Area A”. A significant element of the project involves the City taking over the jurisdiction of the road rights-of-way in the area. The rights-of-way are currently under the jurisdiction of Clackamas County.

The jurisdictional transfer is a process involving, first, the annexation of the rights-of-way, then accepting maintenance responsibility for them. The first step, annexation, began with City Council action initiating the annexation at the September 15, 2009 meeting. The proposal presented at tonight’s meeting seeks approval of the expedited annexation petition of the rights-of-way. This report proposes action on the second step, transferring jurisdiction of the roads.

The primary need for the transfer is to allow the City to construct, operate and maintain the new sewer system under the City’s oversight. The NESE project was planned and designed without Clackamas County permits and using City standards with the understanding that the area would eventually be incorporated by the City. Were this not the case, the City would be subject to Clackamas County oversight and permitting for construction and future maintenance of the roadway and all utilities, including sewer, storm, water, etc. The roads and utilities would have to be designed using Clackamas County standards and Clackamas County permits would have to be obtained to perform maintenance on the roads and utilities.

The transfer is also consistent with the City’s Comprehensive Plan whereby the City is the designated service provider within its incorporated areas. As a practical matter, the City needs to have ownership oversight and control to perform the duties of a municipality and avoid ambiguity related to service provision. The City is specifically not asking for jurisdictional transfer of the three bridges spanning Johnson Creek as the County has bridge preservation and maintenance personnel and equipment in place that the City does not have.

Clackamas County Order No 90-726, which established the Urban Growth Management Agreement (UGMA) for the “Dual Interest Area A”, provides for the transfer of street jurisdiction. The process includes the County turning over the jurisdiction after paving the street pavement with a 2” overlay (up to 20’ wide) or providing an equivalent payment. The County has stated they are not fiscally able to meet this commitment. Recent jurisdictional transfers to cities have not included County paving or payment. In

this case, the City will be able to accomplish much of the pavement improvement work, as the contract for the sewer project construction includes repaving the streets damaged by the sewer construction. Because of this, the street sections taken over by the City will generally be in good condition after construction of the sewer system. The roads to be taken total 3.04 miles in length and will increase the City's road miles from 71.32 to 74.36 miles (a 4% increase). Gas tax revenues to cover the maintenance of the roads will increase a similar amount. The roads are generally in poor condition, with an approximate surface condition rating of 50/100 compared to the City street overall rating of 69. As mentioned in the preceding paragraph, repaving of the roads damaged by the project construction will significantly improve the pavement condition of the streets in the area.

The roads will be classified as local roads with the exception of parts of Stanley (collector). Wichita Avenue will likely be classified as a neighborhood route.

The transfer of the roads will include the storm system. The storm system is not very well developed in this area, consisting of a few drywells and culverts. Future improvements like sidewalks could incorporate storm improvements. These improvements may be funded through the urban renewal district the County has established for this area.

Attachment 1 provides a map of the roads proposed for transfer. The map shows "Public Roads" as dashed lines. These are roads that the County never established jurisdiction over. Therefore, the County cannot formally transfer the "Public Roads" to the City. The rights-of-way for the "Public Roads" will be annexed into the City, but because the roads never had a described caretaker, there is no need to "accept" jurisdictional transfer. The City could at some point declare that it would take over jurisdiction of a "Public Road" by Council action.

The process of transferring road jurisdiction begins with the City request by resolution (Attachment 1). The County will act on the matter at a meeting of the County Commissioners after a four week period of public notice in accordance with Oregon Revised Statutes 373.270.

### **Concurrence**

Public Works (Streets) concurs with moving forward with this action as impacts to the Street Department are not anticipated to be significant.

Community Development, Community Services, Engineering, and Planning have been working together on the NE Sewer Extension Project for over a year. Transferring

jurisdiction of the roads in this area is but one component of the sewer extension project.

### **Fiscal Impact**

The 4% increase in State gas tax revenue will not cover the maintenance of the road sections to be acquired. However, the majority of the road sections will not require significant maintenance initially as the project provides for repaving many of the road sections. As the City begins to incur maintenance costs for the roads in this area, thought to be in the 5-7 year timeframe, the recently passed state gas tax and vehicle registration package will provide better funding than is currently available from the state.

### **Work Load Impacts**

A minimal increase in operational effort will result from incorporating this proposed transfer given that the sewer project will leave behind a good street surface. The limited amount of curbed streets in the area will result in a small increase in the City's street sweeping program as only curbed streets are swept.

### **Alternatives**

Failure to acquire jurisdiction of the streets would place the sewer project at risk in that the County would be in the position of perimeter.

### **Attachments**

1. Resolution with map showing roads to be transferred.

# ATTACHMENT 1

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION REQUESTING THE TRANSFER OF JURISDICTION BY THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS PORTIONS OF 55<sup>TH</sup> AVENUE, STANLEY AVENUE, STANLEY PLACE, HOLLYWOOD AVENUE, WICHITA AVENUE, 58<sup>TH</sup> DRIVE, LAUREL STREET, FIRWOOD STREET, CEDAR STREET, HAZEL PLACE, HILL STREET, WILLOW STREET, MAPLE STREET, HECTOR STREET AND KING ROAD, TO THE CITY OF MILWAUKIE**

**WHEREAS**, the City of Milwaukie has undertaken a project in cooperation with Clackamas County to provide wastewater service in the unincorporated area known through its Urban Growth Management Agreement (UGMA) as Dual Interest Area "A"; and

**WHEREAS**, to efficiently and effectively manage the wastewater system and establish the City of Milwaukie as the service provider the City must have jurisdictional control of roads in the area; and

**WHEREAS**, Oregon Revised Statute 373.270 provides a means for Cities to request the transfer of jurisdiction of County Roads within Cities; and

**WHEREAS**, The City of Milwaukie has been coordinating with Clackamas County to facilitate the transfer of the following named roads within the NE ¼ of Section 30, T.5S., R.2E., W.M. as shown in Exhibit "A"; and

**WHEREAS**, the City and County adopted an Intergovernmental Agreement, Clackamas County Order No 90-726, establishing an UGMA for the area encompassing the roads, known as Dual Interest Area "A"; and

**WHEREAS**, the above named County roads lie within the City Limits; and

**WHEREAS**, it is in the public interest for this transfer to take place;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Milwaukie:

Section 1. The City of Milwaukie accepts jurisdiction of the County roads described herein with the exception of any bridges that the roads may pass on, and requests the County to take Board action to execute the jurisdictional transfer of said roads.

Section 2. This resolution is effective immediately upon passage.

Adopted by the City Council of the City of Milwaukie on \_\_\_\_\_, 2009

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

# EXHIBIT "A"



## LEGEND

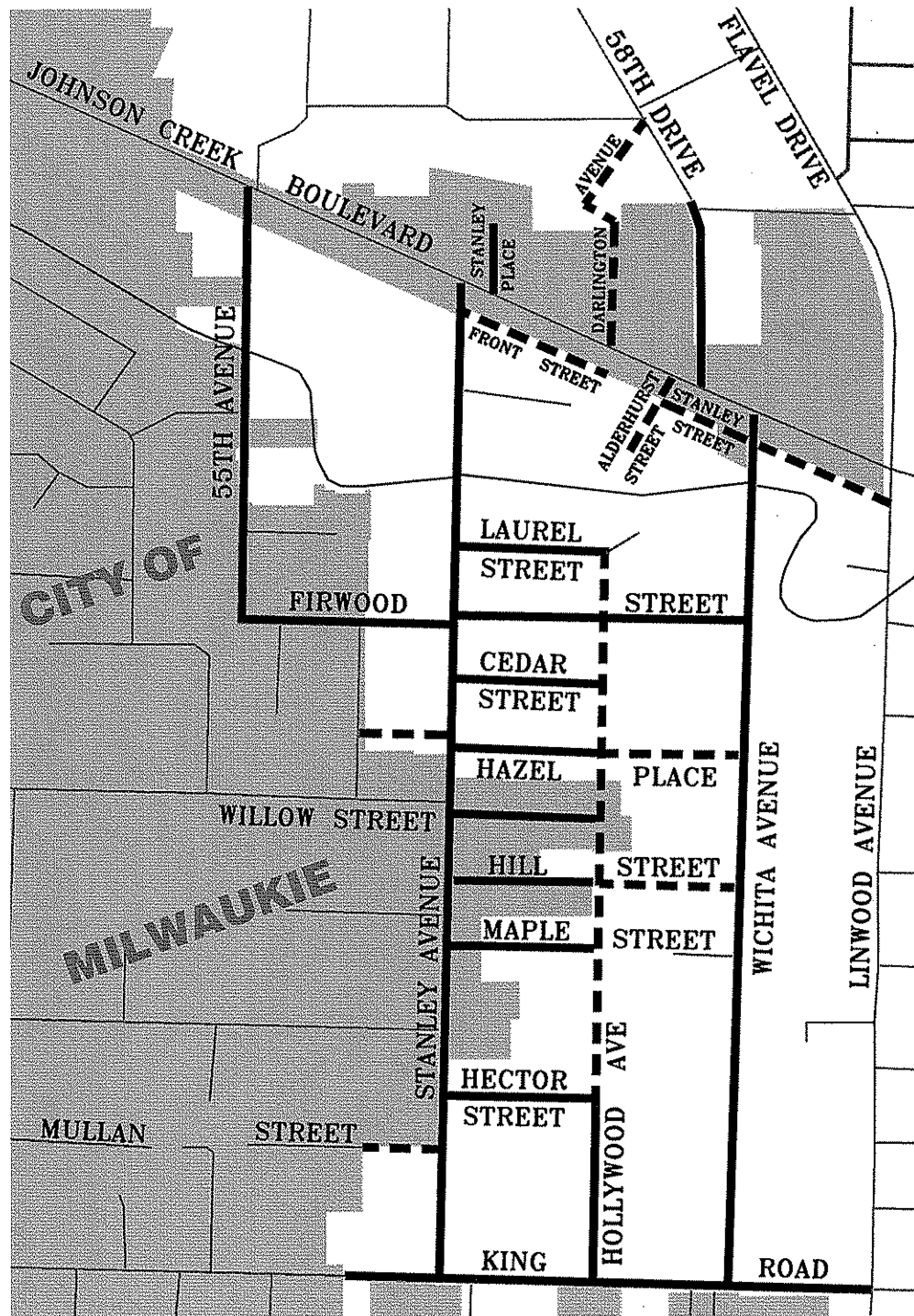
- TRANSFERRED COUNTY ROADS
- PUBLIC ROADS

## ROAD LENGTH

55th AVENUE	1,567.±
STANLEY AVENUE	3,557.±
STANLEY PLACE	299.±
HOLLYWOOD AVENUE	635.±
WICHITA AVENUE	3,201.±
58th DRIVE	636.±
LAUREL STREET	499.±
FIRWOOD STREET	1590.±
CEDAR STREET	463.±
HAZEL PLACE	463.±
HILL STREET	463.±
WILLOW STREET	463.±
MAPLE STREET	363.±
HECTOR STREET	475.±
KING ROAD	1,725.±

## ROAD AREA

55th AVENUE AREA	62,680.±	Sq. Ft.
STANLEY AVENUE AREA	142,280.±	Sq. Ft.
STANLEY PLACE	9,000.±	Sq. Ft.
HOLLYWOOD AVENUE AREA	117,000.±	Sq. Ft.
WICHITA AVENUE AREA	128,040.±	Sq. Ft.
58th AVENUE AREA	31,800.±	Sq. Ft.
LAUREL STREET AREA	24,950.±	Sq. Ft.
FIRWOOD STREET AREA	54,890.±	Sq. Ft.
CEDAR STREET AREA	19,539.±	Sq. Ft.
HAZEL PLACE AREA	18,520.±	Sq. Ft.
WILLOW STREET AREA	18,520.±	Sq. Ft.
HILL STREET	18,520.±	Sq. Ft.
MAPLE STREET AREA	14,520.±	Sq. Ft.
HECTOR STREET AREA	19,000.±	Sq. Ft.
KING ROAD AREA	103,500.±	Sq. Ft.



JURISDICTIONAL TRANSFER  
OF CERTAIN COUNTY ROADS TO  
THE CITY OF MILWAUKIE

LOCATED IN  
SECTION 30, T.5S., R.2E., W.M.  
CLACKAMAS COUNTY, OREGON,

RD. FILE NO. 12020	DRAWN BY D.CUTSHALL	DESIGN BY N/A	DATE 10-05-09
-----------------------	------------------------	------------------	------------------



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Bill Monahan, City Attorney's Office

Subject: Waste Water Treatment Capacity Advisory Committee

Date: October 13, 2009 for the October 20, 2009 Regular Session

### **Action Requested**

Approve the participation of the City in the Clackamas County Waste Water Treatment Capacity Advisory Committee.

### **History of Prior Actions and Discussions**

**October 6, 2009:** Council discussed the draft Bylaws of the Committee during work session. Representatives of WES provided information on the status of discussions leading up to the latest draft of the Bylaws.

**Throughout 2009:** Councilor Deborah Barnes has represented the city in one to two meetings per month at Community Partnership meetings involving Milwaukie, Gladstone, West Linn, Damascus, Oregon City, Happy Valley, Clackamas County, and CCSD#1. Councilor Barnes has regularly reported to the Council the direction that the committee was headed and the expected outcomes.

### **Background**

Since 2008, Clackamas County has facilitated a discussion by representatives of the cities that are served by the Tri City Treatment Plant and the Kellogg Creek Treatment Plant. The purpose of the task force was to develop the elements of a community partnership agreement. After many months of meetings and consideration of several drafts of what was originally a "Collective Partnership Agreement for Wastewater Treatment Infrastructure," the task force now proposes that the proposed Bylaws of the Waste Water Treatment Capacity Advisory Committee.

The Bylaws call for each participant to appoint one representative and one alternate to the committee. The general duties of each member are to make recommendations and request actions consistent with: 1) cost effective operations of the county service districts,



2) the requirements of ORS Chapter 451, and 3) each member's district obligation to pay for the costs associated with growth of service needs within its territory.

City Manager Mike Swanson prepared a memorandum dated September 22, 2009 in which he raised concerns about the draft Bylaws that were available at that time. Following Mr. Swanson's memorandum, and since the most recent meeting of City Council, further discussion took place at the October 8, 2009 Community Partnership meetings. There, the city representatives discussed proposed language revisions submitted by the City of West Linn. The revisions proposed by West Linn address the issue raised by Milwaukie regarding the use of the term "fiduciary duty." It was the consensus of the cities represented at the October 8 meeting that the West Linn proposal had merit.

The draft Bylaws attached to this memorandum are the version created by West Linn that reflect the discussion held at the Community Partnership meeting of October 8. Also attached is correspondence between the City of Gladstone and Clackamas County. The issues raised within the September 22, 2009 Gladstone were not addressed by the County as of the October 8 meeting.

#### **Concurrence**

City Manager Swanson has not had an opportunity to review the latest West Linn language proposal, therefore, concurrence has not been obtained at the time this memorandum was prepared.

#### **Fiscal Impact**

Acceptance of the Bylaws does not have a fiscal impact. The Committee is advisory only. Any recommendations of the Committee will require Board of County Commission action before any Committee recommendations have effect.

#### **Work Load impacts**

Some staff time as well as contribution of time by a member of the City Council and citizen representatives will be necessary if the Committee is formed.

#### **Alternatives**

The alternative is to not participate in the Committee.

#### **Attachments**

1. Draft Waste Water Treatment Capacity Advisory Committee Bylaws
2. Memorandum from Mike Swanson to the City Council dated September 22, 2009
3. City of Gladstone/Clackamas County correspondence pertaining to an earlier version of the Bylaws.

# ATTACHMENT 1

## Waste Water Treatment Capacity Advisory Committee

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### Bylaws

The Board of Commissioners of Clackamas County in its roles as the governing body of Clackamas County, of Clackamas County Service District No. 1, and of the Tri-City Service District (BCC), desires to form a permanent advisory committee, in addition to the existing service district advisory committees, composed of interested partners regarding the planning, construction, management, and financing of wastewater treatment infrastructure in Clackamas County. This committee shall be the Wastewater Treatment Capacity Advisory Committee (the "Committee").

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#### Article 1. Committee Scope and Composition.

Section 1.1 Purpose. The Committee shall:

- (a) Review, discuss and make recommendations on proposed operational and multi-district capital improvements to the region's wastewater treatment system, programs, and capacity;
- (b) Review and make recommendations regarding expenditures of funds relating to the same; and
- (c) Perform other projects as assigned by the Board, as such may be suggested by the Director of WES or requested by the Committee and approved by the BCC or as otherwise provided for in these bylaws.

Section 1.2 Membership. The following geographical areas and municipal entities shall have representation on the Committee:

- (a) Unincorporated Clackamas County within the boundaries of CCSD#1;
- (b) City of Damascus;
- (c) City of Gladstone;
- (d) City of Happy Valley;
- (e) City of Milwaukie;
- (f) City of Oregon City; and
- (g) City of West Linn.

Section 1.3 Appointment. The governing political body of each city shall appoint one representative and one alternate to the Committee. The BCC shall appoint the representative for the unincorporated areas pursuant to the terms and procedures of the advisory committee policy of Clackamas County.

#### Article 2. Term and Responsibilities.



Section 2.1 Term. The Committee will have an indefinite term or until dissolved by mutual agreement of the Members or by the BCC. A member may withdraw at any time without penalty of any kind.

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Section 2.2 Duties and Rights. Each member shall have the following duties and/or rights:

(a) General Rights. ~~Existing Duties and Rights. Membership has no effect on the existing rights and duties of each service district and each member.~~

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(b) General Duties. Each Member agrees that the Committee shall make recommendations and request actions consistent with: 1) cost effective operation; of the County Service Districts; 2) the requirements of ORS Chapter 451 and; 3) each district's obligation to pay for the costs associated with growth of service needs within its territory.

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(c) Access to Meeting and Records. All meetings and records of the Committee shall be held, maintained and/or made available consistent with Oregon Public Meetings Law and Oregon Public records Law, as applicable.

(d) Master Planning. The Committee shall review and make recommendations on regional wastewater treatment system master plans regarding existing and future wastewater treatment capacity.

(e) Investment Strategy. The Committee shall review and make recommendations on, investments and/or expenditures for land, capital facilities, and equipment as necessary to implement the Master Plans.

(f) Environmental Compliance. The Committee shall review and make recommendations about environmental management and permitting where regional interests intersect with existing jurisdictional responsibilities.

(g) Rate Evaluation. The Committee shall review and make recommendation to the BCC on wholesale wastewater treatment rates to be assessed to all areas.

(h) Future Membership. The Committee shall discuss criteria and make recommendations on the addition and conditions of any future members who apply to the BCC for membership to this agreement or Committee. Consideration for membership in this agreement and Committee shall follow the process and shall meet the minimum criteria as outlined in Article 4.

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(i) Non Treatment Capital Facilities. The Committee may make recommendations to the BCC to lend or advance funds for the purposes of construction of non-treatment wastewater capital facilities, i.e. water reuse, biosolids programs, temperature control infrastructure, industrial pretreatment programs, etc. The Committee shall include in its recommendations how the funds are to be secured and the repayment terms including principal, interest, and related expenses.

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Article 3. **Decisions and Procedures**

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Section 3.1 Voting. The appointed members to the Committee shall be allocated votes as set forth below:

- (a) The Cities of Gladstone, Oregon City and West Linn shall be awarded 1 and 1/3 votes each.
- (b) Unincorporated ratepayers of CCSD#1 and the cities of Damascus, Happy Valley, and Milwaukie shall be awarded 1 vote each.

Section 3.2 Recommendations to the BCC. The Committee will vote on all Committee recommendations to the BCC. All Committee recommendations will be on the basis of a majority of a quorum of its members. A quorum shall be members holding at least 5 eligible votes. The Committee shall provide a report to the BCC regarding its recommendations for investments or expenditures for new assets or recommendations for investments or expenditures for new assets or recommendations to change wholesale rates. Minority reports and recommendations may be sent to the Board at the request of one or more Members.

Section 3.3 Voting Revisions. If the membership of the Committee changes due to the addition of new members or withdrawal of any members the Committee shall, as part of its actions reallocate votes on the Committee in an appropriate manner to recognize the new member or loss of a member and redefine a majority.

Section 3.4 Meetings. The Committee will meet quarterly, or by agreement of a majority of members holding at least 5 eligible votes, or at the request of the BCC. Additional meetings may be called by the Chair as he/she deems necessary.

Section 3.5 Staffing. The Water Environment Services staff will perform as County staff liaisons to the Committee. **Article 4. New Membership.**

Section 4.1 Process.

- (a) Prospective new members must submit a written request for admission to the Committee and provide evidence of their ability and willingness to meet the criteria set forth below. The Committee will review this written request for admission and forward a recommendation to the BCC prior to any decision regarding the prospective new member.
- (b) Entities that meet the criteria for membership, as set forth below, may petition for admission on the Committee. The BCC may require additional information from the prospective new member before making a final decision on membership.
- (c) The BCC shall be the sole entity in approving membership to the Committee. The BCC will receive a recommendation from the Committee about the addition of new members prior to any final decisions on membership.

Section 4.2 Criteria. To be approved as a new member by the BCC a prospective new member must:

**Deleted:** The staff will determine the agenda and the Executive Director or his/her designee will Chair the Committee. The Executive Director shall not have a vote regarding the recommendations of the Committee. The Executive Director will place items on the agenda as determined by the business needs of the Wastewater Treatment System and upon request by any member of the Committee. ¶



- (a) Accept, without reservation or conditions all agreements, by-laws, and procedures governing the wastewater treatment system that are in place at the time of their entry on the Committee;
- (b) Have a minimum of 5,000 ratepayers who obtain wastewater treatment from a County or City service district;
- (c) Agree to share in the cost of major improvements or expansion of existing and/or new or additional wastewater treatment facilities and related infrastructure; and
- (d) Be required at the discretion of the BCC, upon recommendation from the Committee contribute capital or physical assets as part of their share in the cost of major improvements or expansions of existing and/or new or additional wastewater capacity.

DRAFT

# ATTACHMENT 2

2.



**TO: MAYOR AND COUNCIL**  
**FROM: MIKE SWANSON, CITY MANAGER**  
**DATE: SEPTEMBER 22, 2009**  
**RE: WASTE WATER TREATMENT CAPACITY ADVISORY COMMITTEE BYLAWS**

## ACTION REQUESTED

The action requested is a discussion and direction from the Mayor and Council regarding the City's position on whether or not to adopt the attached bylaws of the Waste Water Treatment Capacity Advisory Committee. (Committee)

## BACKGROUND

I will not recount the history of the Committee. The City's representative, Councilor Barnes, has been very diligent in informing the Mayor, Council, and staff after each meeting.

What began as a proposal for a partnership that would assume some decision-making responsibilities has become an advisory committee. The Committee bylaws before you represent a change in function from the draft agreements of an earlier date. The Committee is now proposed as an advisory body to the Board of County Commissioners acting in its capacity as the governing body of Clackamas County Service District No. 1 (CCSD1) and the TriCity Service District.

The time has come to determine what, if any role, the City of Milwaukie will play in the future of the Committee. I have scheduled this discussion for your October 6, 2009 work session and a decision for your October 20, 2009 regular session.

Without going into a full discussion of the issues presented, I will focus on two. First, CCSD1 and the City are presently engaged in a dispute on rates. Adopting these bylaws at this time would create the possibility of an argument that would remove the rate issue from the CCSD1 governing body temporarily and place it in the hands of the Committee Membership. The legal issues about which the City feels very strongly would be lost under a new arrangement. Nothing requires that the Board of County Commissioners do anything but receive the rate recommendation from the Committee. In other words, it could accomplish what it desires today by punting to the new process.

Second, Section 2.2(a) imposes a "*Fiduciary Duty*" on the Members. That is the highest duty owed under the law, and it is not appropriate to require that level of duty on a body whose only task is to make recommendations. Some may argue that the phrase is qualified by the language that follows, but its presence is disturbing. The Board makes the decision, and its staff manages the project and finances. If the Committee is a body without authority, I do not recommend that it assume any legal duty more appropriately placed on the Board of County Commissioners.

It seems as if there are three possible recommendations. One is to approve; one is to disapprove; and one is to withhold formal action until the above two issues are solved to the City's satisfaction. I recommend the latter option.

In addition, I understand that West Linn is submitting a list of changes that it deems necessary. I will forward you a copy of those questions. Perhaps some of our concerns may be similarly dealt with. I want it clearly understood that my recommendation should not be misinterpreted to mean a rejection of the partnership concept. Rather, I believe that the document as presented still falls short and may not be timely from our perspective.

Unfortunately, this recommendation, if adopted, may mean that the City will not be allowed to participate in the Kellogg Task Force. However, the issues outlined above seem weighty enough that adoption is not presently advisable.





September 22, 2009

Lynn Peterson, Chair  
Clackamas County Board of Commissioners  
2051 Kaen Road  
Oregon City, OR 97045

Mayor Byers had previously written to you on behalf of the Gladstone City Council on July 20, 2009 requesting certain information before the City Council could take up further consideration of the Draft Waste Water Treatment Capacity Advisory Committee Bylaws. When we had not received a response shortly before the City Council meeting on September 8, 2009, the City Administrator again made contact and a response was received on September 3, 2009. A copy of the Mayor's initial letter to you of July 20th and the response by the Water and Environmental Services (WES) Director on September 3rd are attached.

The City Council has determined that more detailed information is needed than is provided in the County's response. Because of this the City Council has deferred further action on the draft bylaws until this information is provided.

The questions requiring a more detailed response are related to the temperature total maximum daily load (TMDL) standards adopted by the Department of Environmental Quality (DEQ) and approved by Environmental Protection Agency (EPA) in September 2006 and how the Tri City plant is meeting those standards during low stream flow conditions. These standards break down into two components that are applicable to the Tri City Plant. The first is point source waste load allocation expressed in kilocalories a day measured at the outfall into the Willamette River. The other is water temperature at the outside edge of the outfall mixing zone. Each of these standards, if not met, can result in limitation of plant capacity and the amount of treated effluent discharge.

This information is critical in evaluating what capacity is available to address during low flow conditions, and to accommodate increased effluent discharge originating from future growth in Gladstone, Oregon City, West Linn, Happy Valley, Damascus, and unincorporated North Clackamas County. Gladstone has been very concerned about repeated suggestions by Milwaukie that the Kellogg Plant should potentially be decommissioned and its load transferred to Tri City. Facts suggest that such a decommissioning of Kellogg is probably not possible from a regulatory perspective.

In its September 3, 2009 letter WES acknowledged that it is aware of the temperature waste load allocations and is monitoring them carefully. However, WES did not include any operational information regarding how the plant is meeting those standards during low flow conditions. Table 4.15 of the DEQ Willamette Basin Temperature TMDL notes the summer waste load allocation for the Tri City Plant is 156 Kcal/day while the standard for Kellogg is 105 Kcal/day. If we had the operational figures it should be relatively simple to deduce the present working load capacity of both plants, how much additional capacity is present, and whether, after future growth outlined

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above is taken into consideration, there would be any remaining capacity to deal with decommissioning Kellogg. A further consideration working against a transfer of Kellogg load to Tri City is that Tri City is 2.3 miles downstream from two very large individual waste load allocations at Blue Heron Paper [ 485 Kcal/day] and West Linn Paper [197 Kcal/day].

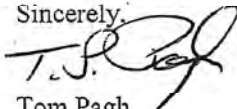
The other TMDL criterion is temperature at the outer edge of the mixing zone. Pages 4-15 and 4-16 of Chapter 4 of the DEQ Willamette Basin Temperature TMDL reflect that the average of summer time temperature exceeds the maximum migration corridor temperature limitations at a point .8 miles down stream from the Tri City outfall from mid June until September. Maximum seven day temperatures during August and September exceed 4 degrees C. above the 20 degree C. [68 degrees F.] temperature limitation. WES indicates that it is attempting to negotiate with DEQ regarding this issue but one wonders how a transfer of the Kellogg load to Tri City would ever be possible given these strict regulatory temperature constraints. These are EPA approved standards.

WES has reported that it is not testing for temperature during low flow periods at Tri City. This is a major issue and one wonders why there is no testing. The answer WES gave is that their NPDES Permit would have expired in 1999 and, because they applied for renewal within the 180 day period before the permit expired, the old permit remains in place and the terms of the adopted 2006 DEQ Temperature TMDL do not apply. There is an exception for this process [OAR 340-045-0040] but whether it applies for a period of 10 years and whether it trumps adopted EPA standards is not clear. One would think that WES would want to know this information as it could have a future operational impact on the plant capacity additions that WES is presently constructing. Additionally, a no monitoring decision by WES is inconsistent with the March 28, 2008 recommendation of its consulting engineers, Brown and Caldwell who suggested instream temperature monitoring: "...in the reach below the falls which contains the ...Tri City Water Pollution Control Plant" [Willamette River Watershed Total Maximum Daily Load Implementation Plan, page 72]. Finally, we understand that, as the ongoing expansion of the Tri City Plant is considered a major plant expansion, all applicable water quality standards are deemed to apply including the DEQ TMDL temperature standards before the expanded capacity can be utilized to treat new flows. Thus, it will be imperative for WES to know that these standards will be met at the time this additional capacity is used. They should know the answer now.

We would certainly appreciate your assistance in securing a prompt response to our inquires regarding temperature TMDL issues so that the partners in this process may have a better understanding of the regulatory frame work and constraints with which we are dealing. If, as a matter of applicable regulatory limitations, it is not possible at this time to consider the possibility of decommissioning Kellogg, the ongoing cost of evaluating decommissioning alternatives would be better spent addressing plans for the possible reduction of the Kellogg footprint, aesthetic improvement of the site, and reduction and/or elimination of odors.

Chair Peterson, we value and appreciate your assistance in this very important matter.

Sincerely,



Tom Pagh  
Gladstone City Council President



Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment  
Michael S. Kuenzi, P.E.  
Director

September 3, 2009

*VIA E-MAIL*

Mayor Wade Byers  
City of Gladstone City Hall  
525 Portland Avenue  
Gladstone, OR 97027

**Re: Wastewater Partnership Agreement**

Dear Mayor Byers,

Your letter of July 20, 2009 regarding the Wastewater Partnership Agreement raises several issues, including technical questions, that Water Environment Services ("WES") staff is familiar with. Before answering in detail, I note that the community partnership working group has revised the proposed agreement to a narrower proposal that clarifies that the primary action taken would be the formation of a regional advisory committee to the Board of County Commissioners regarding the treatment of wastewater. The new draft removes any reference to the Kellogg study, although the group has agreed that it is still a necessary and valuable review that would inform the new advisory committee regarding its total asset portfolio and the options available. The scope and questions of the study is currently the topic of discussion for the working group. To address what seems to be an underlying concern giving rise to your questions, nothing in the proposed Kellogg study, nor in the proposed committee bylaws, obligates the Tri-City Service District (the "District") or the City of Gladstone to any particular course of action.

To address your questions specifically:

- In regards to the temperature waste load allocation for the Tri-City Plant, staff is aware of the requirements and are monitoring closely. Indeed, we are in discussion with DEQ regarding whether the Tri-City facility should be located in the Middle Willamette or Lower Willamette zones. The load allocation for temperature has not been imposed on the District, as the Tri-City Plant's NPDES permit is currently in the permit renewal process.
- The temperature regulatory question will be an important one that will be addressed through the community partnership process and a key component of the advisory group's evaluation of the regional system. Indeed, the blue ribbon committee in which you participated identified the risk of additional regulatory burdens and regulatory-driven capital improvement as a reason for managing the system as a whole. Neither

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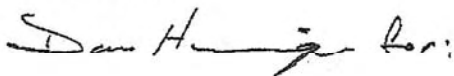


the BCC nor my staff have any interest in adopting a regulatory response that impairs the District or CCSD#1 or negatively impacts this regional system.

- We have had preliminary discussions with DEQ regarding the transfer of permit loading factors, not just for temperature but for others as well. We have also participated in discussions to develop a proposed trading system for various loading factors being developed for the entire Willamette River basin in conjunction with other wastewater service providers and industries that discharge into the watershed. We are also considering certain challenges to some of the new directions. These are some but not all of the possible responses we have to additional regulatory directives.
- While CCSD#1 carries the value of the Kellogg Creek Treatment Plant as an asset for accounting purposes, the District does not equate book value to actual value. Rather, WES values its treatment assets in line with the replacement value of the treatment capacity provided. This is equally true for the Tri-City Plant.
- Currently, approximately \$6 million dollars is earmarked for the Kellogg Creek Plant to implement improvements and delayed maintenance there as directed by DEQ in their Memorandum of Agreement and Order issued to Clackamas County Service District No. 1.
- In reference to the study performed in the mid 1990's, there have been multiple studies regarding various facets of the Kellogg Plant and other options. The proposed Kellogg study under discussion at the community partnership working group intends to use these multiple studies as the basis for creating one comprehensive look at the facility as it fits into the regional portfolio of wastewater treatment assets.

I hope this addresses your specific questions. My staff and I remain available, as always, to address your city's issues and concerns. We also will be periodically bringing the above issues before both the Tri-City Advisory Committee and, if constituted, the new Wastewater Treatment Capacity Advisory Committee.

Sincerely,



Michael S. Kuenzi, P.E.  
Director, Water Environment Services

cc: Lynn Peterson, Chair, Board of County Commissioners  
Steve Wheeler, Acting County Administrator

# City of GLADSTONE

July 20, 2009

Lynn Peterson, Chair  
Clackamas County Board of Commissioners  
2051 Kaen Road  
Oregon City, OR 97045

Re: Wastewater Partnership Agreement

Dear Ms. Peterson,

The Gladstone City Council has reviewed the proposed Wastewater Partnership Agreement and believes that additional information is required prior to a work session or town hall meeting in order to facilitate a more productive discussion. The City Council is requesting a response to the statements/inquiries listed below prior to participating in further meetings regarding this agreement.

- The draft agreement talks of mandatory completion of a draft Kellogg Plan by December 31, 2009 and the Board of County Commissioners adoption by April 2010. The agreement calls for different scenarios for implementation over 10, 15, and 20 year periods. There are a variety of fundamental questions which need to be understood and answered before further options concerning Kellogg may be intelligently evaluated. The answers to these questions may have a lot to do about further evaluation of Kellogg options.
- It is Gladstone's understanding that DEQ has set individual temperature waste load allocation point sources on the lower Willamette. It is our further understanding that the three STPs have the following allocations at their effluent outfalls: Kellogg 105 Kcal/day, Oak Lodge 42 Kcal/day, and TCSD 156 Kcal/day. We believe that TCSD is now operating close to that standard and further that during the summer months the current DEQ Temperature TMDL standard of 68 degrees F on the lower Willamette is exceeded at the TCSD outfall by about 4 degrees F. If the above assumptions are correct how could any transfer of effluent discharge capability from Kellogg to TCSD be permissible? Are there current negotiations going on with DEQ regarding those issues? If so what is the status of those negotiations and any associated amendment process?
- The temperature TMDL issue needs to be carefully evaluated and understood before any implementation discussion of a Kellogg option is considered. The risk to TCSD and CCSD#1 is that such a shift might deprive current and future urbanized loads of utilization of what might be anticipated additional treatment capacity at TCSD. This in turn could restrict subsequent development within TCSD and CCSD#1.

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- It is Gladstone's understanding that the current WES project earmarks approximately \$7.5 million for upgrades to Kellogg which will allow Kellogg to be compliant with all DEQ requirements and allow it to treat indefinitely 5 mgd of Milwaukie capacity. We also understand that the current Kellogg facility as modified would have a net depreciated value of approximately \$50 million. Could you confirm the accuracy of those assumptions and if they are not correct supply us with correct information.
- Gladstone also understands that WES in the mid 1990's completed a comprehensive study that if implemented would have very substantially reduced the foot print of Kellogg, largely remedied the aesthetic issues, and dealt completely with odor issues. It is our further understanding that this report was never implemented. Could you confirm these assumptions and if they are generally correct could this study still retain utility today in addressing Milwaukie's concerns?

Thank you for your consideration of this request.

Sincerely,



Wade Byers  
Mayor